some or more specific individuals affected by the intimidation, I will not say influenced by it, but to whom the intimidation was addressed, before it could be intimidation within the statute, otherwise it comes under the head of general intimidation."

The suggestion that the offence was one at common law was perhaps sufficiently answered by the statement that no such charge was made in the petition, and that the respondent should not be called upon to meet it. But apart from that, I apprehend it would be necessary to go much farther to sustain such a charge, and to prove that the intimidation is of such a character, so general and extensive in its operation, that people were actually intimidated to such an extent as to satisfy the Court that freedom of election had ceased to exist in consequence; just such evidence, in fact, as would be required to avoid an election on account of an organised system of treating or bribery.

Great latitude is necessarily allowed in speeches of this kind, and to hold an election illegal because of the use of such language as is attributed to the respondent in this case would be to render a law, harsh enough admittedly in many of its provisions, intolerable. What the respondent is alleged to have said was an argument or reason for the electors supporting him rather than his opponent, if they believed his statement that he would be more influential with the Government in securing local benefits, and in redressing the particular grievances of which they complained; but it would be going, in my opinion, far beyond what the Legislature ever contemplated to hold that self-recommendation of that kind on the part of a candidate was to subject the electors to have the election avoided, and to expose him to the disgrace of disqualification for any office in the gift of the Crown, or any municipal office, for eight years.

I think the evidence fails to establish either of the two first charges, and that the remaining charge is not a corrupt practice within the act; and adopting the language of Mr. Justice Willes in the *Lichfield case*,—considering the extreme solemnity and weight which ought to be attributed to an election that has, so far as one can judge, in all its substantials been regularly and properly conducted,—and looking to the amount and weight of evidence which ought justly to be required to disturb a proceeding of that description,—and looking, I may add, to the highly penal consequences resulting to the respondent, and finding no evidence which, in my opinion, ought to outweigh the denial of the respondent, and justify me in finding him guilty of the offences charged;—I think we ought not to arrive at a conclusion adverse to him, and that the appeal should be allowed and the petition dismissed.

Patterson and Moss, J.J., concurred.

Appeal allowed and petition dismissed.

CHANCERY.

Rivet v. Desourdi.

Partition—Co-tenants—Occupation rent.

Held, that although one tenant-in-common who has been in sole possession of land owned by him and another is not *prima facie* chargeable with an occupation rent, yet if he claims to be repaid sums paid by him on account of incumbrances, he must give credit for a proportion of the rents and profits.

(May 17, 1876—Blake, V.C.)

This was a suit for partition. The bill charged that two of the adult defendants had been in sole possession, and claimed that they should be charged with an occupation rent.

The answer of these defendants admitted that they had been in possession, but denied any ouster of their co-tenants, and claimed by way of cross relief that an allowance should be made to them for incumbrances paid off by them.

McCarthy, Q.C., for plaintiffs, moved for a decree in accordance with the prayer of the bill. He admitted that he was not entitled to charge the adult defendants with an occupation rent if they on their part abandoned their claim to be paid for the incumbrances discharged by them, but he insisted that if they persisted in that claim, he was entitled to a decree as prayed.

Loant, Q.C., for adult defendants. These two claims are entirely distinct; it is not like the case of a claim for improvements made on the land itself. There the tenant in possession has the benefit of those improvements, and it is to be presumed has made them for his own convenience. His right to be repaid for them is a purely equitable right. The payment of the incumbrances is not connected in any way with the possession of the land.

Blake, V.C., *held* that although the defendant would not *prima facie* under *Rice v. George*, 20 Gr. 221, be chargeable with an occupation rent, yet, if they insisted on their claim to be repaid the payments made by them in discharge of incumbrances, they must give credit for a proportion of the profits derived by them from the estate.

Decree accordingly.