

Elec. Case.]

NIAGARA ELECTION PETITION.

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printing in April last \$100, a shorthand reporter \$50, and necessary telegraphing from \$75 to \$100. His personal expenses were under \$5.

He denied any act of bribery, direct or indirect, or any knowledge thereof, and as to treating he only spent 70 or 80 cents, and that I think was not for any purpose or motive connected with the election. No attempt was made to prove any personal knowledge on his part of any of the specific wrongful acts or payments. He says that until quite lately, in fact the last week or two, he did not believe the petition would be proceeded with, and never, till he found it was really coming to trial did he make any enquiry as to the charges. He and Gunn both state that it was only within this period that he was made aware how Gunn had disposed of his money. He never suspected or knew that these sums were paid to Dr. Wilson, or disposed of by him as proved. He accounts for his ignorance by stating that he had perfect confidence in Gunn's intelligence and integrity, and having given Gunn explicit instructions not to spend any money illegally he did not think that anything was wrong; that his cash transactions were very large, and that his general habit was not to close up or balance his accounts till the end of each year, and so he had not yet examined how the cash stood with Gunn. When he discovered the amount that had actually been expended he says he was much surprised, and thought it was altogether too large.

I think the respondent, under the peculiar circumstances of his canvass, has satisfactorily accounted for his not having personally superintended Gunn's expenditure during the election.

On a review of the whole evidence, I see no reason to doubt the respondent's very emphatic denial of any corrupt motive or intention. I accept his declaration that he entered into the contest intending to spend no money illegally, and that he was in no way cognizant of any illegal act.

It remains to be considered whether his election is to be avoided for the undoubtedly corrupt acts of some of his friends.

Assuming for argument's sake that neither Gunn nor Wilson actually intended to violate the law, I cannot conceive how they could have taken any course so calculated to arouse suspicion and to make what they say was meant to be right appear to be wrong as the course they did adopt. The respondent trusts Gunn with the

disbursing of his moneys. The latter, on somebody's suggestion, hands \$1,200 of it to Dr. Wilson in the vaguest manner, giving no directions, and never enquiring as to its employment. If he made Wilson the paymaster, it is not easy to see why he did not refer parties coming with claims for lawful expenses to Wilson. He paid them himself without enquiring whether the large sum given to Wilson was or was not exhausted. He never asked for an account from Wilson, but let him do as he pleased. I look upon the relation of both Gunn and Wilson to the respondent in the same light, and I think the latter is as clearly responsible for what Wilson did as if Gunn had done the same act—when Wilson gives to Longhurst (for example) \$200 to use as he might please, about the election, of course in the promotion of respondent's interests. With part of this money Longhurst commits several clear acts of bribery.

My strong impression is that the agency continues under these circumstances, and the respondent's election must be affected thereby. The same might be said in Lowry's case and in Hiscott's, whom Dr. Wilson was pleased to trust with \$250 for the Virgil division, to be expended as he pleased. The placing of it in Thompson's stable to be found by the latter can hardly be referable to a transaction intended to be honest, and the subsequent distribution of it by Thompson raises the gravest suspicion that the whole proceeding was intended to be an evasion of the law, and resulted in an illegal expenditure.

If I do not hold the agency to continue in the case, I think I would be as far as in me lies rendering a wholesome law inoperative and opening a wide door to corrupt acts.

The *Brudley Case*, 1 O'Malley & Hardcastle, 18, I think strongly supports this view. Sir Colin Blackburn's judgment is very explicit. There the respondent deposited a large sum in the hands of one Pardoe, directing him in his letter to apply the money honestly, but not exercising, either personally or otherwise, any control over the manner in which this money was spent, etc., not in fact knowing how it was spent. He then says, "I can come to no other conclusion than that the respondent made Pardoe his agent for the election, to almost the fullest extent to which agency can be given. A person proved to be an agent to this extent is not only himself an agent for the candidate, but also makes those agents whom he employs."
* * * An agent employed so extensively as is shown here makes the candidate