

Elec. Case.]

CORNWALL ELECTION PETITION.

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at the meetings, he must be presumed to have been cognizant of all that was done, and therefore must be considered as having acquiesced in all that was done. Even if the respondent had not been present himself, the presence of his chief agents, MacLennan and Henry Sandfield Macdonald, would have rendered him liable for the action of the meeting. We must not look at the form but at the substance of what took place. And I think that the canvassers appointed at the St. Andrews meetings must be considered as agents for whom the respondent is responsible. The *Westminster Case*, 1 O'M. & H., 89, and the *Wigan Case*, ib., 188, do not apply. In those cases the associations were without doubt voluntary.

As to the meetings at MacLennan & Macdonald's office in Cornwall, the persons who attended those meetings must be deemed agents of the respondent. These persons examined the voters' lists, appointed canvassers, and received reports of his canvass. The usual formalities, as to calling together the meetings, and the transaction of business, appear to have been observed, but this was unnecessary. The respondent acquiesced in the acts done. (His Lordship here read the remarks of Blackburn, J., on the definitions of agency in the *Tarnton Case*, 1 O'M. & H., 185-6; also the remarks of Willes J., as to the responsibility of a candidate for the acts of his agents in the *Coventry Case*, ib., 107.)

As to the second branch of the case, namely, that relating to the commission of corrupt practices, these consist principally of acts of bribery. Bribery is not confined to the actual giving of money. Being an unlawful act, it is to be expected that attempts will be made to conceal it from the light of day. The Courts, therefore, have always examined the various acts connected with the transaction, to see whether there is a corrupt motive. Where a grossly inadequate price has been paid for work, or for an article, it is clearly bribery. And in the present case several instances of such bribery occur. In considering the question of corrupt practices as affecting any particular election, we should also examine the whole evidence carefully to ascertain the mode and spirit in which the election contest has been carried on; whether it has been on the whole pure and free from corruption, or whether there has been a general laxity of principle and evident disregard of the law. When the corrupt acts are isolated much greater strictness of proof will be required.

One thing that strikes me in this case is the large sum expended by the two chief agents of

the respondent, a sum averaging about \$3 a head for the votes polled for the respondent.

Large amounts were also paid without any express directions as to their application, amounts which would not be required for any legitimate use. In the case of Donald Miles McMillan, for example, the words used upon the money being handed to him were "Here, you may require it." If this money were applied improperly, it must be considered that it was intended so to be applied.

Again, when Henry Sandfield Macdonald, having "heard that the North West Corner was corrupt," gave \$140 or \$150 to George McDonald, of Molinette, to expend there without any directions as to the mode of expenditure, the only inference must be that it was to be expended in order to corrupt. This inference is supported by the statement of George McDonald, who, on being asked why he accepted the money, replied that he was apprehensive "that the other side were going to bribe," which implies that he considered his side should do so as well.

There were many similar cases in which considerable sums of money were paid without directions as to the application, but it is unnecessary to dwell upon these further than for the purpose of showing the general spirit in which the contest was carried on on behalf of the respondent. In the case of Gilbert Runnions bribery with the knowledge and consent of Henry Sandfield Macdonald, one of the chief agents of the respondent, is proved.

Henry Sandfield Macdonald, when he handed the money to George McDonald, named Runnions as a person to whom money should be given. And the money was paid to Runnions by G. McDonald, as Runnions admits. This is the same as if H. S. Macdonald gave it himself.

The evidence of George McDonald and that of Runnions differs as to the amount paid, but this is immaterial—money was paid.

In other cases Henry Sandfield Macdonald left the giving of the money to George McDonald "on discretion." This was a direct appointment of George McDonald as agent. And in exercise of this discretion, George McDonald bribed Cannon and the two Worleys.

The payments by Donald Miles McMillan to the Clines and to Murray are other instances of bribery. In the case of the Clines, McMillan paid money to them, or as he afterwards says to one of them, nominally for the purchase of oats, but at the time of the alleged purchase no quantity of oats was named, no time for deli-