

ELECTION PETITIONS.

must suffer the consequences of the acts of every person for whom he is legally responsible.

The important question which we have now to consider is what constitutes an agent. And in the first place it should be observed that it was held by Mr. Justice Willes, in the *Windsor Petition*, 19 L. T. Rep. N. S. 613, that mere employment does not constitute agency, and that therefore bribery by a messenger unauthorised to canvass did not affect the election. Payment for services, indeed, is not an element in the matter at all, for it was held by Mr. Justice Blackburn, in the *Bewdley Petition*, 19 L. T. Rep. N. S. 676, that it is not necessary that an agent should be paid in order that his act should affect a member's seat. But agency is not established by the mere fact of a person's name being on the published list of the committee, 20 L. T. Rep. N. S. 24. Mr. Justice Willes there said, however, "If I find a person's name on a committee from the beginning; that he attended meetings of the committee; that he also canvassed, and that his canvass was recognised so far as it went, I must require considerable argument to satisfy me that he was not an agent within the meaning of the Act of Parliament."

So much for negative decisions. Now, as to affirmative, we have the high authority of Mr. Justice Willes for saying that no distinction is to be drawn, as regards agency, in cases of bribery, treating, and undue influence: 23 L. T. Rep. N. S. 990. His Lordship was at first disposed to exclude treating from the acts done by an agent which should avoid the election, but his conclusion was that the 36th section of the Act must be read literally. Therefore all the corrupt practices stand upon the same footing as regards agency. In the *Norwich Petition* (*sup.*) we have the strongest evidence of agency, for there the learned Judge held that the agency of a particular individual had been proved "up to the hilt." Three persons stated him to be a canvasser. It was proved that he canvassed in the company of the son of the sitting member, and that on the afternoon of the day of polling he went to a public-house and bought votes. Further, as to canvassing, Mr. Justice Willes, in the *Guildford Petition*, 19 L. T. Rep. N. S. 729, said (p. 732) "as a rule agency to bind the member would be agency to canvass or to procure votes on his behalf."

Now arises the question what is authority to canvass?

In the *Windsor Petition* (*sup.*) Mr. Justice Willes said, "an authority for the general management of an election would involve an authority to canvass." And in making that

observation his Lordship remarks that he purposely used the word "authority" and not "employment," because he intended to refer to persons who were not paid for their services. It is quite clear, of course, as remarked by Mr. Justice O'Brien in the *Londonderry Petition* (Printed Judgments, Part II., p. 252), that no mere supporter of a candidate who chooses to ask for votes, and to make speeches in his favour, can force himself upon the candidate as an agent. In the *Westbury Petition*, Mr. Justice Willes said the act done to affect the candidate must be done by his procurement, and held it immaterial whether a desire that a person should canvass be expressed or implied, by words or by actions. And the learned Judge, in that case, gave a definition of canvassing. "Canvassing," he said, "may be either by asking a man to vote for the candidate for whom you are canvassing, or by begging him not to go to the poll, but to remain neutral and not vote for the adversary. No distinction can be drawn, except in the amount of favour, between voting for a man and abstaining from voting for his adversary. That such is the law appears from the 17 & 18 Vict. c. 102, which places on the same footing inducing a man to vote at an election and inducing a man to abstain from voting."

The question What is agency? was much discussed in the *Staleybridge Petition*, 20 L. T. Rep. N. S. at pp. 76, 77, especially with reference to the acts of volunteers. One of the counsel there urged that the responsibility of the candidate should be limited in the case of volunteers,—that the petitioners should be bound to show some authorizing on the part of the candidate to the persons whose acts are sought to be made available against him. In his judgment, Mr. Justice Blackburn considered the arguments addressed to him, and went fully into the matter. And first he noticed a mode of constituting a person an agent, which he had held in the *Bewdley* case to be most effective, that is so as to make the candidate responsible not only for the acts of the person so appointed, but for the acts of those whom that person might employ as his agents. Sir R. Glass put money into the hands of a person at Bewdley, and exercised no supervision as to how it was to be expended, simply giving directions that it should not be expended illegally. The judge came to the conclusion that there was such an agency established as to make the candidate responsible to the fullest extent. The evidence did not go so far as this in the *Staleybridge* case, but the learned Judge held that the mere act of taking the committee rooms by the volunteer committee