

paper and voted for reeve at more than one polling place in the township at the election.

C. St. Clair Leitch, Dutton, for relator.

E. E. A. DuVernet, for respondent.

BRITTON, J., held, following *Woodward v. Sarsons*, L. R. 10 C. P. 744, that the general principle to guide the courts in such cases is, that the election should be set aside if a Judge, without being able to say that a majority had been prevented, should be satisfied that there was reasonable ground to believe that a majority of the electors may have been prevented from electing the candidate of their choice; he also held that there is not, in this case, reasonable ground for believing that the result would be different if all illegal votes could be struck off. There being no actual proof in this case that more than four persons voted more than once, it cannot be presumed, as against the respondent, that every elector who received a second ballot paper after having once voted actually deposited it in favour of respondent.

Motion dismissed, but without costs, as the facts were somewhat unusual, and as there was possibly double voting on both sides.

C. St. Clair Leitch, Dutton, solicitor for relator.

J. D. Shaw, Rodney, solicitor for respondent.

APRIL 14TH, 1902.

DIVISIONAL COURT.

SLINN v. CITY OF OTTAWA.

Municipal Corporation — Railway Embankment — Damages to Adjacent Property from Water caused by a Freshet—Liability of Corporation.

Motion by plaintiff to set aside judgment of nonsuit, and for new trial. Action in the County Court of Carleton to recover damages for injuries alleged to have been sustained by plaintiff, who carries on a bakery business on lots 16, 17, and 18 on the west side of Creighton street in Rideau ward in the city of Ottawa. At the rear of plaintiff's property there has been for a number of years, along the side of the Rideau river, a high embankment, upon which is the track of the Canadian Pacific Railway Company, and which has protected the adjacent property from being flooded in the spring of the year. The defendants O'Leary and Robillard, contractors, in the year 1899, constructed a section of the main drain in the ward, and in carrying the drain under the embankment, negligently, as alleged, left a