of the relator, it was contended that he was precluded from supplementing his affidavit evidence by calling witnesses to give *viva voce* evidence, although their names were mentioned in the notice of motion. The question raised was disposed of adversely to the respondent's contention, in Regina ex rel. Mangan v. Fleming, 14 P. R. 458. . . . It appears that, although objection was raised to the evidence, some of the voters were called as witnesses by the relator, and stated for whom they voted. . . .

Section 200 of the Municipal Act, R. S. O. ch. 223, provides that "no person who has voted at an election shall in any legal proceeding to question the election or return be required to state for whom he voted." Section 7 of the Dominion Elections Act, and sec. 158 of the Ontario Elections Act, R. S. O. ch. 9, are in like terms. See Re Haldimand Election, 1 E. C. at p. 574; Re Lincoln Election, 4 A. R. at p. 210.

The improper reception of the evidence to which I have referred, cannot, however, affect the judgment appealed against, as without such evidence there was the evidence of the 32 voters, to which credence was given by the learned County Court Judge, which, together with the scrutiny made by him of the ballots, afforded, as he considered, ample evidence that the ballots had been tampered with after the ballot papers had been deposited in the ballot box at the close of the poll.

At the examination counsel for the respondent asked for leave to cross-examine the several affiants who had made the affidavits filed by the relator. The learned Judge of the County Court refused, and his refusal is one of the grounds of appeal. In Regina ex rel. Piddington v. Riddell, 4 P. R. 80, Morrison, J., held that ordering the oral examination of the parties for the purpose of impeaching the facts sworn to by one Clinkenboomer and the respondent was discretionary with him, and refused the application. And in Rex ex rel. Ross v. Taylor, 22 C. L. T. Occ. N. 183, the Master in Chambers followed Piddington v. Riddell, holding that it was a matter of discretion as to permitting a cross-examination of persons who had made affidavits filed by the respondents in answer to the affidavits filed by the relator. There is no doubt that in the present case it was discretionary with the learned County Court Judge, after the examination had commenced, to refuse leave to cross-examine.

As the practice in the High Court is applicable to quo warranto proceedings (Rex ex rel. Roberts v. Ponsford, 22 C.L.T. Occ. N. 146, ante 223), the respondent could before the examination have cross-examined all persons who had made the affidavits filed by the relator.