

Elec. Case.]

HALTON ELECTION PETITION.

[Ontario.]

CANADA REPORTS.

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ELECTION CASES.

WELLAND ELECTION PETITION.

BUCHNER V. CURRIE.

(Reported by Mr. C. C. Robinson, Student-at-Law.)

36 Vict. c. 2, s. 3—*Agency—Appointment of sub-agents.*
[Welland, May 17, 1875.—GWYNNE, J.]

In this case the respondent forwarded some books containing names of voters to one J. H., to put "into good hands to be selected by him for canvassing." Among others, J. H. gave one of the books to B., who was found guilty of corrupt practices, under 32 Vict. c. 21, s. 66.

James Miller, with him P. McCarthy, appeared for the petitioner.

J. G. Currie, the respondent, appeared in person, with him Hardy and McClure.

GWYNNE, J., held, that J. H. was an agent of the respondent, specially authorised to appoint sub-agents, and that under such authority he appointed B. a sub-agent, and that the respondent was responsible for the corrupt practices of B., under the provisions of 36 Vict. c. 2, s. 3.

COURT OF ERROR AND APPEAL.

(Reported by HENRY O'BRIEN, Esq., Barrister-at-Law.)

HALTON ELECTION PETITION.

HARRIS, Petitioner, v. BARBER, Respondent.

Before RICHARDS, C. J., of Ontario, STRONG, J., BURTON, J., and PATTERSON, J.

Promise of a "nice present"—Bribery—Valuable consideration—Questions of fact in Appellate Courts.

The respondent said to the wife of a voter that if she would do what she could to prevent her husband from voting, he would give her a "nice present."

Held, That this was a promise of a *valuable consideration* within the meaning of 32 Vict. cap. 21, sec.

Appellate Courts will not, except under special circumstances, interfere with the finding of judges of court of first instance as to questions of fact depending on the veracity of witnesses and the credit to be given to them.

[September 20, 1875.]

The case was heard at Milton, on May 12th, and 18th, before the learned Chief Justice of the Court of Error and Appeal.

It appeared in evidence that the respondent and one McCrancy called at the house of Nathan Robins to solicit his vote. There were present at the time Mr. and Mrs. Robins and their son.

The effect of Mrs. Robins' evidence was that respondent said to her if she would keep her husband at home from going to vote for Beatty, he would do something for her and give her a nice present. Mrs. Robins said she would do what she could. Respondent put his hand on her shoulder and said, "Do what you can and keep your husband from the election, and I will make you a nice present." Nathan Robins said, "Mr. Barber asked my missus whether she would try to get me not to go to the election, or to get me to vote for him, and he would do something for her."

The son, Nathan Henry Robins, said, "I heard Mr. Barber say if she would keep father at home or get him to vote for him (Barber), that he would do something nice for her, or make her a nice present, or get her something nice, I am not sure which; there was something nice about it, any way."

The respondent in his examination denied that he had offered Mrs. Robins anything. McCrancy said he was present at the time of this conversation, but that he had heard nothing of any promise being made to Mrs. Robins.

DRAPER, C.J., E. & A., in giving judgment, considered that, in addition to these statements on oath, all the circumstances lead conclusively to the opinion that the story told by Mr. and Mrs. Robins and their son, and in which they all agreed, was substantially true, notwithstanding the denial by the respondent, and he gave judgment in favour of the petitioner: the effect being to disqualify the respondent.

From this decision the respondent appealed to the Court of Error and Appeal, when

Blake, Q.C. (Attorney-General for Dominion), and Bethune appeared for appellant,

James Beatty, Q.C., for petitioner.