

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Full Court.]

[June 16.]

RE PORT ARTHUR AND RAINY RIVER PROVINCIAL ELECTION.
PRESTON v. KENNEDY.

Corrupt practices — Agency — Scrutineer — Burden of proof — Common law of Parliament — Irregularities — Saving clause — Scrutiny — Disqualification of voter — Crown land agent — Persons voting on transfer certificates — Agent — Names not on voters' list in poll book — Certificates issued in blank by returning officer and afterwards filled in — Constables — Telegraphed certificates — Demand for tendered ballot.

A. was found guilty of corrupt acts at H., a polling place, on polling day. Before that day his sole connection with the respondent was that, being a livery stable keeper, he had driven the respondent, on a day before the nomination, from one place in the electoral division to another. The respondent on that occasion canvassed A. for his vote, but A. made no promise, and the respondent did not ask him to vote for him. On the day before the polling, A. and one G. drove to H., arriving there in the evening. The trip was undertaken at the instance of G., who was not shewn to be an agent of the respondent. In order to persuade A. to go to H., G. said he would procure a transfer of A.'s vote to H., and he afterwards brought and handed to A. a printed paper, signed by the respondent, apparently one of a number of scrutineer appointments which the respondent had signed in blank and left with one B., his agent. A.'s name was not inserted by the respondent, and there was no evidence to shew by whom it was filled in. The number of the polling place was left blank, and never was filled in. G. was not examined as a witness, and there was no proof of the means by which he became possessed of this paper.

Held, MEREDITH, J.A., dissenting, that the petitioner had failed to establish that A. was an agent for whose acts the respondent was responsible.