

which there is any writing or mark by which the voter could be identified" applies to ballot papers upon which a deputy returning officer has placed (not in the cases specially provided for in the Act) numbers corresponding respectively with the numbers opposite the names of the respective voters in the poll book, and such ballot papers must be rejected.

Where, in consequence of this irregularity, ballot papers sufficient in number to alter the result of the election had to be rejected, it was held, applying the principle of *Woodward v. Sarsons* (1875) L.R. 10 C.P. 733, that there must be a new election.

This was an appeal from the judgment of SNIDER, Co.J., reported in full, ante, p. 36.

Aylesworth, K.C., and R. A. Grant, for petitioner. Lynch Staunton, K.C., Duff, and Gwyn, for respondent.

Meredith, C.J.C.P., MacMahon, J., Teetzel, J.]

[Feb. 10.

HATELEY V. ELLIOTT.

Contract—Illegality—Unduly lessening competition—Trade association—Criminal Code, s. 520(d)—Cheque—Conditional payment.

All the importers of coal in a certain town combined themselves into an Association, and all became bound not to sell below the prices fixed by the Association, and that any member who did so should become liable to the Association for \$1 for every ton of coal so sold.

Held, that the Association was an illegal one, being a combination conspiracy, or agreement, "to unduly prevent or lessen competition in the . . . purchase, barter, sale, or supply of an article or commodity which might be the subject of trade or commerce," within the meaning of s. 520(d) of the Criminal Code; and the plaintiff, acting as agent of the Association, could not recover on a cheque given by a member of the Association in pursuance of one of the articles of the Association.

The cheque in question was marked "cheque conditional deposit"; being intended, as the drawer, a member of the Association, explained, to be conditional on his obtaining a certain contract.

Held, that it was not an unconditional order to pay within the requirements of ss. 3 and 72 of the Bills of Exchange Act.

Brewster, for appellant. Sweet, for respondent.