

Elec. Case.]

NORTH WENTWORTH ELECTION PETITION.

[Ontario.]

CANADA REPORTS.

ONTARIO.

ELECTION CASE.

(Reported by JOHN A. MACDONELL, Esq., Barrister, and Registrar to the Chief Justice.)

NORTH WENTWORTH ELECTION PETITION.

ROBERT CHRISTIE, *Petitioner*, v. THOMAS STOCK, *Respondent*.

Agency—Treating on polling day—32 Vict. cap. 21, sec. 66—36 Vict. cap. 2, sec. 1.

About a dozen of the electors met some time before the nomination to consult as to the candidate who should run in the interest of the political party to which they belonged. By them and others the respondent was nominated, and accepted the nomination. They met occasionally to report progress, and consult as to the canvass. One of them named Sullivan, on the election day, during the hours of polling, treated some of the electors at a tavern. The respondent was present and gave a silent consent to the act, and drank with the rest.

Held, That Sullivan was an agent, and that the respondent was a party to, and personally responsible for, a corrupt practice under the above statutes.

[Hamilton—May 19, 1875. DRAPER, C. J., E. & A.]

The petition filed in this case was in the usual short form, containing the allegation, that Thomas Stock was both personally and by his agents, before, during and after the election, guilty of corrupt practices as defined by the Controverted Election Act of 1873, and by sec. 1 of the Election Act of 1873, whereby the return became void and the respondent incapable of being elected; with a prayer that it should be determined accordingly.

A considerable number of witnesses were examined; but as all the allegations of corrupt practices, with the exception of a very few, were subsequently withdrawn, and the whole case turned and was ultimately decided by his Lordship upon the act of one Sullivan, committed with the consent and knowledge of the respondent, only such portions of the evidence as bear upon that are given.

John Davis Morden, being sworn, said he lived in East Flamboro', and worked in a saw mill in the village of Carlisle. Polling day was the 18th of January last. He was at James Davidson's tavern at Carlisle between two and three o'clock. Saw Mr. Stock there, and heard him call to the crowd to drink; fully thirty persons were present. He went into the City Hotel (Davidson's); witness also went in. Stock said, "Come in and drink, boys." It was beer mostly they drank. Davidson put it into the sitting-room through a small window; the bar was on the other side of the partition. William Valleck was there and William Ashbaugh, Thomas

Attridge, Zimmerman and others. Cross-examined by Robertson—He was not a voter; they wanted him to vote; he heard Stock speak the words; he took a cigar; Ashbaugh and Zimmerman were, he was told, electors; was certain it was on the polling day, and that whiskey was drunk as well as beer.

William Valleck, sworn,—Lives near Carlisle, and was at Davidson's tavern there on the polling day between two and three p.m. Saw Mr. Stock drinking beer in the sitting-room at Davidson's; about thirty others were with him. Saw him go in and a lot followed him, amongst whom was witness. Beer and whiskey were drank; he was there half an hour but took nothing. Stock was standing by the place there while the liquor was passed. Stock drank first. Cross-examined by Robertson—He was not an elector. William Ashbaugh, Bill Looney, and Zimmerman were there.

James Sullivan, sworn,—Lives half-a-mile out of Carlisle in the North Riding. He was a member of Stock's committee. Met at Davidson's. George Gaskill was chairman. William Edgar, Edward Vipper, John Gallagher, and Frederick Looney were members of it. The committee was formed for this election. They met after Mr. Stock accepted the nomination. Never saw Mr. Stock at any of the meetings. At the first meeting about twelve met. Stock was there—(this was previous to his candidature). No chairman was appointed. The object was to organize. It was settled then they were to canvass. They got the voters' lists afterwards. Stock was at no meeting afterwards. They got reports. In East Flamboro' thought they would have a majority of 132 or 133. Meetings were without formal summons; one told another to come. At the close of this meeting they adjourned to another day, and so from time to time. He canvassed, but not with Stock. He had a voters' list, but did not remember from whom he got it. It was printed. He saw Mr. Stock at Davidson's at Carlisle, just as he drove up. He drank at Davidson's in the room already spoken of. It was his (witness) treat. Stock said, "Boys, this is the first time I came to Carlisle I dare not treat you." He (witness) said he would treat. Stock took beer. There was a crowd present. He handed in \$1. Meant to get his change afterwards, but never asked for it. He meant to expend twenty or twenty-five cents, no more. He went into Davidson's through the front door. The window was small. He supposed people were drinking more or less. Before the meeting at Carlisle there had been one at Dundas, when it was un-