

they voted in a wrong capacity, their votes could not be struck off. *Prescott*, 780.

See also p. 671.

VOTERS' LISTS. — 1. Special report, and observations on making the revised lists of voters final, except as to matters subsequent to the revision. *Stormont*, 21.

2. The proper list of voters to be used at an election is "the last list of voters made, certified, and delivered to the Clerk of the Peace at least one month before the date of the writ to hold such election." *Monck*, 154.

3. An irregular voters' list had been used in one of the townships in the Electoral Division; but that the result of the election had not been affected thereby, and that the election was not avoided. *Ibid.*

4. *Held*, following the *Monck* case (32 Q. B., 147, ante p. 154), that the list of voters to be used at an election must be the list made, certified and delivered to the Clerk of the Peace at least one month before the date of the writ to hold such election. *Prince Edward* (2), 161.

5. The list of voters used at the election in the Township of Hillier was not filed until the 28th November, 1871, and the writ of election was dated 9th December, 1871. *Held*, that the list of voters of 1871 should not have been used. *Ibid.*

6. *Held*, that the effect of the Voters' Lists Finality Act, 1878, was to render the voters' lists final and conclusive of the right of all persons named therein to vote, except where there had been a subsequent change of position or status by the voter having parted with the interest which he had (or by the assessment roll appeared to have) in the property, and becoming also a non-resident of the electoral division. *South Wentworth*, 531.

7. Mistakes in copying the voters' lists should not deprive legally qualified voters of their votes any more than the names of unqualified voters being on the list would give them a right to vote. But the mere fact that the lists were not correct alphabetical lists, or had not the

correct number of the lot, or were not properly certified, or the omitting to do some act as to which the statute is directory, is no ground for setting aside an election, unless some injustice resulted from the omission, or unless the result of the election was affected by the mistake. *North Victoria*, 584.

8. The Court will not go behind the voters' lists to inquire whether a voters' name was entered upon the assessment roll in a formal manner or not. *North Simcoe*, 612.

9. *Semble*, That the provisions of the law as to how voters are to be entered on the voters' list in respect to their property, and as to the manner in which they are to vote, are directory. *Prescott*, 780.

VOTING BY BALLOT.—One B., a voter who could neither read nor write, came into a polling booth, and in the presence of the deputy returning officer asked for one not present to give him instructions how to mark his ballot. The deputy returning officer gave the voter a ballot paper, who then stated he wished to vote for the respondent. One W., an agent of the respondent, in the polling booth, took the pencil and marked the ballot as the voter wished, and the voter then handed it to the deputy returning officer. No declaration of inability to read or write was made by the voter. *Held*, that no one but the deputy returning officer was authorized to mark a voter's ballot, or to interfere with or question a voter as to his vote; and the deputy returning officer permitting the agent of a candidate to become acquainted with the name of the candidate for whom the voter desired to vote, violated the duty imposed on him to conceal from all persons the mode of voting, and to maintain the secrecy of the proceedings. *Halton*, 283.

See also pp. 500, 519, 531, 671, 725, 780.

WEIGHT OF EVIDENCE.—See pp. 8, 97, 187, 556, 579.

WITNESSES OUT OF COURT.—See p. 243.