

MEREDITH, J.

OCTOBER 4TH, 1904.

CHAMBERS.

RE WEST ALGOMA VOTERS' LISTS.

Parliamentary Elections — Preparation of Voters' Lists — Unorganized District—Franchise Act, 1898, sec. 9—Order in Council—Powers of Governor-General in Council—Appointment of Officers to Prepare Lists—Proceedings of Officers—Prohibition—Powers of High Court.

Motion by A. C. Boyce, an elector in the district of West Algoma who proposed to be a candidate for its representation in the House of Commons, for prohibition to Jacob Stevenson, appointed enumerator for that district by an order of the Governor-General in council, and to the junior Judge of the County Court of Algoma, and to W. G. Quibell, police magistrate for Algoma, to prohibit these persons from proceeding with the preparation of voters' lists.

J. W. St. John, for applicants.

W. Barwick, K.C., for the Minister of Justice for Canada.

J. H. Moss, for the Secretary of State.

A. Mills, for the respondents.

MEREDITH, J.—There are involved in this application two questions of considerable importance: (1) whether the order in council in question is, or the proceedings of the respondents, acting under it, are, ultra vires; and, if so, (2) whether this Court has power to prohibit such proceedings.

The more correct way of dealing with these questions is to consider the latter first, because, if this Court have no jurisdiction, it is better to express no opinion upon the merits of the application; if there has been bad faith or any sinister or improper conduct, such as has been charged, in matters quite within the powers of those whose conduct has been called in question, they are answerable, not to this Court, but to Parliament, and Parliament to the people; and any alleged wrong-doing may perhaps also be the subject of investigation, and of some measure of relief, if established, in the Federal Election Courts.

Then, is there jurisdiction in this Court?