

## Election Case.]

## EAST TORONTO ELECTION PETITION.

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taking around tickets, some five of whom had received small sums, and the larger portion had not received anything, and never asked or expected anything. Some of them, when applying to Carruthers, were told he had no money to expend for these purposes, but only for printing; yet he paid some small sum, as he said, out of his own pocket. If he was unwilling to pay these men for the services so rendered, and who were all friends of Mr. Cameron, out of the money he received, I do not think it likely he would pay over the money to induce others to vote for Mr. Cameron. Warwick, in his evidence, said that many of the parties who applied to him for their pay, stated that Carruthers and he had received money to pay these expenses, but had kept it themselves. Hynes said that Carruthers told him he had received some money from Mr. Gooderham to pay for printing, &c., but he understood it was only \$50. It may have been he had only received \$50 then, as Mr. Gooderham said he paid the money to him at different times.

The evidence of Reid was equally unsatisfactory, and did not impress me with the conviction he had spent all the money he received in paying expenses connected with the election, whether legitimate or otherwise.

It is contended that the decisions under the English statute are not applicable to the state of the law existing here.

Reference is made to the three clauses of the second section of the Imperial Statute, 17, 18 Vic., cap. 102, which enacts "That every person who shall directly or indirectly, by himself or any other person on his behalf, make any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavor to procure, the return of any person to serve in parliament, or the vote of any voter at any election," shall be guilty of bribery.

In the *Coventry Case*, 1 O'M & H. 100, Justice Willes, in referring to this section, says: "Therefore anything, great or small, which is given to procure a vote would be a bribe; and if given to another to purchase his influence at the election, it unquestionably would be a bribe, and would avoid the election." Our own statute, 32 Vic., cap. 21, sec. 67, 3rd paragraph, is in the same words.

At the conclusion of the second section of the Imperial Statute are the words, "Provided always that the aforesaid enactment shall not extend, or be construed to extend, to any money paid or agreed to be paid for or on account of any legal expense *bona fide* incurred at or concerning any election." The proviso at the end of the section in our Statute is, "Provided always that the actual personal expenses of any candidate, his expenses for actual professional services performed, and bona fide payments for the fair cost of printing and advertising, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act."

It is argued that the effect of our Statute is to restrict the candidate to the payment of his personal expenses—that is, for his own board, lodging, horse hire, travelling expenses, I suppose, and his expenses for actual professional services

performed, meaning fees paid to lawyers for their services as such.

In this view, he could not hire a room to meet the electors in, or for his committee to meet in, unless he were then personally present; and none of his committee could hire a room for that purpose, (for that would not be for professional services,) if such room belonged to a voter, and none other could be conveniently obtained. I am not inclined to put this narrow construction on a Statute so highly penal as this is. The plain and reasonable meaning of the Statute seems to me to be what its words indicate, that when the prohibited things are done "in order to induce such person to procure or endeavor to procure the return of any person to serve in parliament, or the vote of any voter at any election," the person doing this shall be guilty of bribery.

In the *Coventry case*, the point was whether one candidate offering to pay the expenses of a co-candidate was guilty of bribery, and reference being made to the proviso in the section of the English Act, the learned judge (Willes) said, "It does not relate to the expenses of voters. To pay the expenses of voters on condition of their voting or abstaining from voting, is unquestionably bribery." He then proceeds, "But the candidate may pay his own expenses, and employ voters in a variety of ways; for instance, he may employ voters to take around advertising boards, to act as messengers as to the state of the poll, or to keep the polling booths clear. He may also adopt the course which appears to have been adopted in this city, that is to say, the city or borough is divided into districts, and committees are formed amongst the voters themselves, of selected persons, who go about and canvass certain portions of the district, and for their services these persons are sometimes paid and sometimes not paid. Now, unquestionably if the third clause of the second section was to be taken in its literal terms, the payment to canvassers under such circumstances, being, as it is, a payment to induce them to procure votes by means of their canvass, would come within the terms of this clause, and would avoid the election. We have, therefore, a test supplied of the meaning of the third clause of the second section, by means of which we see that it was not intended by this section to do away with every payment made by the candidate in the course of the election." After referring to the *Tamworth Case*, where reference is made to the cases, deciding that employing voters and paying them as canvassers was not colorable; he then refers to the *Lambeth Case*, in which voters employed as canvassers were paid, and it was not considered illegal. He adds, "It is hardly necessary to point out how exceedingly dangerous the adoption of that system is, both in respect to the payment of canvassers, and also in respect of that which has been held lawful, viz: the supply of fair refreshments to unpaid canvassers, whilst engaged actually and not colorably, upon this work; and in like manner, of refreshments to committee men. It is proper, when this system is referred to as not being unlawful in itself, to say that it exposes members to very great danger, and when it is merely colorable, it would avoid the election." He comes