

Elec. Case.] *

NORTH VICTORIA ELECTION PETITION.

[Dominion

favourably, for all parties, with some of those which have been held in other places, and which have not been creditable to the parties concerned, and which must sorely have tried the faith of those who believe in the excellency of popular representation when they find those who were supposed the honest and actual choice of those who were supposed to be the free and independent electors of a constituency holding their seats by the mere force of money or undue influence, not by an election, but by a contract of sale and purchase which was as bad on the side of the purchased as on that of the purchasers. From all that and anything approaching it in any respect, this election and the candidates stand unquestionably free.

I have already said that, if the charge of agency were not maintained, and in my opinion it has not, it would be unnecessary to consider whether the giving of dinners by Peters was or was not bribery, or treating within the meaning of the Act. The point was argued before me very fully by the respective parties, and many cases were cited as applicable to it. I am not sure what opinion I should have formed with respect to it. It is not improbable, if the agency had been established, that although the electors had come from ten to twenty-five miles to the poll, and there was no inn nearer than five miles to it I should have held it to have been a violation of the statute. I must, of course, have been satisfied that it was corruptly done; that is, done for the purpose of influencing the election either by voting or not voting, before I could have found the offence to have been committed, and it is not so perfectly plain that a free dinner, given by a candidate to a hungry voter, who has travelled twenty miles in a Canadian winter day in January, to the poll, is necessarily and as a mere consequence a corrupt act. I do not know any law which would prevent a candidate from giving a voter in such a season and on such an emergency a bit of bread and cheese for himself, or a lock of hay and a drink of water for his horses. These are matters of degree, the manner in which, and the number, perhaps, to whom these services were rendered, and the more or less need there was for the act must all be considered. Such questions are difficult to deal with, because of the almost inevitable tendency they have to operate upon the voter, and the difficulty there is in discovering the true motive for the candidate's liberality at such a time, and the danger there is in permitting any such thing to be done when the gain is so immediate and it is so very likely to be the

leading cause for so much activity and kindness. It is sufficient to say that I have not made up my mind on that part of the case, and I am glad it is not necessary I should do so. My leaning, however, at present is more against the rightfulness and lawfulness of that transaction than in support of it.

I have given this case a careful consideration, and determining this matter of agency as I do, I must decide that the petitioner having the majority of votes in his favour, upon an inspection of the ballot papers only, is the person who was duly elected for the North Riding of the County of Victoria, at the last election for the Dominion Parliament, held for the said North Riding, and that he should have been returned as the person so duly elected, and that the election and return of the respondent for the said riding at the time aforesaid were and are void.

I must award the general costs of the cause and proceedings to the petitioner to be paid by the respondent, with the exception of the costs relating to that part of the petition which applies to the voters whose names were not upon the copies of lists furnished to the deputy returning officers, but who were entitled to vote, and should have been admitted to vote at the said election, because I have not judicially determined that part of the petition, and with the exception of the cost of the scrutiny of the ballots, because such rejected ballots were not the fault of either party, but of the deputy returning officers. The parties must each bear his own costs with respect to these last mentioned matters.*

REVIEWS.

COMMENTARIES ON EQUITY JURISPRUDENCE, FOUNDED ON STORY. By Thomas Wardlaw Taylor, M.A., Master in Chancery. Toronto: Willing & Williamson. 1875. pp. 564.

Mr. Taylor's original intention was, as he tells us in his preface, to prepare an edition of Story's Equity Jurisprudence adapted to the system of equity administered in this Province. This intention could not conveniently be carried out, owing to the omissions, additions, and alterations that were found to be neces-

* The respondent appealed from this decision. The petitioner, however, objected to an irregularity in the service of the notice of appeal. The case was argued this Term and stands for judgment. - Rep.