

for every elector proved to have been treated. The proof is clear that the dinners were intended for voters. Care was taken to carry this intention into effect. The issue of the tickets made every man's dinner secure long before the time for procuring it. The tickets were all used, and all returned by Mr. Ashby to Peters. The conclusion is that 40 voters dined free. The thing is as bad as if 40 sums of money instead of 40 tickets had been distributed. It is not necessary to prove in detail that the 40 ticket-holders actually voted—that is the fair inference—the only inference that can be drawn from the evidence. There were 49 votes here for Cameron. The tickets were sufficient for nearly 80 per cent. of them. If it were a question before a jury the evidence would be clearly sufficient to warrant the conclusion contended for. This test was actually applied in the *Boston case* 31 L. T. N. S. 331, 2 O. & H. 161, L. R. 9 C. P. 610. If the forty votes are taken off, then the respondent is entitled to retain the seat, being put in a majority of 37, and the votes left off the lists are not numerous enough to affect the election.

Cameron, Q. C. (the petitioner) and Osler.

It is not open to the respondent to make use of the first point in his argument. The fourth clause of the list of objections that had been delivered to the petitioner by respondent had set forth that divers persons—whose names were Brown and Jackson—were ready to vote at the said election, and had intended to vote for the respondent; but their names were omitted from the certified copy of the voters' list; and now when the petitioner had succeeded in proving that twelve or thirteen names had been omitted from the voters' list, that they had tendered their vote for him, and had expressed their intention and desire to vote for him, the respondent endeavoured to take the benefit of those errors made against the petitioner, and maintained that the whole election was void. This was a most absurd and unjust argument; for he had shown that if these errors had not been made in the lists, his majority would have been greater than the ballots gave him. There is nothing in the Act to show that an elector may not state aloud in the polling place, after or before an election, or in court, how he would vote, or had voted. The Ontario Act is more strict, but the 77th section was the only one in the Dominion Act. [WILSON, J.—Supposing he should show the ballot?] The question is whether that would make his ballot bad or not. He may tell any one he likes. He is not to show his ticket; that is all.

Peters' act was not done with a corrupt intent. It devolved upon respondent to show that it was so done, but this had not been shown; on the contrary, all the circumstances showed that the alleged treating which appeared to have been done on a single occasion was done without any corrupt intent, and in such a way as to lead to the inference that it was not intended to influence votes: as to this see the definition of the word "corruptly" as given in the *Launceston case*, 30 L. T. N. S. 831. Peters was not an agent for whose acts Mr. Cameron was responsible, and the case is distinguishable from the *Boston case* relied upon by Mr. Maclellann. As to the taking off the 40 votes, that cannot be done. There was no proof that any of the persons who had voted had been bribed or in any way corrupted by being given the dinner, which was almost an act of charity under the peculiar circumstances of the weather, and the distance the voters had come. It depended on the question of agency and of corruption, and the case failed in those particulars.

WILSON, J. As to the first question relating to the ballots, the facts showed that the respondent was returned as the member-elect by a majority of three votes, and that there were thirty-nine rejected ballots. Two of that number, both parties agreed, were rightly rejected. The rejected ballots upon which evidence was given were the remaining thirty-seven. These thirty-seven rejected ballots may be classified as follows:

(1.) Those which were marked with a cross in the division or compartment of the ballot paper on which the candidate's name is put; and to the right hand of, that is *after*, the candidate's name.

For Cameron, Nos. 1, 2, 3, 8, 16, 37.....	6
For Maclellann	0

(2.) Those marked on the same compartment to the left hand of—that is, *before*—the candidate's name.

For Cameron, No. 14.....	1
For Maclellann	0

(3.) Those marked on the same compartment above or before the candidate's name.

For Cameron, Nos. 4, 5	2
For Maclellann	0

(4.) Those marked with a mere line, vertical, horizontal, or diagonal; and whether the line is in the compartment where the name is, or in the column to the right of it.

For Cameron, Nos. 9, 11, 17, 18, 20, 34.....	6
For Maclellann, No. 27.....	1

(5.) Those marked with a cross to the left