

Elec. Court.]

NORTH SIMCOE ELECTION PETITION.

[Elec. Court.

NORTH SIMCOE ELECTION PETITION.

HEZEKIAH EDWARDS, *Petitioner*, v. HERMAN H. COOK, *Respondent*.

Whether petitioner disqualified by bribery, &c.—When disqualification arises.—Champertry.

A duly qualified voter is not debarred from being a petitioner on the ground that he has been guilty of bribery, treating or undue influence, during the election.

Disqualifications from such acts on the part of a voter or candidate arise after he has been found guilty, and there is no relation back.

It is not a champertous transaction that an association of persons with whom the petitioner was politically allied, agreed to pay the costs of the petition. Even if the agreement were champertous, that would not be a sufficient reason to stay the proceedings on the petition.

[Election Court—June 26, July 16, 1874.]

The petition in this case stated,

2. That the election was holden on January 22, A.D. 1874, and continued until January 29, when Herman Henry Cook and Dalton McCarthy were candidates, and said Cook was returned as duly elected.

3. That the said Cook, by himself and his agents, was guilty of corrupt practices within the meaning of the term "Corrupt Practices" in the Controv. Elections Act, 1873, during the election.

4. That the said Cook did by himself and his agents at the said election, both directly and indirectly, employ means of corruption by giving or promising sums of money, offices, places, employment, gratuities, rewards, bonds, bills or notes, and conveyances of land to various electors entitled to vote at the said election with intent to corrupt or bribe such electors to vote for the said Cook.

5. That the said Cook did by himself and his agents at the said election, both directly and indirectly, employ means of corruption by giving or promising sums of money, offices, places, employment, gratuity, reward, bonds, bills or notes, and conveyances of land to various electors entitled to vote at the said election, with intent to corrupt or bribe said electors to keep back from voting for the said McCarthy.

6. That the said Cook did by himself and his authorized agents for that purpose, threaten divers electors entitled to vote at the said election with losing offices, salary, income, and other advantages with intent to corrupt or bribe such electors to vote for the said Cook.

7. That the said Cook did by himself and his

authorized agents for that purpose, threaten divers electors entitled to vote at the said election with losing office, salary, income, and other advantages, with intent to corrupt or bribe such electors to keep back from voting for the said McCarthy.

8. That the said Cook, at the said election, opened and supported, and caused to be opened and supported at his costs and charges, various houses of public entertainment in the said electoral division of the North Riding of the County of Simcoe, for the accommodation of the electors entitled to vote at the said election.

9. That the said Cook and his agents were guilty of corrupt practices at the said election by hiring teams, carriages, and other vehicles and means of conveyance from said electors, and paying, or promising payment for the same, with the view of inducing said electors to vote for the said Cook.

10. That the said Cook and his agents were guilty of corrupt practices at the said election by hiring teams, carriages, and other vehicles and means of conveyance from the said electors, and paying, or promising payment for the same, with the view of keeping back such electors from voting for the said McCarthy.

11. That the said Cook and his agents were guilty of corrupt practices at the said election, by treating the said electors thereat in order to induce them to vote for him, the said Cook.

12. That the said Cook and his agents were guilty of corrupt practices at the said election by treating the said electors in order to keep them back from voting thereat for the said McCarthy.

Wherefore, your petitioner prays that it may be determined that the said Cook was not duly elected or returned, and that the election was void.

The respondent filed preliminary objections, submitting:

1. That the petition should not be further proceeded with, on the ground that the petitioner was not duly qualified to vote at the said election, whereby he was incapable of being a petitioner.

2. That the petition should not be further proceeded with, on the ground that the petitioner was not actually and *bona fide* the owner, tenant or occupant of the real property of the value of \$400, in respect of which his name was entered on the list of voters used at the said election, and was not legally entered on the last revised assessment roll, upon which the said voters' lists was founded