

Elec. Case.]

CORNWALL ELECTION PETITION.

[Elec. Case.]

very was specified, no receipt for the money was taken, and no oaths have as a matter of fact been delivered; the alleged purchase was undoubtedly a mere colourable proceeding. The fact that the Clines and Murray declared their intention to vote for the respondent does not affect the case.

Again, the payment of \$10 to Alguire by Henry Sandfield Macdonald falls within the rule of inordinate and excessive payment. Where \$4 or \$5 would have been sufficient, the excess must be considered as given for some other purpose, which purpose was "corrupt."

The payment of \$50 to the Rev. Mr. Smith, I think, falls within the rule as to "colourable charity," or "colourable liberality," referred to in the cases, and was therefore given with a corrupt motive.

With reference to the loans of small sums to various persons, we must of course take into consideration that the firm of Maclellan & Macdonald was in the habit of lending small sums. But the lending of various sums amounting to \$210 at 6 per cent., is certainly suspicious, since it is admitted by Mr. Macdonald that the current rate was 8 per cent., and no reason is given why 6 per cent. only was asked. I think the reasonable inference must be that the loans were made with a view to the election. It is not necessary, however, to lay much stress upon these transactions.

The loan of \$150 to Dupuis is very clearly a case of bribery by Duncan G. McDonald, a sub-agent. The loan was for two years, without interest, a note being given to secure repayment. The note was originally drawn payable with interest, but this was changed. Dupuis says in his evidence that McDonald "got nothing but my vote for the money." Is not this a stipulation that Dupuis should have the loan without interest if he would vote? Was it not a present of the two years' interest?

Again, Morrisette was an active agent. He attended the meetings at Maclellan & Macdonald's office in Cornwall. He examined the voters' lists. He had \$140 entrusted to him. As to the disposition of this money he gives a very confused account, but the promise of \$15 to Fitzpatrick's daughter was clearly an offer of a bribe. He said he would give the money if she got her father to vote, and the offer of a bribe is equivalent to a bribe, although it requires clearer and stronger evidence to support it.

The payment of money by Wood to Aaron Walsh was also illegal. Here the note endorsed by Walsh was paid by him 25 years ago.

He considered the payment a hardship, but he does not deny his liability. The fact that the money paid by Wood was not furnished by the respondent or either of his chief agents, makes no difference. The endeavour by Wood to restore friendship was undoubtedly done to influence the vote.

In the case of Alexander McDonald, the exercise of forbearance in pressing the judgment in the hands of Maclellan & Macdonald was evidently with the view of influencing the vote.

These cases of bribery are sufficient to render the election of the respondent void, and I shall only make a few remarks on the other circumstances disclosed in evidence.

The treatment of Heath was a gross wrong, and one of those stratagems inexplicable to right thinking men. The case of Charles Mullins was also a very gross case. A stratagem was used in inducing him to get into the sleigh driven by Grant, and in spite of his remonstrances he was driven into the country and thereby prevented from voting. I consider the conduct of Donald McMillan, a justice of the peace, who was present, and knew that an outrage was about to be committed, and yet did not interfere, as deserving of the strongest censure. The case is as gross a one as can well be conceived.

As to the hiring of the special train, I think there was no personal impropriety in the case. A mere hiring of a conveyance to carry voters is not an act wrong in itself, and would not be so at all but for the express provisions of the law. And I am inclined to think that the hiring in this instance does not fall within the meaning of the law, and that it is the same as the case of one sending his own carriage.

I am not required in this case to say whether the corruption was so general as that the election should on that account be set aside, but an election may undoubtedly be void on that ground: *Bradford Case*, 1 O'M. & H. 40.

I exonerate the respondent personally from any complicity in the corrupt acts committed, but I think that it is my duty to say that I can scarcely conceive that Mr. D. B. Maclellan and Mr. H. S. Macdonald would have acted in the manner in which they appear to have acted at this election if they had appreciated the gravity of the acts committed by them.

My judgment, therefore, is that the election is void. Costs to be paid by the respondent.

I do not think that the fact that the personal charges against the respondent have failed should alter the usual rule that costs follow the event. The expense of the trial has not