

Elec. Case.]

HALTON ELECTION PETITION.

[Ontario.]

be corrected was the supporting a candidate, not because he was the proper person, but for "*causa lucri*." The supporting of the candidate because of personal benefit to himself; the exercise of the franchise not for the public good, but for personal gain in money or money's worth to the voter or the person inducing the elector to vote or not to vote, was what the Legislature wished to guard against.

Then what was the motive presented to the mind of Mrs. Robins in the case under consideration to induce her husband not to vote against respondent. It was that she was to receive some substantial advantage from it either in money or property; something of value. She was to have a *nice present*. The evidence shewed she considered it would be something of value, not of mere fanciful or imaginary value, but of real value that would be *appreciable*. What occurred would well justify her in supposing that the respondent intended to give her something of value, and that he intended to give her, in the language of the statute, a valuable (not a fanciful) consideration for inducing her husband not to vote; and she, entertaining that belief, tried to induce her husband to abstain from voting.

So that in fact the evil which the Legislature intended to prevent actually existed in this case. This woman was *corrupted* by the offer, and she endeavoured to exercise an influence over her husband from the desire to get the *present* which had been promised her.

I understand when a corrupt promise has not been carried out that the election judges in England, to use the language of Mr. Justice Willes in the *Lichfield case*, 1 O'M. & H. 27, "require as good evidence of that promise illegally made, as would be required if the promise were a legal one to sustain an action by (Barlow) the person to whom the promise was made against the respondent, upon Barlow voting for him, for not procuring or trying to procure him a place in the hospital."

But I do not understand that the promise must be one for which, were it not prohibited by the Corrupt Practices Act, an action would lie for the breach of it. The evidence of the promise requires to be satisfactory, and as far as we are concerned, that question has already been disposed of.

My brother Patterson has given me a note of some cases not referred to on the argument; the older ones shew that as a matter of pleading it was necessary to shew *what* was offered, and in that view would seem to go a long way

in sustaining the view pressed upon us by the respondent, but the modern cases under this very statute are, I think, the other way.

I quote at some length the language of the learned judge who tried the Launceston Election Petition, in which Col. Deakin was respondent. In that case, as reported in 30 L. T. N. S., at p. 832, Mellor, J., said: In relation to the privilege granted by Col. Deakin to his tenants to shoot rabbits on the farms leased by them, "I cannot help thinking that it was to those tenants a valuable consideration, and *that the effect on the mind of these tenants was that they had acquired by that concession a valuable consideration*, capable of being represented by some money value. Of course I cannot estimate what money value, nor is it necessary that I should do so; it is only necessary that I should arrive at the conclusion that it was money or money's worth, and that the respondent considered that he was parting with something which was or might be in his hands a source of great enjoyment or pleasure, or otherwise, which he gives up to a tenant, and thereby destroys the effect of the reservation under which the tenant was formerly holding. I cannot help thinking, therefore, that it was a concession which had an appreciable value * * * I must see that in construing the act of Parliament intended to put down all corrupt practices and influences at an election, I am not narrowing by any construction of mine the effect of it, but am giving all proper effect to it. * * * The conclusion at which I have arrived is, that the giving of this concession to the tenants, under the circumstances, was either a promise or a grant; *it was not a legal grant*, because that would require something more than a parol expression; *but when we are dealing with an election question, we must deal with the motives which are apparent*, and which appear from the act itself. I cannot go into any intention of Col. Deakin. I must be governed by what he said, and by the inferences I ought to draw from *what he did and what he said*; and *by the inferences drawn* by those persons who were present, and who heard *what he did and what he said*."

Here, it will be observed, that even had it not been for the Corrupt Practices Act, Col. Deakin could not have been by law compelled to make a legal grant of the right of killing the rabbits, and could not have been sued for any more than the promise made in this case; but nevertheless, the promise was considered as equally corrupt. Other expressions, I think, warrant the con-