Haggart. His position would, in my opinion, be very different from that of Mr Coyne; for if I am wrong in supposing that the proceedings at the election were legal, there are still reasons which apply *ad hominem* to prevent Mr Coyne from setting up the objection. It was urged, upon the argument, that this proceeding was so much in the interest of the electors, that the truth of the facts must alone be regarded, and that the conduct of the relator or of Mr. Haggart could not here be set up to exclude the truth. But the cases cited by Mr. Harrison and Mr. Kerr are quite clear on the point that the conduct of the relator may waive objections otherwise good, or may estop him from alleging them. Indeed he is regarded as any other plaintiff, claiming in his private right.

Now, Mr. Coyne was present throughout the whole proceedings at the meeting. He must have heard the withdrawal of all the candidates but Mr. Clark and Mr. Chisholm; he must have heard the returning officer announce that they were the only candidates remaining; and yet he allowed the meeting to close—all present supposing such to be the fact—without expressing objection or dissent. I think he must be bound by the rule in *Pickard* v. *Sears*, 6 A & E 649, and the kindred cases. Surely this is estoppel by conduct. It is very easy to suppose cases where such a course would completely throw the electors—especially those opposed to Mr. Haggart—off their guard, if they were to find, the next morning, that Mr. Haggart was still in the field. I think the course taken in this election was legal; and that if otherwise, neither Mr. Haggart nor Mr. Coyne can be heard to urge this objection. I think there should be judgment for the defendant with costs.

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EXCHEQUER CHAMBER.

Brook v Hook.

Ratification—Forged instrument, adoption of.

A forged instrument cannot be ratified by the person whose name is forged, and he cannot adopt it so as to make himself liable thereon.

J. owned the plaintiff £20, and sent to him a promissory note for that amount, which purported to bear, and was believed by the plaintiff to bear, the signatures of J. and the defendant, who was J.'s brother-in-law.

Before the note became due the plaintiff met the defendant and mentioned the note to him. He denied the signature to be his, and the plaintiff thereupon said that it must be a forgery of J.'s, and he would consult a lawyer with the view of taking criminal proceedings against him. The defendant begged the plaintiff not to do so, and said he would rather pay the money than that the plaintiff should do so. The plaintiff then said that he must have it in writing; and that, if the defendant would sign a memorandum, he would take it. The defendant thereupon signed a document admitting himself to be responsible to the plaintiff for the amount of the note.

Held (by Kelly, C.B., Channell and Pigott, BB.), first, that the foregoing document was no ratification of the forged promissory note, but an agreement on the part of the defendant to treat the note as his own and to become liable upon it, in consideration that the plaintiff would forbear to prosecute J., and that this agreement was against public policy and void, as founded upon an illegal consideration; and, secondly, that the foregoing document was no ratification, inasmuch as the act done—that is, the forged signature to the note—was illegal and void, and that, although a voidable act might be ratified by matter subsequent, it was otherwise when an act was originally and in its inception void.

Held (by Martin, B.) that the above document was a good and valid ratification of the forged note, and that the defendant was liable to pay to the plaintiff the amount thereof.

[19 W. R. 508.]

This was an action upon a promissory note for £20. The defence was that the defendant's signature was a forgery. A verdict having been entered for the plaintiff, a rule *nisi* was obtained for a new trial. The facts of the case are fully stated in the judgments delivered by Kelly, C.B., and Martin B

Kingdon, Q. C., A. J. H. Collins, and *R. D. Bennett* showed cause —The plaintiff is entitled to the verdict. [Pigott, B.—Can a forgery be ratified?] The forged signature was an act done for the defendant within the principle laid down in Tindal, C J., in *Wilson* v *Tumman*, 6 M. & G. 242. [Kelly, C. B.—This was not an act done on the defendant's behalf.] In Byles on Bills, p 200 (10th ed.), it is said:—"If the drawee has once admitted that the acceptance is in his own handwriting, and thereby give currency to the bill, he cannot afterwards exonerate himself by showing that it was forged:" *Leach* v. *Buchanan*, 4 Esp 226. [Kelly C B—How was the plaintiff's position altered?] The principle of *Reg* v. *Woodward*, 31 L. J. M C 91, 10 W R. 298, applies to this case: it shows that there may be a ratification of a felonious act [Kelly, C B—In that case the ratification itself was a felony.] It seems to be admitted in *Wilson* v *Barker*, 4 B. & Ad 614, that in some cases a person by ratification may become a trespasser: *Bird* v *Brown*, 4 Exch. 786. It is clear from 2nd Greenleaf on Evidence par 66, p 50, that slight evidence of ratification is sufficient If the question what was the intention of the defendant at the time of signing the document of December 17 were left to the jury, they ought to be called upon to construe wills and deeds. In construing a document the Court may look at the surrounding circumstances: *Heffield* v. *Meadows*, L. R. 4 C. P. 595.

Lopes, Q. C. and *Poole*, in support of the rule —There can be no ratification of the forged signature, because the defendant and Jones did not stand in the relation of principal and agent: Story on Agency, s. 251 a (7th ed.). The defendant relies on the maxim there cited—*Ratum quis habere non potest, quod ipsius nomine non est gestum.* The judgment of Holroyd, J., in *Saunderson* v. *Griffiths*, 5 B. & C. 909, supports the defendant's contention. (They cited also *Routh* v *Thompson*, 13 East. 274; *Lucena* v. *Crawford*, 1 Taunt. 325; *Hagedorn* v. *Oliverson*, 2 M. & S. 485. The plaintiff's position was not altered after the document of 17th December was signed by the defendant, and the rule in *Pickard* v. *Sears*, 6 A. & E. 469, does not apply. It is clear from Story on Agency, ss. 240 and 241, that a felonious act being void cannot be ratified. The case of *Wilkinson* v. *Stoney*, 1 Jebb & Symes, 509, decided in the Court of Queen's Bench in Ireland, is conclusive in the present case, and shows that it was for the jury to say with what intention the document of December 17th was signed by the defendant. There is no