

PROVINCIAL ELECTIONS, 1875.

WEST TORONTO (2).

BEFORE CHIEF JUSTICE DRAPER.

TORONTO, 6th, 7th, and 10th May, 1875.

WILLIAM ADAMSON, *Petitioner*, v. ROBERT BELL, *Respondent*.*Agent accepting and drinking spirituous liquor during polling hours—
Corrupt practices by a particular class—32 Vic., c. 21, s. 66; 36
Vic., c. 2, sec. 1, 3.*

The 66th section of 32 Vic., c. 21 (Election Law of 1868), provides that "no spirituous or fermented liquors or drinks shall be sold or given to any person" during the day appointed for polling in the wards or municipalities in which the polls are held; and by s. 1 of 36 Vic., c. 2, "corrupt practice" means "any violation of the 66th section of the Election Law of 1868 during the hours appointed for polling;" and by s. 3 of the latter Act any corrupt practice "committed by any candidate at an election, or by his agent, whether with or without the actual knowledge or consent of such candidate," avoids the election.

On the day of the election in question, and during the hours appointed for polling, one M., an agent of the respondent for the purposes of the election, was offered by a person unknown to him spirituous liquor (whiskey) in a bottle, which such agent, after remonstrating with such person, accepted and drank at the polling place where such agent then was. The unknown person also gave spirituous liquor from the same bottle to other persons then present.

Held, that as the Legislature had, by the provisions as to the selling or giving of liquor during the hours of polling, provided for the punishment of one particular class, which was defined to be the seller or giver, it did not intend to include the other class, the purchaser or receiver, to which no reference was made, except inferentially; and that therefore such agent, as the receiver of spirituous liquor during such polling hours, was not guilty of a corrupt practice.

The petition contained the usual charge to corrupt practices. The election took place on the 1st and 18th January, 1875.

Mr. Bethune and Mr. N. W. Hoyle for petitioner.

Mr. Alfred Boulbee and Mr. Evatt for respondent.

The evidence on the charge of corrupt practices by an agent of the respondent was as follows:

John A. Macdonell: Q.—You acted as an agent for Mr. Bell? A.—Yes? Q.—Are you aware of any liquor