

A distinct cross, and in the same division, in one case a slight, irregular pencil marking, and in another case a series of slight, cloudy, formless pencil markings. Ballots allowed.

A mark consisting of two lines lying very close to each other, both distinctly visible in one division. Ballot allowed, as there was evidence of an intention to make a cross.

Remarks of RITCHIE, C.J., in the *Bothwell Case*, 8 S.C.R. 696, referred to.

S. H. Blake K.C., and *W. D. McPherson*, for Boyd. *Watson*, K.C., *W. H. Wright*, and *Grayson Smith*, for McKay.

MacLennan, J.A.]

[July 10.

IN RE NORTH GREY PROVINCIAL ELECTION—MCKAY v. BOYD.

Parliamentary election—Recount—Appeal—Notice of—Signature—Result of appeal—Majority.

The notice of appeal from the decision of a County Court judge upon a recount of votes under s. 129 (1) of the Election Act, R.S.O. 1897, c. 9, need not be signed by the appellant candidate personally, but may be signed by his solicitor or agent on his behalf.

Where both candidates appeal from the decision of the County Court judge, and the result of the appeal of one, first heard and determined, is to give his opponent a majority, the appeal of the other will be heard and determined, although it cannot change the result except by increasing the majority.

Neither appeal having been limited to particular ballots, it was open to the candidate whose appeal was first determined to object, when his opponent's appeal was being heard, to certain ballots not previously objected to.

Watson, K.C., *W. H. Wright*, and *Grayson Smith*, for McKay. *S. H. Blake*, K.C., *Du Vernet* and *Eric N. Armour* for Boyd.

HIGH COURT OF JUSTICE.

Master in Chambers.]

DULMAGE v. White.

[March 15.

Practice—Venue—Agreement before action.

A conditional sale agreement provided that "in case of any litigation arising in connection with this transaction, it is agreed that the trial will be held only in" (the place where the vendors carried on business).

Held, that this condition was binding, and in an action by the purchaser to recover damages because of the unsatisfactory condition of the article sold an order was made changing the place of trial to the place agreed upon, although the balance of convenience was in favour of the place named by the plaintiff in his writ.

Swaby, for defendants. *Clute*, for plaintiff.