

I also overruled the other objection, thinking that the right of appeal from the recount of the County Judge was clearly given to either candidate by sec. 129 (1), irrespective of which of them had a majority; and that by sec. 129 (5) the Judge is required to recount "the ballots or such of them as are the subject of appeal," and to certify his decision. It seemed to me, also, that, having regard to the provisions of sec. 172, a successful candidate ought to have the right to have the full tale of his lawful majority established by a recount.

On proceeding with Mr. McKay's appeal, I allowed the same in respect of four ballots, disallowing it in respect of a number of others. At this stage, counsel for Mr. Boyd claimed the right to object to certain other ballots, not previously objected to. Mr. Watson resisted this, on the ground that Boyd's appeal had been closed and disposed of. I held, however, that the appeals on both sides were still open, neither of them having been limited to particular ballots, for the reasons already mentioned. On the part of Mr. Boyd, five further ballots were then objected to, of which only one was allowed.

The result of both appeals, therefore, is that each candidate has succeeded in respect of four ballots, and the majority remains as it was found by the learned County Judge, a majority of five for McKay. I think there should be no costs to either appellant.

BRITTON, J.

JUNE 27TH, 1902.

CHAMBERS.

RE PARKS AND LAKE ERIE AND DETROIT RIVER
R. W. CO.

RE McALPINE AND LAKE ERIE AND DETROIT RIVER
R. W. CO.

Costs—Arbitration under Railway Act—Taxation by Judge.

Motion by land-owners for order confirming taxation of costs of arbitration, and for payment by the railway company of the balance of the amounts awarded and costs.

T. W. Crothers, St. Thomas, for the land-owners.

H. E. Rose, for the company.

BRITTON, J.:—The costs not having been taxed by "the Judge," as the statute requires, and the company protesting against the taxation by a local officer of the Court, who was (upon an ex parte application) directed by the Judge to tax