

HINTS ON THE LAW OF ELECTIONS.

LAW OF ELECTION AGENCY.

“What constitutes an agent is very ill defined.”—*Per* BLACKBURN, J.

THE law of agency in election matters bears closer analogy to the law of master and servant than to the ordinary law of principal and agent in commercial transactions. Thus, at common law, a principal is not held responsible for the consequences of an illegal act done by an agent, if it is not within the scope of the agent's employment; nor for a wilful and malicious act committed by an agent in the due course of his service. But the relation of master and servant imposes upon the master a liability for an unlawful act done by the servant in the due course of his employment, and notwithstanding that express instructions may have been given to him by his master not to do the act in an unlawful or improper manner.

The law of agency which would vitiate an election is utterly different from that which would subject a candidate to a penalty, or an indictment; and the question of his right to sit in Parliament has to be settled on an entirely different principle. The relation is more on the principle of master and servant, than of principal and agent. A master is responsible for an act of negligence on the part of his servant, notwithstanding what directions he may have given him. For instance, if he is driving a carriage and carelessly does an injury.—*Per* Martin B., *Norwich Election*, 1 O'M. & H. 10.

The analogy of the responsibility of the candidate for the acts of his agent which I put, is a strong one—I mean that of the liability of the sheriff for the under-sheriff—when he is not merely responsible for the acts which he himself has done, but also for the acts of those whom the under-sheriff employs; and not only responsible for the acts done by virtue of the mandate, but also for the acts done under color of the mandate—matters which have been carried very far indeed in relation to the sheriff.—*Per* Blackburn J., *Bewdley Election*, 1, O'M. & H. 19.