

purposes; and I am not at liberty to infer that Mr. Lauder meant "I shall furnish you with plenty of means for illegal purposes."

The case of Black is weaker than that of McKechnie. He says—"I heard Mr. Lauder had a large amount of money for election purposes, and I asked him for some. He refused it, and said it was illegal, and told me to go to Perry." Black applied to Perry, and Perry neither gave him money nor a promise of any. It would be preposterous to say judicially on this evidence that Mr. Lauder or Mr. Perry offered or promised to give the money which they both refused to give. Both McKechnie and Black voted against Mr. Lauder.

Next it is said that Mr. Lauder entrusted large sums to Perry: that he should have supervised the expenditure, and that his failure to do so makes him personally a party within section 46 of the Act of 1871 (34 Vic. c. 3), to every illegal application of money by Perry or by those who received money from Perry. The sum which Mr. Lauder gave was under \$700; there is no evidence before me that that sum was an excessive one for legitimate expenses; and a certain amount of discretion must be placed in a candidate's agents. If he had put £7000 into Perry's hands, the argument of a corrupt purpose might have been reasonable. The facts do not suggest to my mind any idea that Mr. Lauder intended his money to be employed illegally.

For these reasons I think the personal charges not made out.

The Respondent then addressed the court as to bribery by agents.

Mowat, V. C.—I may dispose of this case on the ground of the illegality of Privat's acts. He was asked by Scott to assist in the canvass, and was referred to Durham for money. He went there, and got the money from Perry, through the intervention of Meddaugh. These three persons were the members of, or connected with the committee at Durham. Mr. Lauder argues that it does not appear that Perry paid the money with the concurrence of the committee; but there is no evidence that Mr. Lauder had said or done anything to create a necessity for this concurrence, and there is evidence to the contrary. Perry received no instructions as to the mode of the distribution of the money. That was left to his discretion; and Mr. Lauder in his evidence distinctly repudiated all committees, and stated that he had made his payments through Perry. But even if Perry had been directed to carry out the instructions of the committee, and had disobeyed, he being the treasurer for the election, the secretary of the committee, and the confidential agent of the candidate, his acts would still bind the candidate. This is laid down in the *Staleybridge case*, 1 O'M. & H. 69. There Mr. Justice Willes said:—"I have already in the *Bewdley case* (*Ib.* 18), had occasion to decide this much. There it appeared that the sitting member had put a sum of money into the hands of his agent, and that he exercised no supervision over the way in which that agent was spending that money; that he had given him directions, and I thought really intended, that none of that money should be improperly spent; but that he had accredited and trusted his agent, and left him the power of spending the money, and I came to the conclusion upon that, that there was such an agency

established as that the sitting member was responsible to the fullest extent, not only for what that agent might do, but for what all the people whom that agent employed might do: in short, making that agent, as far as that matter was concerned, himself, and being responsible for his acts. I see no reason to doubt at all that that is perfectly correct."

This is no new law: it has been the rule ever since there was a record of the law of Parliament; it is founded on reason, and if another rule were adopted, a candidate might give his agent money, take the benefit of the expenditure, and afterwards say that he did not authorize the mode in which the money had been spent, claim freedom from responsibility in respect of the use made of it, and thus evade the whole law against corrupt practices. I cannot hold otherwise in this instance (in which there is no dispute as to the facts), than that Mr. Lauder is responsible for the acts of Privat.

As to these acts: Privat talked to certain voters about the election, and dropped the money for them, so (as he explains it) that they might be able to swear that they had received no money. To constitute the offence, it is not necessary that voters should accept an offered bribe. The two voters called confirm all that was necessary in Privat's evidence to make out the charge against him. His purpose was to secure the votes by means of this money. I have no alternative but to hold that Privat has been guilty of such acts as agent as render the election void.

So far the case is free from doubt.

As to some other points, it may be proper that, for the information of parties concerned, I should intimate the impression I have formed.

As to Ray, I do not consider the \$2 given to him to have been a bribe, as distinguished from a payment for the expenses of himself and the other voters who were going with him to the polls; but the payment would be illegal either way, according to the decision of Chief Justice Richards at Picton, and of my brother Strong at Barrie.

As to the treating by agents of meetings of electors, in order to promote the election, if the validity of the election had in my view depended on that question, I would, in consequence of the decision in the *Glengarry case*, have reserved the point for the opinion of the Court of Queen's Bench.

If it had been necessary for me to decide as to the effect of distributing liquor on the polling day, I do not at present see how I could avoid holding that the object was the promotion of the election of Mr. Lauder, and that the election was void on that ground.

With regard to the destruction of the accounts and papers, I consider the matter a very grave one. If the case were stripped of all other circumstances but the destruction of the records of the committee and the accounts, by a person holding the position of Mr. Perry in the election, I incline at present to think that it would be my duty to draw the strongest possible conclusions against the respondent; and that I should make every presumption against the legality of the acts which were concealed by such conduct. The only safe course for an honest candidate to pursue, is to have all papers preserved, and to be able to show how all the money was ex-