

I. N. BELLEAU (Respondent below).....APPELLANT ;

1885

AND

*Mar. 3.

ET. DUSSAULT, *et al* (Petitioners).....RESPONDENTS.

*Mar. 16.

ON APPEAL FROM THE JUDGMENT OF CARON, J., SITTING FOR THE TRIAL OF THE LEVIS CONTROVERTED ELECTION CASE.

Dominion Elections Act, 1874, secs. 96 and 98.—Promise to pay debts due for a previous election—Hiring of carters to convey voters to poll—Corrupt practices.

Held (affirming the judgment of the Court below), 1st. When an agent of a candidate receives and spends for election purposes large sums of money, and does not render an account of such expenditure, it will create a presumption that corrupt practices have been resorted to.

*PRESENT.—Sir W. J. Ritchie, C.J., and Strong, Fournier, Henry and Taschereau, JJ.

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2. The payment by an agent of a sum of \$147 to a voter claiming the same to be due for expenses at a previous election, and who refuses to vote until the amount is paid, is a corrupt practice.
3. The hiring and paying of carters by an agent to convey voters who are known to be supporters of the agent's candidate is a corrupt practice.—*Young v. Smith* (1) followed.

APPEAL from a judgment of Mr. Justice L. B. Caron, sitting under the provisions of the Dominion Controverted Elections Act, 1874, unseating the appellant for corrupt practices committed by his agents (2).

The petition of the respondents contained the usual charges of bribery, corrupt practices, &c., by the appellant personally and by his agents.

The facts of the charges upon which this appeal was decided sufficiently appear in the head note and in the report of the case in the court below.

*J. Belleau*, the appellant, in person.

*Geo. Irvine*, Q.C., for respondents.

RITCHIE, C.J.:

This case has come before us on appeal from a judgment of Mr. Justice Caron. I feel bound to say, that as long as I have had the honor of presiding in this court, no case has come before us where there was such a clear, undisguised infraction of the law as there has been in this case. In the first place, without going into the two particulars brought before us, we have what to me is a startling admission made. Dr. Lacerte, an agent of the appellant, says that he has spent \$150. This agent offers \$50 to one man, (who will not take it from him,) to organize the carters in the interest of the appellant in this case. He then

(1) 4 Can. S. C. R. 494.

(2) 10 Q. L. R. 247.

gives it to another, to a devoted friend of his party, and when he is asked who this devoted friend was, he says he does not recollect his name, and no account is rendered by the election agent of this money, nor does the present appellant, the sitting member, profess to know anything about it. Then we have another leading manager at this election, who expends, he admits, \$1,100 in the interest of the present appellant, and yet he renders no account of it to the agent, and cannot tell to whom, cannot apparently name one person to whom he gave this money, or any portion of it, but says it was distributed over the county in the interest of the appellant. Then we come to the charges of giving drink on voting day, and here it appears to have been done wholesale, that is, to this extent, that in the very committee room of this person, for the purpose, the witnesses say, of amusing the supporters, they put three gallons of spirits, and the people were invited in, and go, and are treated; any one who would take it, got it. Then, again, there is the payment of carters without apparently any disguise—the engagement of carters to take voters to the poll, and payment of them. All these are known to be corrupt acts, and, if done by an agent, will avoid the election.

There is another question, as to the agency, but, as far as I am concerned, I do not think it necessary to do more than to read the judgment of Mr. Justice Caron. I read, as my judgment, the words he has used in his judgment (1):

Ainsi que je l'ai fait voir plus haut, les petitionnaires ont prouvé par le défendeur lui-même, que *L. E. Couture*, le Dr. *Lacerte* et le Dr. *G. Guay* ont agi durant l'élection du défendeur et comme ses agents.

And concludes by saying: "*Chacun de ces actes constitue des manœuvres frauduleuses.*"

(1) 10 Q. L. R. 253.

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I think the evidence fully sustains the conclusions at which the learned judge has arrived, and I think it was impossible for him, or any other man, lay or legal, to come to any other conclusion than that there was a gross violation of the Election Act by agents, admitted to be agents of the candidate; and therefore this appeal must be dismissed with costs here and in the court below.

STRONG, J.:

I am of the same opinion.

FOURNIER, J.:

The judge of the court below has shown a great deal of lenity and patience, and I think, perhaps, he ought to have resented a little more than he did the insults, the reiterated insults, offered to him during the trial of the election: He was exposed to very harsh attacks by the newspapers, impeaching his impartiality, and everything has been disposed of rather in too mild a manner. As to the merits of the election, never has an election tried or decided in this court shown such strong, complete evidence of every offence alleged. The most direct agencies were proved. It is impossible to entertain a single doubt on any one of the offences alleged.

HENRY, J.:

I have no difficulty in coming to the conclusion that this election ought to be avoided for the reasons given in the judgment of Judge Caron. Every case he mentions there was, I think, sufficiently proved. Furnishing the liquor in the committee-room on election day is sufficient of itself to avoid the election, and I think it is proved they were very liberal about it. It was there for everybody, friend and foe. Still, that being the case, where it might go to show the motive

was not a corrupt one, it is forbidden by the statute, and avoids the election if done by the candidate or his agents. I think the seat should be vacated, and the appeal dismissed with costs.

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TASCHEREAU, J. :

I am of the same opinion. In fact, I am sure that the appellant never expected any other judgment. I am sorry the Legislature does not give us power to punish the appellants in such cases, and give treble costs. This was never intended to be a serious appeal. I was of opinion, after hearing the appellant, to dismiss the appeal without calling upon the respondent.

*Appeal dismissed with costs.*

Solicitor for appellant : *J. G. Bossé.*

Solicitor for respondents : *F. Langelier.*

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