the summons is to be treated as issued on his application. He rested principally on the absence of any authority given by the statute to make an elector, not having been a candidate, a party called upon to answer a petition filed and prosecuted to avoid the election of the candidate actually returned. He also objected to the 17th paragraph, that, as against him, it was a mere statement of evidence, and was contrary to the spirit of the 6th general rule made in the Court of Queen's Bench and adopted in this Court.

On the other hand, Mr. Osler urged that by making the accused elector a party, it gave him the opportunity of being heard in his own defence, and of rebutting the charges before the Judge who would try the issues on the petition, on which trial the inquiry would be pertinent to the charge of corrupt practices. He also put in an affidavit to shew that the charge was not wantonly made, and invited particular attention to the fact, that the petition alleged that Brown was an agent for the respondent as well as an elector.

The Act, 24 Vict. c. 23, makes no provision for this particular matter, though it does provide (s. 27) that two or more candidates may be made respondents to the same petition; and (s. 28) recognizes that more than one petition may be presented against the same election and return. But there is no analogy between those provisions and this case. The contest to which they relate is for the seat in the House—whereas as to Brown he is to be made a party only that he may be liable to penalties.

I fear great inconvenience would arise, if the agents of a successful candidate could be made defendants to an accusation of personal misconduct in an election, upon a petition, the leading object of which was to unseat the sitting member. The Legislature have not, at least directly, provided for it—none of the general rules meet it—and this omission seems to me to require the exercise of Legislative power in order to supply it. It would be an addition to the powers which the statute gives, not a matter of procedure merely in the exercise of powers given.

The allegation in the 17th paragraph—unless as a proceeding against Brown—would infringe on the spirit if not the letter of the 6th general rule, because under a general charge of corrupt practices, specific details need not, I apprehend, be given until an order for particulars is made; but the rule does not preclude the statement of such evidence, it renders it unnecessary, and so far was no doubt designed to discourage such a practice. If Brown is properly made a party, I think he would have a right to such an order under this rule. I have looked at the Imperial Statute 31-32 Vict. c. 125, from the 45th section of which this of ours seems to have been copied, but that Act refers to preceding statutes in force in England, under which proceedings might be instituted.

Under our statute (34 Vict. c. 3, s. 16) the Judge is required to *determine* whether the member whose election or return is complained of, or any and what other person was thereby returned or elected, or whether the election was void, and shall forthwith certify in writing such determination to the Speaker, appending thereto a copy of his notes of the evidence; and upon such certificate being given, *such determination shall be final to all intents and purposes.*

But the Judge is (s. 17), when a corrupt practice is charged, in addition to this certificate, at the same time to *report* in writing to the Speaker, among other things, "the names of any persons who have been proved at the trial to have been guilty of any corrupt practices."

The case of *Stevens* v. *Tillett*, L. R. 6, C. P. 147, which was not referred to on the argument, points out very clearly the distinctions between a "determination" and a "report," and our own statute so closely resembles the English Act 31-32 Vict. c. 125, that this decision is applicable in many particulars to the present case. It is the Judge's duty to report, but it is not said his report is to be final. The 49th section of our statute enacts that "any person other than a candidate found guilty of any corrupt practice in any proceeding in which he has had an opportunity of being heard," shall incur certain penal consequences. Now, if the Legislature had intended that the Judge who tried the issues raised upon the election petition and relating to the validity of the election and return, should at the same time hear and determine a charge of corrupt practices against one who had, as an elector or agent, taken part in the election, it is, I think, reasonable to expect that they would have distinctly said so. It is obvious that the Act was framed upon the English statute. The 49th section of our Act is substantially, though not in every detail, a copy of the 45th sec. of the English statute, which, however, by section 15, gives a certain effect to the report of the Judge as respects persons guilty of corrupt practices for the purpose of the prosecution of such persons, referring to another English statute, (26 Vict. c. 29); but that portion of the Judge's report does not affect the disqualification; it