

Elec. Case.]

NIAGARA ELECTION PETITION.

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been increased by these personal charges, and they have not been put in wantonly, in order to wound the feelings of the respondent; if they had been, that might have altered the case. These charges also are usual, and are excusable on the ground that the opposite party is generally ignorant of what is done by the respondent, and in order that evidence affecting the candidate personally may be given these charges must be made in the petition. In thus deciding as to costs, I am following a principle laid down by me in a case of *Ashworth v. Ashworth*, which came before me in Chancery.

Election set aside.

NIAGARA ELECTION PETITION.

NEIL BLACK ET AL., *Petitioners*, v. J. B. PLUMB,
Respondent.

Agency—Sub-agency—To what extent—Costs.

Held that a candidate is responsible for the corrupt acts of sub-agents and persons acting under them.

Semble, that no limit can be placed to the number of parties through whom the sub-agency may extend, even though the chain is not purposely lengthened.

The learned Judge declined to decide what witness fees should be paid by the respondent, thinking it to be the province of the taxing master on taxation, after hearing both parties, to decide what witnesses to allow or disallow, as in ordinary cases.

[NIAGARA, Oct. 20-22, 1874.—HAGARTY, C. J. C. P.]

The respondent placed a sum of money in the hands of one Gunn, who was the Secretary of a Manufacturing Company, of which the respondent was President, to be used as might be required for the expenses of the election as well as for the use of the Company and for that of the respondent's household, should it be required for the latter purposes, whilst the respondent was engaged in the contest, which occupied all his attention. There was no Bank agency in the neighborhood. Gunn, being a stranger in the locality, and having had no experience in election matters, handed \$1,200 of the sum he so received to one Wilson, who was pointed out to him as a strong friend of the respondent, and who bore a high character, with instructions that the money was to be used for the legitimate expenses of the election. The respondent was not aware that this money had been given to Wilson, or of how he had disposed of it, until long after the election. Wilson distributed part of the money in large sums among active political friends of the respondent, but he did not direct them as to how the money was to be spent. With the rest he paid

various election expenses and returned a balance to Gunn. The respondent had repeatedly urged upon his friends his desire that no money should be spent improperly.

No acts of bribery sufficient to void the election were proved, except a few cases by some of the parties to whom Wilson had given money, but these persons were not agents except they became so through the acts of Gunn and Wilson.

Hodgins, Q.C., and *J. G. Currie* appeared for the petitioners.

C. Robinson, Q.C., and *O'Brien* for the respondent.

It was admitted that if the respondent was responsible for the acts of the parties who had received money from Wilson, and had been guilty of bribery, the election must be set aside; and the arguments were mainly directed to this point.

C. Robinson, Q.C. There is no evidence of wide-spread corruption here, nor under the circumstances has the expenditure been large, and everything negatives any improper acts or motives on the part of the respondent, or any suspicion that money was being spent improperly. The money was given Gunn in good faith, and he in like manner gave part of it to Wilson. There is no authority for making a respondent liable for the acts of the agent of a sub-agent. The *Bewlley Case*, 1 O'M. & H. 16, does not go that length, nor the *Cornwall Case*, (*infra*.) If so responsible, where is the limit to his liability? It might be different if it were shown that the sub-agency had been extended purposely, but that was not the case here.

Hodgins, Q.C. The placing a large sum of money in the hands of Gunn without overlooking its expenditure, was an act of carelessness which was evidence of wilful blindness on the part of the respondent. Gunn was only the conduit pipe through whom the money went to Wilson, who was in effect the agent, and his sub-agents committed acts of bribery for which respondent was responsible to the extent of his seat.

HAGARTY, C. J. C. P.—This constituency consists of the town and township of Niagara. Six hundred and forty-two persons voted, and the respondent had a majority of thirty. The respondent agreed to come forward on the 12th January, the polling took place on the 29th of January. The respondent is Chairman of the Steel Works Company, of which Mr. Gunn is Secretary, and acts as local Treasurer. He was appointed on the 1st of January, and only