BRITTON, J.—This is a case where, at the most, whatever disagreement there may have been or suspicion, if any, on the part of either or both Judges, it is found that two corrupt practices by agents of the respondent have been committed. If these were committed with the knowledge of the respondent, then his election is void, but the relieving clause, 174, may be invoked against disqualification. If without the knowledge of the respondent, his election is void unless these corrupt practices were of such a trifling nature or extent that the result cannot have been affected by them altogether in connection with other illegal practices. The corrupt practices proved were the hiring of teams by J. W. Patterson to convey voters on election day. I do not find any evidence to shew that either of these corrupt acts was done with the knowledge of the respondent. Speaking for myself, I must say the evidence of the respondent, if he did not really know of or consent to the hiring of rigs, might have been more full. In dealing with a serious charge of this nature there should be affirmative evidence of the respondent's knowledge or consent, and I do not find that.

Section 172 recognizes that there may be a corrupt practice of a trifling nature which would not affect the result. The question then is: Has this election been reasonably affected by the corrupt practices established at the trial? The vehicles were hired to convey presumably legal voters to the polls. The question of influencing cannot be considered, as one of them was a Liberal and the other a Conservative. As to the application of sec. 172, I have read carefully the sections to which we have been referred. I adopt the language of Mr. Justice Ferguson in the Hamilton Case, 1 Elec. Cas. at p. 524: "As to whether or not the act was of trifling extent, I have difficulty in perceiving just what is meant by the expression, but I do not intend to add to what has been said by so many Judges in regard to the difficulties in construing or understanding this section. The reasoning of the learned Chancellor in the East Simcoe case is applicable in this case. Chief Justice Cameron says the section is pernicious in its effect and calculated to open the door to misconduct in elections, but the section is there, and I am bound to give it effect. . . ."

To deal with this particular case, where the majority was 173, we cannot say otherwise than that the two corrupt acts proved were of such trifling nature and extent that the result cannot reasonably be supposed to be affected by them. I therefore agree with my learned brother in the application of this section.