

ELECTION PETITIONS.

amounted to evidence that the sitting member and his people did request those committees to bring up voters when they could, and consequently that the persons who, joining those volunteer committees, went and fetched voters, were in one sense employed by the sitting member to bring up voters.

In this same case, Mr. Justice Blackburn takes occasion to say that he does not think the principle that a person employed to canvass makes the candidate responsible for his acts, laid down by Mr. Justice Willes in the *Windsor* case, can be accepted as a hard and fast rule. "As a general proposition," he said, "that would go a great way towards saying who is an agent, but I don't think we can take it as an absolute hard and fast rule, on which we can say that wherever a case of corruption has been brought home to a person who was within the limit, the seat should be vacated. The effect of that would be to say that wherever there were volunteers who were acting at all, and whose voluntary acting was not repudiated by the candidate or his agents; wherever, in fact, a person came forward and said, 'I will act for you and endeavour to assist you,' and the candidate or his agent said, 'I am very much obliged to you, sir,' any corrupt or improper acts done by the volunteer, although unconnected with the member, would render the election void. At present," his Lordship added, "I cannot go further than to say that each case must be considered upon the whole facts taken together, and it must be determined in that way whether the relation between the person guilty of the corrupt practice and the member was such as to make the latter fairly responsible for it." This is equivalent to saying that no general rule can be laid down on the question of authority by implication; but his Lordship said, later on, that in drawing the inference the reason of the rule which makes a candidate responsible for the unauthorised acts of his agents should be borne in mind. It seems to be agreed by all the Judges that in considering the question of agency the nature of the acts done by the alleged agents are most material. In the *Staleybridge* judgment, from which we have been quoting, Mr. Justice Blackburn said that "whenever it appears that the things are numerous, done, it would go very far to show that the agents did come within that principle upon which the law is founded, viz: that they were persons, the benefit of whose foul play the member was to get, and therefore it would be right that he should forfeit his seat in consequence." The same learned Judge further considered this question

in the *Hastings* Petition, 21 L. T. Rep. N. S. 234. His Lordship there says: "I have frequently had it in my mind that there is great difficulty, in strict logic, in making the agency of a person dependent upon the extent of the corrupt practices committed by him. It does seem that in strict logic, if a man would be an agent if he was shown to have corrupted one hundred people by paying them £5 a-piece, then if he corrupts only a single man by giving him a single glass of beer, he ought to be regarded as an agent equally. There is no doubt, in strict logical language, you will find a difficulty in making the distinction, yet I cannot but feel that, in administering justice and in administering the law in such a way that it would be tolerable, one must make some distinction of that sort. There is the same thing that constitutes a man an agent in the one case present also in the other case; but I cannot but feel that where the case is a small, isolated, solitary case, it requires much more evidence to satisfy one of agency than would otherwise be necessary. If a small thing is done by the head agent the agent for the election expenses, I think that would have upset the election; and if small things to a considerable extent were done by a subordinate person, comparatively slight evidence of agency would probably have induced one to find that he was an agent."

This may be taken to be the view adopted by the election Judges; and having disposed of the mode in which an individual agent may be constituted, we will proceed to the question of the agency of associated supporters.

In the *Westminster* Petition, at page 246 of 20 L. T. Rep. N. S., Baron Martin deals with the point, observing that he could not suppose that where an association of persons numbering 600 or 700 members chooses to call itself a committee, therefore they become the agents of a candidate for the purpose of making him responsible for a wrong act or an illegal act done by them. And subsequently he defined a committeeman. "The Committeeman," he said, "whom I mean, and for whom I would hold Mr. Smith responsible, is a committeeman in the ordinary intelligible sense of the word, that is to say, a person in whom faith is put, and for whose acts he is responsible." Nothing more need be said as regards this, we having noticed the subject of the agency of political associations incidentally in discussing the *Wigan* and *Taunton* cases under "Candidate and Agent." Suffice it to say that it must be taken as established that there is no partnership privity between the parties subscribing to a political