people are talking of a thing which is not carried out, it may be that they honestly give their evidence, but one person understands what is said by another differently from what he intends it. Still more should that be the case when the adverse finding is attended with such highly penal consequences as the Legislature has declared shall follow the infraction of several clauses of the Election Act.

The learned Judge reports that he should have found both these charges disproved if there were no collateral or accompanying circumstances to aid him either way. He finds all the other charges, with the exception of the fifth (to which I shall presently refer), disproved, which should, I venture to think, have some weight.

The collateral circumstance which turned the scale and induced the learned Judge to arrive at a different conclusion, was what occurred at Matthias Hall. The speech there delivered induced him to adopt the case of the petitioners with respect to these two charges also; partly, as he says, "because of the weight of testimony by their united force, and partly because they are to some extent of a like nature with the Matthias Hall charges, resting upon the influence or upon the alleged interest and influence of the respondent with the Government or ministry of the day, which it is," he adds, "not improbable the respondent used as an argument on these occasions, as he unquestionably did on the occasion of the speech."

I can quite understand that a judge or a jury may find their confidence considerably shaken in a witness, whom they were at first inclined to credit, by his being contradicted by a number of witnesses, although each witness speaks of a different subject. Still, after all, it comes back to the question of what credit is to be given to the witnesses.

The judge or jury, under such circumstances, would scrutinise the evidence of the witness with greater care. The maxim of law is, "*ponderantur testes non numerantur*," and, as laid down by Mr. Starkie, no definite degree of probability can in practice be assigned to the testimony of witnesses; their credibility usually depends upon the special circumstances attending each particular case; upon their connection with the parties and the subject matter of litigation, and many other circumstances, by a careful consideration of which the value of their testimony is usually so well ascertained as to leave no room for mere numerical comparison.

I do not understand that there is any conflict of evidence as to what occurred at Matthias Hall; the speech, as proved on both sides, is substantially the same.

The weight of the evidence, then, so far as it is increased by what the learned Judge calls its united force, is confined to the two charges in respect of Hill and Sufferin.

There is a peculiarity about these election cases, that each charge constitutes in effect a separate indictment. It seems to me, therefore, that if, in the opinion of the Judge, there is no sufficient evidence to support the charge, or, in other words, if evidence is given on both sides, and the Judge gives credit to the respondent, and so dismisses the charge, the respondent cannot be placed in a worse position, because a number of charges are submitted, in each of which the Judge arrives at a similar conclusion, or that a limit could eventually be reached where, although his conclusion upon the particular charge in addition to the others would in itself be favourable to him, the Judge should feel called upon by reason of the multiplicity of the charges, in which the respondent's evidence and that of the witnesses opposed to him have been in conflict, to come to an adverse decision by reason of the cumulative testimony which he has previously discredited. To my mind, an accumulation of such acquittals should, if any weight is to be given to it at all, be thrown into the scale in favour of the respondent.

The only two charges in which there is a conflict of evidence are those of Hill and Sufferin. The learned Judge, in the first of these cases—a case dependent altogether upon the witness' precise recollection of the words used and the way in which they were understood—reports his conviction of the perfect truthfulness of the respondent, and that Hill's evidence was given with a manifest bias, and he comes to the conclusion at first to believe the respondent—a conclusion which, from a perusal of the evidence, I should also have arrived at, but in the correctness of which I am further confirmed by two circumstances not referred to by the learned Judge, viz, : (1.) That Hill himself states that he did not regard it as a bribe at the time, but only awoke to the consciousness of there being anything corrupt in it some six weeks afterwards, when it was deemed necessary to bind him down by a statement under oath. (2.) That it was deemed necessary so to fetter him. These two circumstances, apart altogether from the explicit denial by the respondent, carry conviction to my mind that the learned Judge's first impression was the correct one.

In the Sufferin case it is clear that when the alleged conversation occurred Sufferin had avowed his intention to support the respondent, who was aware of the fact, and any promise thus