

Elec. Case.]

LINCOLN ELECTION PETITION—MOODY V. TYRRELL.

[Chany. Cham.]

erate that bribery may have been, and however strong may be the suspicion created in our minds that the candidate can hardly have been quite ignorant of what was being done on his behalf. I entirely assent to the distinction which was clearly pointed out by Mr. Robinson in the very able argument which he addressed to us, between the case of a city where, within a comparatively small area and for the space of two or three weeks, bribery had been going on so extensive and so flagrant as to be appropriately described as pervading the atmosphere; where not to ascribe knowledge of it to the candidate in whose interest it was committed, and who was on the spot, would be to forego experience and give no weight to probabilities so strong as to be almost irresistible; and where, in the graphic language of the same learned Judge whose judgment is now on review, one could "as readily believe it possible for the respondent to have been immersed in the lake and to be taken out dry, as that the acts of bribery which the evidence discloses to have been committed on his behalf, almost under his eyes, in his daily path, with means of corruption proceeding from his own head-quarters and from the hands of his confidential agents there, could have been committed otherwise than with his knowledge and consent," and the present case, where what was done was done only a few hours before the election, and though initiated in the town where the candidate lived and by agents who were in his confidence, was carried out at a place several miles away, and amongst the voters in one locality only of a county constituency.

I agree that the appeal should be dismissed with costs.

Moss, J., concurred.

Appeal dismissed with costs.

CHANCERY CHAMBERS.

MOODY V. TYRRELL.

Solicitor—Payment of money to Solicitor.

The retainer of an attorney or solicitor to collect a demand, and to take such proceedings as he may deem proper to effect this object, gives him authority to receive the amount before or after suit, and to discharge effectually the party making the payment, unless the client restricts or terminates the authority given to his attorney or solicitor.

[January, 1876—BLAKE, V.C.]

Proceedings in this suit were commenced for the purpose of recovering against the estate represented by the defendant damages for breach of a covenant entered into by one Solomon

White. On the 15th of March, 1873, by a consent decree it was declared that the plaintiff was entitled to be paid, by way of damages for the breach of this covenant, the sum of \$830, and it was ordered that the defendant should, within one month from the date of the decree, pay to the defendant the sum of \$830 and the costs, and in default of such payment that the estate of Solomon White should be administered. On the 16th of April, 1873, the defendant paid the solicitor of the plaintiff \$760, and on the 3rd of May following the sum of \$200, and on the 6th of August of the same year he tendered the plaintiff \$195.33 as the balance due. The solicitor for the plaintiff absconded without paying over the \$900 paid to him.

On the allegation that the payment to the solicitor was not a good payment, a motion was now made by the plaintiff under the liberty reserved in the decree, for the administration of the estate in question. The plaintiff had employed one Foster, his father-in-law, to look after the suit for him, and the defendant, in resisting the motion, put in affidavits to show that Foster was told of the first payment at least to the solicitor, and neither he nor the plaintiff made any objection.

Hoyles for the plaintiff.

J. A. Boyd for the defendant.

BLAKE, V.C. There is no doubt that no instructions were given to the defendant not to pay the money to the plaintiff's solicitor, nor to this solicitor not to receive the amount found due. I think the proper conclusion from the evidence is that the plaintiff intended that his solicitor should receive the money for him whenever the defendant paid it. Charles McVittie, clerk of the plaintiff's solicitor, says, that at the date of the first payment he told the plaintiff the amount had been received, and that the defendant had promised to pay the balance shortly; that Foster and the plaintiff's wife were also told of this payment. He says they expected the money would be paid to Whitley (the absconding solicitor). Foster says he understood the defendant was to pay the money into Whitley's office, and he heard that some of the money had been paid to Whitley, who would not settle until all the money was paid over.

I do not think there can be any doubt that, when a client instructs an attorney or solicitor to collect a demand he may have, he thereby empowers him to receive from the defendant payment of that which is handed over as a satisfaction of the claim, and that such payment is a good discharge to the debtor or defendant. By his employment he appoints him his agent to