

No. 1, Nassagaweya, ballot 2048, marked and counted for Nixon. I think that the cross, though clumsy and ill-made, is well enough for a ballot. I dismiss appeal as to this.

No. 3, Oakville, ballots 4058, 4073, 4077, 4098, 4099, rejected by the deputy returning officer, but counted by the County Court Judge for Nixon. Each is well marked with a plain cross in Nixon's compartment. The cross is made with blue or indelible, or at least not with a common black pencil, and the ballots are objected to as offending against the requirements of sec. 31 (3) and 71 of the Election Act, not being marked with the pencil provided by the deputy returning officer for the use of voters, and thus shewing marks of some common design to disclose the identity of the voter. I think that on an inquiry of this kind evidence cannot be received by the Judge; he deals with the ballots in the condition in which they come before him. There is nothing to shew that the pencil with which these ballots were marked was not supplied by the deputy returning officer, nor to shew on what ground he rejected the ballots. Appeal dismissed.

The certificate will be according to these findings. No costs.

OSLER, J.A.

JULY 14TH, 1902.

C. A.—CHAMBERS.

RE CENTRE BRUCE PROVINCIAL ELECTION.

STEWART v. CLARK.

*Parliamentary Election—Petition—Clerical Error—Service—Format
Objection—Amendment.*

Motion by respondent to set aside copy and service of the petition.

E. Bristol, for respondent.

A. B. Aylesworth, K.C., for petitioners.

OSLER, J.A.—A petition regular in form was duly presented by the defeated candidate. Notice of the presentation was duly served on the respondent, and, together therewith, a paper purporting to be a copy of the petition. By some error on the part of a clerk, a pen was run through the last clause of the copy—the prayer of the petition—which was served in that condition. The respondent moves to set aside copy and service. The petitioner, while contending that nothing is wrong, moves to amend. If the pen stroke through the final clause of the printed copy of the