

Morris Hillyard 3276; and, consequently, Jack Marshall was declared elected by a majority of 283 votes.

On August 13, 1968, Gerald Matthews, a person who had the right to vote and did vote at the election in the District of Humber-St. George's-St. Barbe presented a petition to this Court in accordance with the Dominion Controverted Elections Act, Chapter 87 of the Revised Statutes of Canada, 1952, asking that the election in that District be declared void because of non-compliance in 14 named Polling Divisions in that District with certain provisions of the Canada Elections Act, Chapter 39 of the Statutes of Canada, 1960. For convenience we shall refer to each of the Polling Divisions as a Division, with its appropriate number, and to the District of Humber-St. George's-St. Barbe as the District.

The petitioner alleged that in Divisions 5 to 17, both inclusive, and in Division 39, in the District the polling stations opened at 8:00 a.m. and closed at 7:00 p.m., daylight saving time, which was in force in the Province of Newfoundland on the date of the election, instead of at 9:00 a.m. and 8:00 p.m. that time, contrary to the provisions of paragraph (12) of Section 2 and of subsection (5) of Section 31 of the Canada Elections Act, and that as a result seven hundred and eighty-five voters may have been deprived of the right to vote during the statutory voting period and thereby the result of the election may have been affected. Sections 2 (12) and 31 (5), read together, provide that the polling stations shall be opened at the hour of 8:00 o'clock in the forenoon and kept open until 7:00 o'clock in the afternoon of the same day, standard time, which would be 9:00 a.m. and 8:00 p.m. daylight saving time. Counsel quite properly agreed that this was so, and there was no dispute that in the Divisions in question the polling stations had closed prior to 8:00 p.m., daylight saving time, at the election, except, as will appear later, in Divisions 6 and 14.

The petition was filed on August 13, 1968. Particulars were filed on September 3, 1968, following an order made by Mr. Justice Mifflin on August 26, 1968. The particulars showed the time, known in all but three instances, that the polling station, which we shall call the "poll" from now on, was opened in each of the Divisions concerned, and the names of the voters, known to the petitioner on September 3, 1968, who tried to vote after 7:00 p.m., daylight saving time, at their respective polls and were unable to gain admittance to the poll. There were two in Division 5, one in 7, one in 8, five in 9, two in 10, one in 11, two in 13, two in 15, and one in 39, seventeen in all. The particulars did not deal with five of the Divisions referred to in the petition, but at the hearing evidence was given of additional voters being unable to vote after 7:00 p.m., daylight saving time, in all of the Divisions except 6 and 14. From now on all references to time will be to daylight saving time unless some other time is specified. Leaving out the voters in Divisions 6 and 14, the number of voters on the list of voters for the twelve other Divisions was 1756, of whom 1061 voted and 695 did not vote. Division 17 is about one hundred and seventy miles by road north of Corner Brook, the seat of the Returning Officer, and the distance from Division 17 north to Division 5 is about seventeen miles. Most of the men in the latter Divisions are fishermen, but not all were at home on election day; for example, two crews, totalling nine men, were away fishing on the Labrador Coast. And polling day was not a good day, so far as the weather was concerned, being damp and misty. But it was a good day otherwise, there being "a nice lot" of fish being caught, so much that in some settlements both the men and the women were busy working at the