

J. P. Mabee, K.C., and W. A. Smith, Kingsville, for plaintiff.

A. H. Clarke, K.C., for defendant Gustin.

M. K. Cowan, K.C., for defendants the executors

FALCONBRIDGE, C.J., found all the facts in favour of plaintiff, and gave judgment as prayed by the statement of claim, with \$25 damages.

W. A. Smith, Kingsville, solicitor for plaintiff.

Clarke, Cowan, Bartlett, & Bartlett, Windsor, solicitors for defendant Gustin.

M. K. Cowan, Windsor, solicitor for defendants the executors.

MACLENNAN, J.A.

JULY 10TH, 1902.

C. A.—CHAMBERS.

RE NORTH GREY PROVINCIAL ELECTION.

McKAY v. BOYD.

Parliamentary Election—Notice of Appeal from Recount—Signature by Solicitor—Election Act, sec. 129 (1)—Cross-appeal after Majority Declared upon Appeal—Sec. 129 (5)—Re-opening Original Appeal.

After the disposition of Boyd's appeal, ante p. 474, McKay proposed to submit his cross-appeal from the recount.

G. H. Watson, K.C., W. H. Wright, Owen Sound, and Grayson Smith, for McKay.

S. H. Blake, K.C., E. E. A. DuVernet, and Eric N. Armour, for Boyd.

MACLENNAN, J.A.:—After I had disposed of the appeal of Mr. Boyd, which left Mr. McKay still with a majority of two, Mr. Watson, counsel for Mr. McKay, claimed the right of proceeding with his appeal. This was opposed by Mr. Blake on two grounds: first, that Mr. McKay's notice of appeal was not signed by himself personally, but by his solicitors on his behalf; and secondly, because, Mr. McKay having a majority, the further proceeding with his appeal could not alter the result, and was useless.

The first objection was rested on the language of sec. 129 (1) of the Election Act, which authorizes the candidate to appeal by giving a notice in writing, without expressly authorizing the notice to be given by an agent or solicitor; while it expressly authorizes the notice to be served upon the solicitor of the other candidate. I overruled the objection, thinking it of no weight whatever.