

through, or with the knowledge of, the respondent or his agents. And if, in order to accomplish this, it was necessary to examine Greer, it was for the petitioner, and not the respondent, to call him as a witness. But, even if it had been shewn that Aikens's appointment had come from the respondent, it does not follow that it rendered the respondent responsible for every act of which Aikens might be guilty. The agency was of a limited nature. The duties the performance of which were authorized were confined to the polling booth, and it may well be that for acts done outside of and totally disconnected with the performance of the authorized duties the respondent should not be subjected to the same consequences as in the case of corrupt acts by a general agent.

In the circumstances of this case, however, it is sufficient to say that there has been a failure to establish that Aikens was an agent for whose acts the respondent was responsible, and that the finding of the trial Judges to that effect should not be disturbed.

The common law of Parliament has also been invoked, and it is urged that enough appears in corrupt acts practised by Aikens and Greer and in irregular proceedings at and attending the election to avoid it as one not embodying the expression of the free will of the electors. Aikens and Greer's operations were confined to a very small portion of the constituency. And it was stated by counsel for the petitioner they were only prepared to shew 4 or 5 other cases in which these individuals were concerned.

The trial Judges found only one person (Aikens) guilty of corrupt practices, and they also found and reported that there was no reason to suppose that corrupt practices extensively prevailed at the election. There is nothing to connect the respondent with the alleged corrupt acts. There is the absence of proof of agency. If, in circumstances such as these, an election is to be avoided, it should only be on overwhelming proof of corrupt acts of so extensive a nature as virtually to amount to a repression or prevention of a fair and free opportunity to the electors of exercising their franchise and electing the candidate they wished to represent them.

As to the irregularities the respondent is entitled to the benefit of sec. 214 of R. S. O. 1897 ch. 9.