

## Eng. Rep.]

## TAUNTON ELECTION CASE.

## [Eng. Rep.]

the question of Govier's agency, but no evidence of his agency was given by the petitioners, beyond his having paid for Burman small sums for services connected with the canvass of Sir Henry James. The learned judge then continued as follows.—A *prima facie* case was made which certainly had an impression upon me, viewing, in the light of probabilities, the evidence which from the character of the witnesses—at least many of them—could not be regarded as thoroughly reliable. Serjeant Ballantyne did not propose to call Rollings, perhaps fearing damaging disclosures, and I suggested his being called, and I think the truth has more fully appeared in consequence. For the respondent were called himself, Mr. Biron, Rollings, Burman, Cornish (Collard, who contradicted Jane Cox), and Turner. Sir Henry James disproved to my entire satisfaction any agency by canvassing on the part of Rollings, Turner, Stuckey, and Govier, and, so far as he was concerned, denied all agency but that of Burman. Rollings contradicted Smith, emphatically stating that the timber transaction was a pure business one, and that what he had done in furtherance of Sir Henry James's election was spontaneous, and he showed that his evidence, in the main, might be relied on. Burman gave his evidence in a singularly candid and apparently truthful manner, shrinking from no inquiry, exhibiting evidences of veracity in incidental matters, and answering questions against himself; so that he was either a most truthful witness or a consummate actor, and no hint or insinuation was made as to his antecedents. He denied Smith's story, and stated that he had seen Rollings but rarely during the election, and had not employed him directly or indirectly to promote Sir Henry James's election. The case does not depend on the veracity of Smith and Rollings further than so far as the former directly contradicts Burman. I hesitate to decide between them, as the statements of Smith directly implicating Burman are entirely uncorroborated. It is enough to say that if I believe Burman's evidence, all agency traced through him is displaced, and I do believe Burman's evidence, and cannot imagine that such unassailable evidence is a piece of accomplished acting; and if it were, he would not be a man likely to put himself in the power of such a man as Smith for a very trifling consideration. With regard to the cases of Turner, Stuckey, and Govier, I am inclined to believe Turner, though I regret that Stuckey and Govier were not called. I consider that neither they nor Turner were proved to be agents for whose acts the respondent was responsible. Govier was stated

by Burman to have assisted him as a volunteer in paying some of the petty cash, but there was no evidence, in my judgment, to fix him with agency in promoting the election, even giving a wide latitude to these relations. One other point was urged much more in reply than in opening the petitioner's case by Mr. Russell—that the respondent and his agents, by having mixed themselves with and availed themselves of the aid of the members of the Labour League, were bound by their acts as by the acts of agents. I do not find that any corrupt acts charged were shown to have been committed by the Labour League as a body or any representative of theirs, and I am further of opinion that neither the respondent nor Burman did more than not interfere with persons who were assisting the candidate for reasons of their own. Burman, it is true, paid a particular bill, in which were some items which had been ordered by the Taunton Working-men's Liberal Association, and I believe the statement that he was, up to the time of his cross-examination, ignorant of having paid them. I am therefore of opinion that the petitioners have failed to prove agency, and that Sir Henry James was duly elected, and I shall report to that effect to the Speaker. Mr. Marshall's position was unassailable, but that of Mr. Brannan was open to observation with reference to the pecuniary transaction with Smith and the £15 paid to Poole. I am not satisfied with the way in which the evidence has been got up. I exonerate Mr. Ellis, but no doubt the shortcomings are owing to the youth and inexperience of Mr. Blake, who was responsible for the petition; and, considering the matter fully, I am of opinion that there is nothing to take the case out of the ordinary rule that costs follow the event and should be paid by the petitioners.

## IN RE THE EXETER ELECTION PETITION.

*The Proceedings upon an Election Petition drop upon the dissolution of Parliament.*

[Solicitors' Journal, January 27, 1874.]

This was an application with reference to the Exeter Election Petition.

*Chandos Leigh* appeared for the petitioners.

*Petheram* for the respondents.

*Chandos Leigh* said that the petition had been appointed to be heard before Bramwell, B., on the 3rd of February, but the question had now arisen as to what was the effect of the dissolution of Parliament. Under the circum-