

Judge, whose own opinion the parties are entitled to have, and it, and it alone, is that which the Rule permits to prevail in determining the questions raised by the appeal.

MACLENNAN, J.A.

MARCH 2ND, 1905.

C.A.—CHAMBERS.

RE PRINCE EDWARD PROVINCIAL ELECTION.

*Parliamentary Elections—Ballots—Recount—Jurisdiction of Deputy County Court Judge—Absence of Statement by Deputy Returning Officer as to Result of Poll—Substituted Statement—Two Crosses on Ballot—Erasure of one—Irregular Cross.*

Appeal by R. A. Norman, one of the candidates, from the decision of the deputy Judge of the County Court of Prince Edward, on a recount of ballots.

E. E. A. DuVernet and D. C. Ross, for appellant.

C. H. Widdifield, Picton, for Morley Currie, the other candidate.

MACLENNAN, J.A.—An objection to the jurisdiction of the deputy Judge, taken by the respondent and overruled by the Judge, was renewed before me.

I do not think the objection well founded. Sections 9 and 10 of the Local Courts Act, R. S. O. 1897 ch. 54, provide for the appointment of a deputy Judge, and that in case of the death, illness, or absence of the Judge, he shall have authority to perform, in the place of the Judge, in the county for which he is deputy, all the duties of and incident to the office of the Judge of the County Court, and all acts required or allowed to be done by the Judge of the County Court under that or any other statute, unless when by such statute it is otherwise expressly provided. It is admitted that the County Court Judge was ill at the time this proceeding was taken and proceeded with, and there is no express provision of any statute excluding the application of the section in the case of a recount.

The principal ground of the appeal is that the Judge should not have counted the ballots marked at polling subdivision No. 1, Hallowell, but should have rejected them all, because of non-compliance by the deputy returning officer with the statutory directions contained in secs. 112 and 114 of the Election Act, as to proceedings at the close of the poll. It is not disputed that the alleged non-compliance by the