

Elec. Court.]

NORTH VICTORIA ELECTION PETITION.

[Elec. Court.]

Court declined on a preliminary objection to strike out a clause in the petition, which claimed that the votes of persons guilty of bribery, treating and undue influence should be struck off the poll. The giver of a bribe, as well as the receiver, may be indicted for bribery; but, *Quære* as to the effect on their votes respectively under the present state of the law.

7. A petitioner claiming the seat on a scrutiny may show, as to votes polled for his opponent:
 - (1) That the voter was not 21 years of age,
 - (2) That he was not a subject of Her Majesty by birth or naturalization. (3) That he was otherwise by law prevented from voting, and (4) That he was not actually and *bona fide* the owner, tenant, or occupant of the real property in respect of which he is assessed.
8. The Court declined, in the present state of the law, to exclude enquiry as to the payment of travelling expenses of persons going to and returning from the poll, inasmuch as the same might amount to bribery.
9. Mistakes in copying the voters' lists should not deprive a legally qualified voter of his vote, (though the returning officer might properly refuse to receive it,) any more than the name of an unqualified voter being on the list would give him a right to vote. But the mere fact that the lists were not correct alphabetical lists, or had not the correct number of the lot, or were not properly certified, or the omitting to do some act as to which the statute is directory, is no ground for setting aside an election, unless some injury resulted from the omission.

[Election Court—June 26, July 16, 1874.]

The petition filed in this case was as follows:

"The petition of Hector Cameron, of the City of Toronto, &c.

1. Your petitioner is a person who was duly qualified to vote at the above election, and who claims to have had a right to be returned or elected at the above election, and who was a candidate thereat.

2. And your petitioner states that the election was holden on the 22nd day of January, A. D. 1874, when the nomination took place, and on the 29th day of January, A. D. 1874, when the poll was held, and when James Maclellan and your petitioner were candidates, and the returning officer returned the said James Maclellan as being duly elected.

3. And your petitioner says that the said James Maclellan was by himself and other persons on his behalf guilty of bribery, treating

and undue influence before, during and after the said election, whereby he was and is incapacitated from serving in Parliament for the said electoral district, and the said election and return of the said James Maclellan were and are wholly null and void.

4. And your petitioner further says that many persons voted at the said election, and were reckoned upon the poll for the said James Maclellan, who were guilty of bribery, treating or under influence, and who were bribed, treated or unduly influenced to vote thereat for the said James Maclellan, and that the votes of all such persons were null and void, and ought now to be struck off the poll.

5. And your petitioner further says that many persons were admitted to vote and did vote at the said election for the said James Maclellan, who were not entitled to vote thereat or to have their names retained or inserted on the voters' lists for the said electoral division, by reason of their not being qualified in respect of property, occupation or value, or whose qualification was for other causes insufficient, or who were respectively subject to legal incapacity or were prohibited by law from voting, or were not subjects of Her Majesty by birth or naturalization, and such votes ought now to be struck off the poll.

6. And your petitioner further says that certain persons whose names appear on the voters' lists voted twice at the said election in favor of the said James Maclellan, and that persons personated and voted as and for certain electors whose names appear on the voters' lists but who did not themselves vote, and certain other persons not named on the voters' lists were allowed to vote and did vote for the said James Maclellan; and that the votes so recorded ought now to be struck off the poll.

7. And your petitioner further says that the poll books at the said election were and are incorrectly made up and cast, and the votes recorded therein incorrectly entered according to the votes given to the poll clerks, and ought now to be revised and corrected.

8. And your petitioner further states that many persons who had hired their horses, sleighs and carriages to the said James Maclellan and to his agents for the purpose of carrying electors to and from the polling places at the said election, voted for the said James Maclellan at the said election, and were reckoned on the poll for him; and that the travelling and other expenses of many persons in going to and returning from the said election, and who