

18th Sept., 1871.

*Mr. Travers* : That is all the evidence I have to produce. I understand my friend wishes to call evidence to contradict the evidence given to-day. I would apply for an order to have the paper deposited by Starnes produced, as that will show how he voted.

*The Chairman* : Does that much signify, if he voted for Sir David Monro ?

*Mr. Bunny* : That would not help your case.

*Mr. Travers* : But, if he voted for Mr. Parker.

*Mr. Bunny* : We take it for granted he voted for Mr. Parker.

*Mr. Allan* : I have two witnesses to examine to rebut the evidence given as to Starnes coming into the polling booth after 4 o'clock. I am bound to call every sort of evidence we have got.

After the Committee had deliberated for a short time,

*The Chairman* said : The Committee consider that the vote of Starnes, under the circumstances, ought not to be struck off; and, therefore, that it is unnecessary for the petitioner to call evidence upon this point.

*Mr. Travers* : I would ask the Committee whether they would allow an adjournment, in order to enable me to produce evidence with regard to Tomlinson.

*Mr. Allan* : I shall object to any further adjournment; I do not see what is to be gained by it.

*The Chairman* : Is that the only evidence you wish to produce ?

*Mr. Travers* : That is the only evidence, to show that Tomlinson's claim, in 1867, was a *bonâ fide* claim. We understand that he made a claim in 1869 as well.

*The Chairman* : Do you wish for the adjournment for the purpose of calling evidence on that point also.

*Mr. Travers* : We understand from him that he did so, and we are informed that he made this claim in 1867. The Committee will understand that our object in calling the evidence is to show that the man was not guilty of personation; that when voting he was doing so under the implicit belief that he was on the roll.

*Mr. Allan* : We are not indicting him for a criminal offence. The charge is that he voted in the name of another man, when he had no right to do it.

*The Chairman* : The Committee will deliberate upon that point.

After a brief deliberation,

*The Chairman* said : The Committee consider that they have sufficient evidence with regard to Tomlinson to satisfy them that he did not knowingly personate and pretend to be any other person than himself.

The Committee adjourned.

19th Sept., 1871.

TUESDAY, 19TH SEPTEMBER, 1871.

The Committee met at half-past 10 o'clock.

Mr. Brandon in the Chair.

*Mr. Allan* appeared for the petitioner, Mr. Charles Parker; and *Mr. Travers* for the sitting Member, Sir David Monro.

Minutes of last sitting read and confirmed.

*Mr. Travers* : Sir, before addressing the Committee, I have to ask that the string with which you have tied up the parcels received from the Returning Officer should be untied, so that I may see the indorsement on the various packages.

The Chairman untied the parcel, and separated the packages.

*Mr. Travers* : I will not dispute with my friend that it is my duty to address the Committee in the first instance.

*Mr. Allan* : The general practice in England is, that the petitioner opens his case; and if the sitting Member chooses to call evidence, his Counsel addresses the Committee, after which the petitioner's Counsel has the right of reply.

*Mr. Travers* : I am not prepared to dispute the right of my friend to reply, and I will at once address the Committee on the case presented to them. This Committee is, as I need not say, appointed to inquire into and determine upon the allegations contained in the petition of Mr. Charles Parker against the return of Sir David Monro, and is acting under the provisions of "The Election Petitions Act, 1858," and "The Election Petitions Act Amendment Act, 1862." I would refer the Committee to the subsection of the second section of the Amendment Act, in reference to the allegations contained in the petition—"Every petition shall allege the specific grounds on which the return is impugned, and no other grounds than such as are stated in the petition shall be investigated." I apprehend, Sir, that that subsection essentially narrows the inquiry in the case to the actual specific charges made on the face of the petition, and that these charges must be substantiated by sufficient evidence in order to justify the Committee in coming to the conclusion sought for by the petitioner. I do not propose to address myself to the allegations relating to bribery, treating, or undue influence; and, indeed, if I rightly comprehend the decision of the Committee yesterday, in reference to the case of Tomlinson, that also as an allegation is absolutely disposed of, because the Committee have determined in the direct negative of that allegation; the resolution of the Committee, as recorded on their minutes, being in effect a direct and positive negation of the allegation contained in the petition. The allegation is,— "That at such election a person named 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 the said Sir David Monro." Now, Sir, if I rightly apprehend the resolution of the Committee, they have decided that he did not knowingly or falsely pretend to be the Henry Tomlinson on the electoral roll. If my memory serves me, these are the very words of the resolution, and they certainly amount to an express and direct negation, and as I humbly think, rightly so, of the petitioner's statement.

The next and only allegation which remains to be considered, is the allegation "That, at the said