

made with knowledge that they were untrue, induced the prosecutor to sign a contract to pay \$240 for seed wheat. The defendant also represented that he was the agent of H., whose name appeared in the contract. H. afterwards called upon the prosecutor and procured him to sign and deliver to him a promissory note in his, H.'s, favor for the \$240. The contract did not provide for the giving of a note, and when the representations were made the giving of a note was not mentioned. The prosecutor, however, swore that he gave the note because he had entered into the contract.

The defendant was indicted for that he by false pretences fraudulently induced the prosecutor to write his name upon a paper so that it might be afterwards dealt with as a valuable security, and upon a second count for by false pretences procuring the prosecutor to deliver to H. a certain valuable security.

Held, upon a case reserved, that the charge of false pretences can be sustained as well where the money is obtained or the note procured to be given through the medium of a contract, as where obtained or procured without a contract; and the fact that the prosecutor gave a note instead of the money, by agreement with H., did not relieve the prisoner from the consequences of his fraud; the giving of the note was the direct result of the fraud by which the contract had been procured; and the defendant was properly convicted on the first count as being guilty of an offence under R. S. C., c. 164, s. 78; but

Held, that the note before it was delivered to H. was not a valuable security, but only a paper upon which the prosecutor had written his name so that it might be afterwards used and dealt with as a valuable security, and the conviction of the defendant upon the second count could not stand. *Rex. v. Danger, Dearsley & Bell*, 307, followed.

Farewell, for the Crown.

Dou for the defendants.

Common Pleas Division.

Divisional Court.]

[Feb. 8.

ALLENBY v. MOORE, et al.

School trustee—Office vacated by non-residence
—R.S.O. c. 225, s. 98, ss. 98 and ss. 106 and

246—Time of bringing action against board—Costs.

This was action for a mandamus to compel the defendants as remaining trustees of the Village School Board of London West, to declare vacant the seat of J.J., one of the trustees, and order a new election on the ground of his having ceased to be an actual resident in the village. Notice thereof was given by the plaintiff to the defendants on 23rd August, of their statutory duty to do so *forthwith*: R.S.O. cap. 225, sub-section 10, section 98, and sections 106 and 246. On 7th September the defendants met, but took no action. The plaintiff issued his writ on 11th September. The defence stated that they had fulfilled their statutory duty and claimed costs from the plaintiff. Subsequently defendants did order a new election, which took place in October, after the pleadings had closed. There was no dispute as to facts at the trial before MACMAHON, J., who dismissed the action with full costs, on the ground that it was brought too soon. On a motion to review the decision, the Full Court refused to interfere and dismissed the motion with costs.

W. H. Bartram, for plaintiff.

R. M. Meredith, for defendants

Divisional Court.]

REGINA v. CARDO.

Criminal law—Rape on daughter—Evidence of.

The defendant was indicted and convicted for committing a rape on his daughter. The learned judge left it to the jury to say whether, on the evidence, the act of connection was consummated through fear, or merely through solicitation.

Held, that the question was one of fact entirely for the jury, and could not have been withdrawn from them, there being ample evidence given to sustain the charge, and it was left to them with the proper direction in such a case.

N. Murphy, for prisoner.

Irving, Q.C., contra.

Divisional Court.]

FERGUSON v. ROBLIN.

Master and servant—Responsibility of master for act of servant—Joint wrong-doers.

The plaintiff's son, on the 31st July, 1886,