

envelopes containing disputed ballots allowed by a court of enquiry, and add them to election returns, where he has properly added the votes cast, with the exception of the disputed ballots as required by law; since his neglect to add the disputed ballots was not a wilful delay, neglect, or refusal to perform the duties imposed upon him by law; and adequate relief could be obtained on a recount before a District Court judge.

Re Clearwater Election, 11 D.L.R. 355, reversed in part.

3. *Disputed ballots—Power of District Court Judge to count in first instance.*

A District Court judge, on a recount of an election by way of an appeal, has power to open envelopes containing disputed ballots and count those allowed by a court of enquiry.

Frank Ford, K.C., and *Eager*, for H. W. McKinney. *C. C. McCaul*, K.C., for A. W. Taylor. *Alex. Stuart*, K.C., for J. H. Clarke.

Province of Saskatchewan.

SUPREME COURT.

Newlands, Johnstone, Lamont and Brown, J.J.] [12 D.L.R. 678.
REX v. RATZ.

1. *Criminal law—Accessory as such—Accomplice.*

An accessory before the fact to the crime of murder is an accomplice with his principal within the rule requiring the corroboration of his testimony against the latter. (*Per Newlands and Brown, J.J.*)

Rex v. Tate, 21 Cox Cr. Cas. 693, and *Rex v. Beauchamp*, 25 Times L.R. 330, followed; *R. v. Reynolds*, 15 Can. Cr. Cas. 210, distinguished.

2. *Trial—Homicide—Instructions—Evidence of accomplice.*

A new trial will be granted for the failure of a trial judge to caution the jury, on a trial for murder, against acting on the uncorroborated testimony of an accomplice, who had already been tried and convicted, where there was no corroborating evidence.

H. V. Bigelow, for accused. *T. A. Colclough* (Deputy Attorney-General), for the Crown.