

taken to be a clumsy and ill-made cross; and ballots were disallowed which were marked (1) with a single stroke, the error in the head-note in *In re West Huron* (1898) 2 O.E.C. 58, in which it is stated that ballots so marked were in that case allowed being pointed out; (2) with a plain cross in one compartment and a fainter, partly smudged or rubbed out cross in the other; (3) with the name of the candidate written in the compartment; and (4) with a circle in both compartments.

Ballots marked in due form but with an indelible coloured pencil, were objected to on the ground that there was possibly a design to identify the voters, but these were allowed, there being no evidence, and evidence not being admissible, to shew whether a pencil of this kind had or had not been supplied by the deputy returning officer.

J. W. Elliott, and *E. N. Armour*, for the candidate Nixon. *E. F. B. Johnston*, K.C., and *W. I. Dick*, for the candidate Barber.

Osler, J.A.] RE LINCOLN ELECTION—PROVINCIAL. [Aug. 21.
Provincial election—Misdescription of electoral district—Surplusage—Amendment.

The petition and other papers in an election case were headed in the proper court and purported to be under "The Ontario Controverted Election Act." "As to the election of a member of the Legislative Assembly for the Province of Ontario for the electoral district of Lincoln and Niagara, holden on the 22nd and 29th days of May, 1902." No such provincial electoral district as Lincoln and Niagara existed, but there was an electoral district for Lincoln, being the district intended.

Held, that the misdescription was not fatal; that the additional words might be treated as surplusage and struck out, leave being given to the petitioner to make such amendment.

W. D. McPherson, K.C., for the motion. *R. A. Grant*, contra.

Province of New Brunswick.

SUPREME COURT.

Pugsley, A. S., Arbitrator.] RE DEFOREST. [Oct. 1.
Vendor and Vendee—Taxes—St. John Assessment Act, 52 Vict. c. 27, s. 131.

By agreement dated March 18, 1902, for the sale of land in the city of St. John the vendee was to be given a "good title free of all claims on the first of May," the date when possession was to be given. Section 131 of