

18th Sept., 1871.

*Mr. Travers* : I am stating what I propose to prove ; my friend may object at the proper time. The Registration Officer will state that he has done this on many occasions. He will state that, although he has no recollection of a claim having been made by Henry Tomlinson, yet, if such a claim had been made, he would in all probability have put it into the waste paper basket, under the impression that it was a claim made by the same person who was already upon the roll, and that he would have done it in accordance with the verbal instructions received from the Revising Officer. I am not going to shut my eyes to the fact that that class of evidence, in itself, is comparatively weak ; I will allow my friend the benefit of supposing that it is only half a link in the chain of circumstances to support the statement made by Henry Tomlinson, that he made application to vote, and that the paper was set aside, under the impression that it was a duplicate application made by the same person. I then propose to offer evidence in regard to Starne's vote, which was given under these circumstances. The polling, it appears, became very slack just about the hour of 4 o'clock, and the two scrutineers, actuated by a strong desire to serve their respective candidates, went out on the hill to see whether any more voters were coming. A man was observed coming in the direction of the polling booth, and they waved their hands to him to come up. On Starne's entering the door, the Deputy Returning Officer called his attention to the condition of the clock : that it was more than half a minute after 4 o'clock. On consultation with the two scrutineers, the Deputy Returning Officer thought it would not do much harm if the vote were recorded, and he accepted the vote after the hour when the poll should legally have been closed, and he reported the circumstance to the Returning Officer on handing him over the papers connected with that polling place. I will show you by his evidence, that the polling commenced at 9 o'clock to a second, by the same clock to which the Deputy Returning Officer directed attention when Starne entered the polling booth for the purpose of recording his vote. The scrutineers will confirm the statement of the Returning Officer. The latter will state that the circumstance mentioned was reported to him by the Deputy Returning Officer when they went over the roll, in order to determine that there were no duplicate votes on the list.

*The Chairman* : Was the Returning Officer aware for what purpose the scrutineers went to the top of the hill ?

*Mr. Travers* : I do not know. I did not inquire whether he was or not. It appears that, in the hurry of the moment, the Deputy Returning Officer asked the voter who he intended to vote for, and that he said he was going to vote for Mr. Parker. It is not surprising that he should do so, having been accustomed to conduct elections under the old system. The question was put inadvertently, in the hurry of the moment, and he forgot at the instant that the voting was by ballot. The vote was accepted by him, and no doubt it was enumerated on the list of those who recorded their votes for Mr. Parker.

Mr. Campbell.

Alexander Le Grand Campbell sworn and examined.

18th Sept., 1871.

*By Mr. Travers* : Your name is Alexander Le Grand Campbell ?—Yes.

Are you the Registration Officer for the District of Motueka ?—I am.

Were you the Registration Officer for that district in the year 1867 ?—Yes.

Will you look at this. [List of Claims for Revision for the Year 1867, handed witness.] And say whether that is your signature ?—Yes, that is my signature.

Can you state whether, in that year, you received applications to be placed upon the electoral roll from any persons of the name of Tomlinson ?—Yes.

*Mr. Allan* : I object to this evidence being given at all. The Act for the Registration of Electors states that the electoral roll is to be the roll for the year, and nothing is said as to giving the Committee power to inquire whether a man's name has been left out or put on. We produced the roll of 1870-71 ; and we called Henry Tomlinson, who stated that he voted under a certain qualification which was not his, never was his, and that he had no right to vote under that qualification. I submit that the Committee cannot inquire into what took place in 1867, 1866, or 1865. The only question is, whether Henry Tomlinson was on the roll. He states that he was not the person ; that he was not a householder ; that it was the qualification of another person, alive, and who had a right to vote under it. I submit that this evidence cannot be received.

*Mr. Travers* : My friend is entirely misapprehending the object of this evidence. It is not for the purpose of proving that the Henry Tomlinson who voted is the Henry Tomlinson on the roll. It goes to disprove the allegation of the petition that Henry Tomlinson perpetrated the grave offence of personation. The point is, that the Committee has only power to inquire into the allegations contained in the petition. The allegation of the petition is that two persons, named Hagan and Tomlinson, were guilty of personation. The words are these, that "Henry Tomlinson, not being a duly qualified registered elector, or qualified to vote for the said district, did knowingly personate and pretend to be the Henry Tomlinson on the electoral roll for the said district, and did falsely assume to vote, and did vote as such Henry Tomlinson at the said election, for Sir David Monro." That is the offence charged, and what we are seeking to disprove is, that there was no wilful attempt at personation, and that the person voted in the reasonable belief that he was on the electoral roll. He never pretended to be the Henry Tomlinson described as a householder in Waimea West. He was under the impression that he was absolutely on the roll. He was an illiterate man ; he could not read or write, and having made the application, he had reasonable grounds for supposing that he was on the roll. Had my friend in the petition charged that one Henry Tomlinson, being on the roll, voted at the election, that would have been a totally different matter ; but it is not so. He charges that the Henry Tomlinson who voted knowingly and wilfully personated and pretended to be somebody else. Such is not the case. What we wish to show is, that Henry Tomlinson voted under the impression and belief that he was on the roll—not that he knowingly and wilfully pretended to be another person. If we succeed in showing that, the offence set forth in the petition is not proved. I apprehend that the same evidence which would be necessary for the purpose of proving this charge, if included in an indictment, will be that which will alone satisfy the Committee that the charge in this petition is proved. The Committee can only go into the allegations contained in the petition ; can only investigate charges made in that