

but that the candidate may be responsible for the acts of one acting on his behalf, though the acts be beyond the scope of the authority given, or, indeed, in violation of express injunction. So far as regards the present case, I am of opinion that to establish agency for which the candidate would be responsible, he must be proved by himself or by his authorized agent, to have employed the persons whose conduct is impugned to act on his behalf, or to have to some extent put himself in their hands, or to have made common cause with them for the purpose of promoting his election. To what extent such relation may be sufficient to fix the candidate with responsibility, must, it seems to me, be a question of degree and of evidence to be judged of by the Election Petition Tribunal. Mere non-interference with persons, who, feeling interested in the success of the candidate, may act in support of his canvass, is not sufficient, in my judgment, to saddle the candidate with any unlawful acts of theirs of which the tribunal is satisfied he or his authorized agent is ignorant. It would be vain to attempt an exhaustive definition, and possibly exception may be taken to the approximate limitation which I have endeavoured to express. It must also be borne in mind in these cases that, although the object of the statute by which the tribunal of election judges was created was to prevent corrupt practices, still the tribunal is a judicial and not an inquisitorial one. It is a Court to hear and determine according to law, and not a Commission armed with powers to inquire into and suppress corruption. Without expressing myself in equally strong terms with Baron Martin in the Wigan case, I am of opinion that the evidence of corrupt practice must establish affirmatively, to the reasonable satisfaction of the judge, that the acts complained of were done. The learned judge then proceeded to consider the evidence in the case. Witnesses were called who said they had seen a man named Rollings, against whom bribery and treating were alleged, either accompanying Sir Henry James during his actual canvass, or so in company with him as to lead to a reasonable inference that he was aiding him in his canvass. The best of these witnesses admitted that they had only seen the backs of Sir Henry James and the man with him. The other evidence was slender, and when Sir Henry James was examined he most emphatically contradicted it, stating that, if he had met him in the street he did not know him, and that most certainly he never canvassed with him, or with his sanction for him. It was admitted by the counsel for the petitioners that the fair result of

the evidence was that there was not enough to satisfy me of any agency deduced from personal canvass with the candidate himself with the exception of Turner. I am clearly of this opinion, and it applies also to Turner, Stuckey, and Govier, and I decide that on the whole case there was no reasonable evidence to satisfy me of agency by personally accompanying the candidate on his canvass. The learned judge, after stating that it was admitted that Burman was Sir Henry James's agent, for whose acts he was responsible, commented on Smith's evidence with regard to the sale of timber and the payment of £5 for drink, and stated that it was obvious that Smith came forward under circumstances which threw the greatest suspicion on his testimony. He came forward as an informer of a corrupt transaction to which he had been a party, for he had induced his daughter knowingly to make a false and fraudulent alteration in a bill to enable Rollings to obtain repayment from the respondent or from some agent of his by false pretences. As he admitted having bribed a voter, and his antecedents were far from satisfactory, he looked upon his evidence, not as that of a credible witness, but to see how far it was corroborated. His wife was called to support his veracity, and it was alleged that she had detected a conspiracy to injure Farrant and Brannan; but it was admitted that £15 had been paid by Farrant and Brannan to Poole. Smith was also said to have received money from Small to bribe, but the evidence of the bribery by Smith was utterly unworthy of credit. Here Rollings was said to have treated voters, but there was little or no evidence to connect him with the respondent, although he was frequently alleged to have been in company with Burman, and had been seen to go into committee rooms—Sir Henry James having no committee-rooms in the ordinary election sense of the term. The evidence was of very little value, as many witnesses could not fix dates; the times and occasions had been probably multiplied by different persons called, and most of them spoke to the facts happening before the committee-room was really taken. Other evidence of small bribes or offers to bribe and treat was adduced as having been committed by Stuckey, Turner, and Govier, who were alleged to be agents, for whom Sir Henry James was said to be responsible. The best of these cases was that deposed to by a man named Mogg, a man of the highest character, who gave his evidence with remarkable apparent truthfulness, and, small as the incident is, the question of Sir Henry James's seat might have depended on