

ELECTION PETITIONS—VIAN V. MAYNARD.

association; nor does the fact of subscribing confer any authority upon the person who manages it to make them responsible for an illegal act done by him.

We have now to consider at what point an agent ceases to be an agent, so as to make a candidate responsible for his acts. And, in the first place, it is to be noticed that treachery will deprive an agent of his capacity as such. This was expressly pointed out by Mr. Justice Blackburn in the *Stafford Borough Petition*, 21 L. T. Rep. N. S. 212. He said, referring to the proceedings of one Machin, "If the evidence was to the effect that Machin, though he was then a paid agent of Colonel Meller, was at that time planning to betray Colonel Meller, that it was what is called a plant, then I do not think that Machin could any longer be considered an agent of Colonel Meller, so that his acts would vacate the election. I wish to point out the distinction which I make, that according as the law stands at present, if a member employs an agent, and that agent, contrary to his wish, and contrary to his directions, commit a corrupt act, the sitting member is responsible for it; but when he employs an agent, and the agent treacherously or traitorously agrees with the other side, then if he does a corrupt act it would not vacate the seat, unless it is proved that the corrupt act was at the special request of the member himself or some untainted and unauthorized agent of the member who directed the act to be done." His Lordship was very particular upon the point, for he added: "The distinction is pretty obvious, and I mention it to avoid any difficulty or doubt that there might be hereafter, from its being supposed that I have said anything more than I do say; I say if Machin was a treacherous agent he loses the power of upsetting the seat by reason of his unauthorized acts of corruption; it would require actual proof of authority in order to make it so. It is a very different affair if a man being an agent has been tricked by the other party into committing a corrupt act, he himself honestly still intending to act as an agent."

Express authority will, of course, recreate an agency which has lapsed or been annihilated. As above, it will do away with the effect of treachery; and in the case of corrupt acts done after the election, the agency, having ceased with the close of the election, may be revived by express authority, so as to constitute the person an agent, and thus to affect the return. "The agency at the election," said Mr. Justice Blackburn, in the *Norfolk Petition*, "which was solely for the canvassing before the election, expires with the election. Whether or no a per-

son who had been requested to canvass would be an agent whose misconduct would avoid the election, would depend upon the evidence; but unless there is something to show continuing authority, that person could not, if he had given a feast ten days after the election, by that act upset the election."

Further, and lastly, it is perfectly clear that where there is a coalition between candidates, each becomes the agent of the other. The limit of this agency is shown in the *Norfolk Petition* before referred to. Here we conclude the consideration of the very difficult question of agency. Notwithstanding the diffidence expressed by all the Judges in dealing with it, and their doubts concerning the various attempts which have been made to define it, we do not conceive that there will be much difficulty in dealing with the next batch of petitions by the light of the judgments which we have been examining.

SELECTIONS.

LAW OF SEDUCTION.

The case of *Vian v. Maynard*, tried some months ago in the Court of Exchequer before Baron Cleasby, illustrated in a very forcible manner the anomalous condition of the English law on the subject of seduction. In that case there had been a previous trial for breach of promise of marriage brought by the daughter of the plaintiff, but as there was not sufficient evidence of a promise by the defendant the action failed. On this the father, in accordance with suggestions made at the former trial, brought an action for seduction against the defendant. Thus, owing to the rule of law that no action lies against the seducer at the suit of the party immediately interested, but that the only right of action is founded on the loss of the girl's services to her father, reducing the question to a case of master and servant, all the parties in this case were put to the trouble and cost of two trials, when the whole matter might have been very well settled on the first occasion but for the rule in question. If the woman who was seduced, and to whose father the jury awarded damages in the second action, could have brought an action for seduction in her own right, the two causes might have been joined, and all further trouble have been avoided. On what grounds such an anomaly is perpetuated it would be difficult to say.