

Elec. Case.]

WEST ELGIN ELECTION—SOUTH OXFORD ELECTION.

[Ontario.]

and of the names, abodes and addition of parties who before, at, and during the return, offered to corrupt and bribe, or give, or procure advantage to the electors to induce them to vote for the respondent, or to refrain from voting for the unsuccessful candidate, and the names, &c., of the persons sought to be corrupted, and the specific nature of such corruption, bribing and advantages referred to in the seventh paragraph of the petition.

There was a very similar application in the case of *Beal v. Smith*, L. R. 4 C. P. 145, in which Willes, J., after consultation with Martin, B., and Blackburn, J., ordered that the petitioners should, three days before the day appointed for trial, leave with the master and also give the respondent and his agent particulars in writing of all persons alleged to have been bribed, of all persons alleged to have been treated, and of all persons alleged to have been unduly influenced; and that no evidence should be given by the petitioners of any objection not specified in such particulars, except by leave of a Judge, upon such terms (if any) as to amendment, postponement and payment of costs as might be ordered. That order was affirmed on application to the Court of Common Pleas for the fuller particulars which Willes, J. had refused to order. I shall make a similar order on this branch of the summons, except that I shall, following the usual practice here, make the term fourteen days instead of three, and will, in the same manner, dispose of the application as to the matters charged in the eighth, ninth and tenth paragraphs of the petition.

Order accordingly.

SOUTH OXFORD ELECTION PETITION.

BENJAMIN HOPKINS, v. ADAM OLIVER.

Agent of respondent cannot be made party to petition—34 Vict., cap. 3, sec. 49—"Person other than the candidate."

The petition, besides charging the respondent with various corrupt acts, charged an agent of his of similar acts, and claimed that the agent was subject to the same disqualifications and penalties as a candidate. The prayer of the petition asked that this agent might be made a party to the petition, and that he might be subjected to such disqualifications and penalties.

Held, 1.—That there is no authority in the Election Acts or elsewhere, for making an agent of a candidate a defendant in a petition on a charge of personal misconduct on his part.

2.—There is no authority given to the Election Court or the Judges, to subject a person "other than a candidate" to such disqualifications.

3.—The Judges' report to the Speaker as to those persons "other than the candidate," who have been proved guilty of corrupt practices, is not conclusive, so as to bring them within 34 Vict. cap. 3, sec. 49, and so liable to penal consequences.

[Chambers—April 10, 1875. DRAPER, C.J., E. & A.]

This petition, in paragraph 3, charged that Adam Oliver was by himself, and others on his behalf, guilty of bribery, treating and undue influence, which are corrupt practices, and (paragraph 4), of procuring divers persons knowingly to personate and assume to vote at the election in the names of other persons who were voters, and (paragraph 5) providing drink and entertainment at his (respondent's) expense at meetings of electors, and (paragraph 6) of keeping open divers hotels, taverns and shops where spirituous and fermented liquors were ordinarily sold, and of selling and giving such liquors to divers persons corruptly to influence them. Other general charges were also made.

The 17th paragraph stated that Peter Johnson Brown was an agent for Oliver, before, during, at and subsequent to the election, in furthering the same, and was guilty by himself of each and all of the said corrupt practices; and petitioner submits that the vote of Brown for the said Oliver was therefore null and void, and he (qu? who) thereby became incapable of being elected to and of sitting in the Legislative Assembly, and of being registered as a voter and of voting at any election, and of holding any office at the nomination of the Crown, or the Lt.-Governor, or any municipal officer.

The second paragraph of the prayer of the petitioner, asked that Brown should be made a party to this proceeding in respect of the said charges so made against him, to the end that he might have an opportunity of being heard, and that his said vote might be declared null and void, and he declared incapable in the several particulars hereinbefore mentioned.

The petition contained no *direct* allegation that Brown voted at this election, though it was submitted that the vote of Brown for the respondent was null and void. But the decision of the learned Judge was in no way based on this omission.

A summons having been granted to set aside the 17th paragraph of the petition and 2nd paragraph of prayer.

Osler shewed cause.

Hoyles supported the summons.

The arguments appear in the judgment of

DRAPER, C.J., E. & A. I presume Mr. Hoyles represented the respondent, and therefore that