

Mr. Allan.
19th Sept., 1871.

Tomlinson on the roll, still that would not in the slightest degree validate his vote. It has been proved that James Hagan knew that he was not a registered elector, and not qualified to vote at the election. It has been proved that he tendered his vote and voted in the name of James Hagan, his father, who was on the electoral roll for the District of Motueka. Therefore that is a clear Parliamentary offence. He assumed to vote, and did vote, not being an elector. That, also, is the case with respect to Tomlinson. Even though it may not appear that he did knowingly personate, still it has been shown before you that he did personate another Henry Tomlinson, who was on the roll. With these proofs before you, are you to be told that the allegations in the petition have not been sustained? Are you to be called on to act on cases which are not Parliamentary cases, but in the nature of penal proceedings, and based on Statutes which are only Borough Statutes in England? Are you to be called upon to say that a man's vote is to be received because it happens to be stated in the petition that he knowingly personated, and it may appear that at the time he did not actually know he was personating? Surely not. My friend has raised the question about the ballot papers. Of course the practice has always been where there has been a poll, and a subsequent scrutiny has been demanded, to give in evidence the poll books. The parties, then, who wish to take any objection have the right to have the poll books referred to, to show whether their objections are well sustained.

The Chairman: That is in open voting in England.

Mr. Allan: The poll books are put in and not referred to beyond that, unless the person who objects calls the attention of the Committee to them. In this case, if it had been stated it is untrue what Hagan says, that he voted and his vote was received, the Chairman might have at once asked to have referred to these papers, to see whether that was the case or not. It has been said that the Committee had no right to receive those poll books, because the Statute had not been complied with. It has been laid down that, whether the Statutes have been complied with or not, as to the way in which the poll books are to be kept, they may, nevertheless, be received. I applied for the papers to be produced that they might be received in evidence, and they have been admitted.

The Chairman: You produced the electoral roll; but you have not produced the rolls made up and returned by the Returning Officer.

Mr. Allan: These papers contain the electoral roll, and also the ballot papers. They therefore stand in the same position and on the same ground as the polling books do and would have done if the old system of voting had been in existence. I called for these ballot papers under the provisions of the Act, and I produced them before the Committee. An objection was taken as to their not being sealed; they were, however, received in evidence, and left in charge of the Chairman.

Mr. Travers: As packets.

Mr. Allan: I do not care whether as packets or not; they were received, and could be referred to by any party. I asked to refer to them afterwards, and it was stated, "No, it was not considered essential." Both Hagan and Tomlinson stated that they voted; that their votes were never objected to; that they were given ballot papers, and that they struck out the names.

Mr. Travers: There is not a word of evidence either by Tomlinson or Hagan as to the mode in which they used the ballot paper.

Mr. Bunny: There was evidence of voting.

Mr. Allan: Everything is supposed to be rightly done until the contrary is proved. I have never heard such an objection before; it seems to be the last effort, but it will have no effect. There is evidence that they attended the polling booth; that they received papers; that they voted; and that the papers were deposited in the ballot box.

Mr. Travers: There is no evidence of that.

Mr. Allan: All that goes to show that these men recorded their votes. They stated that their votes were recorded for Sir David Monro. That being the evidence before the Committee, it was for the other side, if they intended to impugn it, to have asked for the packages to be opened and the voting papers examined. From the very first I asked to have the books examined, and it was stated that it was unnecessary.

The Chairman: As to these two votes.

Mr. Allan: I have conducted this case entirely on the ground and on the assumption that the discussion of the Committee was to the effect that the voting on behalf of Sir David Monro by these men had been proved, and that nothing more was required to be shown.

The Chairman: You must not go so far as that; what the Committee assented to was this: that there was no occasion to open the ballot papers to show that these parties had voted for Sir David Monro on that occasion. The Committee did not go beyond that.

Mr. Allan: I asked for these papers to be opened to have the votes examined, and the Committee stated it was quite unnecessary to do so.

The Chairman: You wanted the papers opened to prove that they had voted for Sir David Monro. The parties having admitted that themselves, the Committee said there was no occasion for doing so.

Mr. Allan: Then, I say there was an end of the matter. We had the Registration Officer here, who told you that 193 votes were polled on each side. He was never asked whether the votes of Hagan and Tomlinson had been registered. On the other hand you have the evidence of Hagan and Tomlinson that the votes were received, and that no objection had been taken to the votes. After receiving that evidence, the Committee considered that it was unimportant to examine the papers. I say that this objection is quite futile. Should the Committee have any doubt about it they can examine the papers themselves.

The Chairman: The Committee would like to hear you upon the important points raised by Mr. Travers. The first is, that admitting that the two parties had voted for Sir David Monro and had placed their ballot papers in the box, yet it is not shown that those votes were amongst those recorded in favour of Sir David Monro, and were not rejected.

Mr. Allan: I say it is not necessary.

Mr. Travers: It is not shown how either Hagan or Tomlinson had voted.