

Trial—Britton, J.]

CAREY v. SMITH.

[Jan. 6.]

Penalties—Ontario Election Act—Bribery—Recovery of penalty by action—Agent at poll—Certificate—Neglect to take oath of qualification—Reduction of penalty.

An action will not lie under s. 195 of the Ontario Election Act, R.S.O. 1897, c. 9, for the pecuniary penalty for the offence of bribery prescribed by s. 159, sub-s. 2, as amended by 63 Vict., c. 4, s. 21, until after conviction. The defendant was found guilty of bribery on the evidence and a claim for a penalty was dismissed without costs.

The defendant was held liable to a penalty of \$400 under s. 94, sub-s. 5, of the Act, for voting at a polling place where he was acting as an agent of a candidate, under a certificate of the returning officer without having taken the oath of qualification, but the penalty was reduced to \$40 as in the preceding case.

Whiting, K.C., and J. M. Mowat, for plaintiff. McIntyre, K.C., and E. H. Smythe, K.C., for defendant.

Trial—Boyd, C.]

ATTORNEY-GENERAL OF ONTARIO v. BROWN.

[Jan. 10.]

Revenue—Succession duty—"Dutiable" property—Transfer of property before death—Donatio mortis causa—Contract for valuable consideration—Estoppel—Survivorship.

The aggregate value of the estate of an intestate was \$12,877, and of this \$7,540 passed to the hands of his niece by virtue of an agreement between them, given effect to by a donatio mortis causa, as established in *Brown v. Toronto General Trusts Corporation*, 32 O.R. 319.

Held, that the \$7,540 was not dutiable under the Succession Duty Act, R.S.O. 1897, c. 24, and amendments, the transfer from the intestate to his niece not being a voluntary one, but one made in pursuance of a contractual obligation for value; and the niece not being estopped by the form of the judgment in her action against the Toronto General Trusts Corporation, from setting up in this action, brought on behalf of the Crown to recover succession duty, that the transfer was not a gift, but the implementing of a contract.

Held, also, that the \$7,540 did not pass by survivorship within the meaning of s. 4 (d) of R.S.O. 1897, c. 24.

Aylesworth, K.C., for plaintiff. Arnoldi, K.C., for Amanda Brown. Colville, for other defendants.

Street, J.]

IN RE HANNAH HUNT.

[Jan. 26.]

Will—Legatee predeceasing testatrix—Right of husband and children of deceased legatee.

A testatrix by will dated March 23, 1901, directed her estate to be divided into four equal shares and one share to be paid to each of her four