

Killam, C.J., Dubuc, J.]

[July 20.]

IN RE LISGAR ELECTION.

Election petition—Evidence to disqualify—Proof that candidate took all reasonable means to prevent the commission of corrupt practices—Offences of a trivial, unimportant and limited character—Burden of proof—Statement of election expenses—Payments by candidate otherwise than through his election agent—Payment for expenses on services of agent—Dominion Election Act, 1900, ss. 123, 127, 146—Costs—Witness fees—5455 Vict., c. 20, s. 15—Giving railway tickets to voters.

Trial of petition to set aside the election of the respondent for the Dominion constituency of Lisgar and for the disqualification of the respondent for personal complicity in corrupt practices. The trial judges found on the evidence that corrupt practices had been committed by several agents of the respondent; but it was urged on his behalf that, under s. 127 of The Dominion Elections Act, 1900, the election should not be declared void.

Held, 1. That, as regards at least two of the agents, the respondent had given no orders or cautions against the commission of corrupt practices, and that the circumstances were such as to throw upon him the suspicion of having sanctioned or connived at the corrupt practices committed by a third agent, although he denied on oath having been guilty of any such conduct.

2. That the offences could not be deemed to have been of a trivial unimportant and limited character.

3. That the onus was on the respondent to prove affirmatively, for the purpose of saving the election under section 127 of The Dominion Elections Act, 1900, that the particular offences proved had been committed contrary to his orders and without his sanction, and that he had taken all reasonable means for preventing the commission of corrupt practices, and that he had failed to satisfy the Court in that regard.

4. That, as to disqualifications of the candidate, the onus was on the petitioner to prove beyond a reasonable doubt the guilt of the respondent and that there was not sufficient evidence to warrant an affirmative finding that he had personally been guilty of corrupt practices. *Centre Wellington Case*, Hodgins 579; *Russell Case*, Ib. 199; *Welland Case*, Ib. 187, followed.

5. That the giving of railway tickets, which were not shewn to have been paid for, to voters upon which to travel to and from the polls, could not be said to be a corrupt practice under the Act.

6. That the omission from the election accounts, furnished under section 146 of the Act, of certain payments made by the respondent, and his personal payment of the sums directly instead of through his election