

approval (I do not mean as to his corrupt practices) of persons whose agency is undisputed—Vance, Robertson, Gracey—can be deemed otherwise than an agent within the authorities most favorable to the respondent's contention.

As to Linklater there is more doubt. He was present at one meeting of the committee, and, apart from his corrupt practices, I think that is all that is brought home to him. A dense ignorance existed on the part of many witnesses who might naturally be expected to know all about him. Vance was not called. It was stated that he (Vance) could not be found to be subpoenaed, and, as the matter stands, I cannot say enough is proved to make out his (Linklater's) agency.

The case of Sullivan is very unsatisfactory. He was a man with no interest in the riding; so far as appears, a resident of Sault Ste. Marie. How he was brought into the riding we do not know. So far as the evidence shews, he is not brought into touch with any agent of the respondent, apart from the bribery expedition on which he went with Vanstone. That he was assuming to work for the respondent is proved, and some agents of the respondents had reason to believe that he was doing so. I have, I must say, felt some hesitation as to the proper view to take of his position, particularly as Mr. Proudfoot appears to have satisfied himself that he was working in the respondent's interest—judging from his significant appeal to Smith to get rid of him or send him away if he had any influence over him, "as he was doing us no good and only going with Conservatives whom he could not affect or influence." On the whole, I do not think his agency clearly proven, or that he was anything more than an unwelcome volunteer.

Mr. Hugh Guthrie, not an elector of the riding, was engaged by Smith to speak at three meetings in the respondent's interest, and did so, and was paid by Smith \$15, I think, his expenses. This did not, and could not, under s. 197 (c) of the Election Act form an item of the candidate's personal expenses, as the orator did not accompany the candidate. It was, if a legal expenditure (see *Wheeler v. Gibbs*, 4 S.C.R. 430) made by an agent of the candidate and on his behalf, but it was not made through the financial agent of the candidate, and was not included in the sworn election expense account, contrary in both respects to the express provision of s. 197 (1) of the Election Act. For this reason, i.e., as a thing done in contravention of the Act, it would seem to have been an illegal practice by an agent of the respondent.

Consistently with former decisions, the election cannot be saved under s. 172 of the Election Act. The majority is not very large, and the bribery cannot be regarded as trifling. The election must therefore be declared void and set aside with the usual result.

ROSE, J.—I have held an opportunity of perusing the judgment of my learned brother just delivered, and also of consulting with him as to the