

*Mr. Allan* : There is only one Henry Tomlinson on the roll.

12th Sept., 1871.

*Mr. Travers* : Henry Tomlinson might have been in Jericho, for all we know. The petition does not give us sufficient clue to know who was going to be brought against us, until the witness appeared. I raised no objection to my friend's application for an adjournment, in order to enable him to produce witnesses.

*Mr. Allan* : I gave him notice.

*Mr. Travers* : I never received the list of objections.

*Mr. Allan* : I shall certainly oppose this adjournment.

*Mr. Travers* : I think the Clerk of Committee will satisfy the Committee, that I asked him for the list, which I believe is not in existence. I never saw the list, and do not know who the persons are.

*The Chairman* : I understood that Mr. Allan had given the list to you several days ago.

*Mr. Travers* : I never saw it.

*Mr. Allan* : It was left with the Committee, and my friend had an opportunity of seeing it. He cross-examined Henry Tomlinson yesterday, as to whether he made the application, and therefore he came prepared for that witness.

*Mr. Travers* : Because I saw him since he arrived in Wellington ?

*Mr. Pearce* : Would not Mr. Allan accept the allegations.

*Mr. Travers* : As proved.

*Mr. Allan* : I am not prepared to do that. I say these allegations, if proved, would be no answer here.

*Mr. Pearce* : Are you not prepared to admit that the allegations are correct: that Henry Tomlinson was the man whose name was on the list, and that his qualification was put on in error ?

*Mr. Allan* : I am not prepared to admit that.

*The Chairman* : If the name of Henry Tomlinson, with the proper qualification that he claims for, had been struck out by mistake, and the same man tendered his vote, do you mean to say that his vote would not be legally taken, or that we should not admit it ?

*Mr. Bunny* : That is to say, a person whose name was not on the roll, but who would have a right to be on the roll, that his vote should be taken.

*The Chairman* : His name having previously been struck out by mistake.

*Mr. Gillies* : It never was upon the roll ; it was a wrong qualification.

*Mr. Travers* : The intention of the Revising and Registration Officer was, that the roll should represent the person named Henry Tomlinson, the witness who was before the Committee ; but through an error the qualification was retained, and the name erased. The Revising Officer was under the impression that he was merely adding a new qualification to the one existing to the name of the same individual. He did not represent that he was another Henry Tomlinson, but he said "I am the Henry Tomlinson on the roll." It turns out that the qualification was erroneous. It is not a case of personation ; but it is a case of voting when he is not on the roll at all. He personates himself only, believing that he ought to be on the roll, and was on the roll. He was not pretending that he was Henry Tomlinson, a householder, formerly a householder in Waimea West, but the person whose qualification is described. He says, "I can identify my identity within the name, but the qualification is a misdescription."

*Mr. Allan* : That is not so. There is no doubt that there was a Henry Tomlinson, who was qualified with a household qualification in Waimea West. Henry Tomlinson might have gone and voted on that qualification. Here, this man goes and votes upon that qualification. Therefore, how such a vote as that could be allowed I cannot understand, even though my friend proves his case.

*The Chairman* : It is the error of the Revising Officer that there is any mistake in the qualification.

*Mr. Allan* : Supposing he had a right to vote in any way, the Revising Officer having exercised his discretion, and struck the name off, I say under no circumstances would he have a right to vote now. He could have claimed to have voted on such a qualification ; and if the Returning Officer refused to allow his vote, he could have tendered his vote under protest. He does nothing of the kind. He never claims to vote as Henry Tomlinson, having a freehold qualification, but goes and votes under the name of another elector altogether.

*Mr. Bunny* : It appears to me, Counsel on both sides are pretty much agreed. No doubt they are in a position to show that the man who voted was not the man on the roll.

*Mr. Travers* : No ; that the man on the roll voted, but there was a misdescription in the qualification.

*Mr. Allan* : That is quite wrong.

*Mr. Gillies* : That is a question which the Committee can decide.

*Mr. Fitzherbert* : The Counsel for the sitting Member applies for an adjournment, to produce the evidence of the Returning Officer as to Tomlinson. Is there any other point ?

*Mr. Travers* : The other point is, that I should produce evidence to show that Stephen Starnes voted after the poll was closed.

*Mr. Fitzherbert* : Does that require further evidence ?

*Mr. Travers* : That would require the evidence of the Returning Officer.

*Mr. Fitzherbert* : That is another reason for an adjournment.

*Mr. Travers* : So I intend it. I have the declaration of the Returning Officer. The Committee have a right to look at it, but I do not tender it in evidence to the Committee.

*Mr. Allan* : I object to its being tendered.

*Mr. Travers* : I only tender it to show my own *bona fides* in the application. It is the declaration made by James Robson, Lower Moutere, schoolmaster, who states, that at the election of a member to serve in the present Parliament for the Electoral District of Motueka, he acted as Returning Officer ; that after 4 o'clock on the day of election, Stephen Starnes, whose name is on the roll, presented himself at the polling place at Lower Moutere, and voted. His vote was accepted. It is an extraordinary affidavit for a Returning Officer to make, but it shows the *bona fides* of my application to have the Returning Officer here to examine him on that point. It is a declaration made before a Justice of the