

8th Sept., 1871.

Now, do the acts of Messrs. Bell and Kerr amount to bribery? The case has been assimilated to one of payment of travelling expenses. I concede that if a small sum is given for travelling expenses, and there is no condition attached to the gift, that the recipient should vote for the person by whom the expenses were paid. If a man, after voting, says, "I have been put to some expense, will you pay the amount of the expenditure I have incurred?" and such a sum is paid, that could not be held to be bribery; although possibly, if a very large sum had been given, it might be looked upon as a sort of colourable way of paying a man for voting, and it could be held to be illegal. The sum these men got was small, but it was more than they could have obtained by their contract. The promise of it, therefore, was a sufficient inducement to them to come down and vote.

*The Chairman*: It is not more than ordinary wages.

*Mr. Allan*: No, not more than ordinary wages, but they were getting a holiday, and they probably would have received the money due on their contract afterwards. Independent of that, the law, as laid down in *Cooper and Slade*, and confirmed by the House of Lords, is that, if a man votes in consequence of the promise of the payment of his travelling expenses, it is as much bribery as if hundreds of pounds had been promised or given. Let us see what Mr. Justice Willes states on the section of the English Statute, which is the same as the second section of "The Corrupt Practices Prevention Act, 1858," passed by the General Assembly. I am citing from the report of the judgment of the House of Lords in *Cooper v. Slade*, 27 L. J. Q. B. 456. Mr. Justice Willes says "Now it is clear that a promise of travelling expenses is a promise of money, and so within the words of the Act, which must therefore be construed as including it, unless to do so would lead to some manifest absurdity or in congruity with the rest of the Statute, showing that such could not have been the intention of the Legislature. I see no such absurdity, but the contrary. A voter who will obtain his travelling expenses if he votes for A, but not if he votes for B, has, when at the polling place, a direct pecuniary inducement to vote for A; and a person who promises to pay expenses on such a condition creates that inducement. Moreover, if the payment of travelling expenses were allowed, there would be danger of such allowance being made a cloak for bribery. There is no reason, if a man is to be repaid his disbursements because he has expended money, he should not also be remunerated for the inconvenience and loss of time he sustains in going to the poll." Again, Lord Cranworth says (p. 463), "Giving money to a voter to come and vote for a particular candidate, was giving him money within the meaning of this section, and of previous sections to the same effect." And Lord Wensleydale adds (p. 464), "Now, with respect to the first proposition, that every payment of legal expenses to a voter in order to induce him to vote, every payment upon any condition, implied or expressed, that he should be paid his expenses if he voted for any particular candidate, was bribery within the meaning of the Act of Parliament, appeared to admit of no doubt at all: it was admitted in all the Courts below them."

*The Chairman*: There is a later decision in 1869, in *Ottiwell's case*, in which the payment for refreshments on a journey, and railway expenses, was not held to be bribery.

*Mr. Allan*: That would be quite consistent with the decision in *Cooper v. Slade*. The law is this: that if a man were simply to be given so much for his railway expenses if he is going down to vote, and nothing is said to him beforehand as to what he wants the money for, or no promise is made, then that would not be bribery, because it would amount to an unconditional payment unconnected with the manner in which the voter might vote. If a man gets money for travelling expenses beforehand, and goes down and votes for the party afterwards, that would not amount to bribery, under the first section of the Corrupt Practices Act; but if he gets a promise of so much on condition of going down to vote, that is bribery, and is so laid down by Judges in the House of Lords. Now what is the evidence adduced by the petitioner to establish bribery. I called Mr. Bell, and his statement was very strong. When the Germans came down they tell him that they require that their expenses should be settled before they vote, to which he replies, "I have no authority to do it, but I agreed to pay you £2;" and when they still press for more, he adds, "I will see Elliott about it." The men then agreed to vote; they did vote for Monro, and were paid afterwards. The evidence of Bosselmann was that originally they did not know whom they should support; it was a matter of indifference to them for whom they voted. Kerr asked them if they would go down and vote for Monro, and they said they must be paid 8s. per day expenses. Upon Kerr promising that they should receive that sum they agreed to vote for Monro, and came down. When they arrived at the polling place, they were met by Bell and Dreyer, who asked them again how they were going to vote, and Bosselmann said "I am not going to vote, and the others are not going to vote, unless our expenses are paid."

*The Chairman*: He said he would not answer for the others.

*Mr. Allan*: Even his one vote, given under such circumstances, would be sufficient to vitiate the election. He stated that he, as well as the others, said that they were not going to vote at all until they had 8s. a day.

*M. Travers*: He did not state it to Bell.

*Mr. Allan*: Bell came down and asked them if they were going to vote for Monro. They said, "They did not know yet, and that they were not going to vote unless they were to get their expenses." If that evidence does not come within the definition of bribery, as laid down in the House of Lords in the case of *Cooper v. Slade*, I do not know what evidence can be brought within it. Some men are influenced by the offers of large sums, and some by small; but if there is a corrupt influencing motive brought to bear on the mind of the voter, and, actuated by that motive, he subsequently votes, it falls within the language of the Corrupt Practices Act. The giving or promising to procure money to or for a voter, to induce him to vote—and that these men are speaking the truth, who can doubt? what interest had they in making a false statement? By admitting what they have done, they become as liable to be charged with an offence under the Corrupt Practices Act as either Bell or Kerr. I say that their evidence is strong, and incontrovertibly strong. The evidence of Bell was guarded, but his evidence was enough to show that he was treating with them for their votes, and that the money was promised, and paid afterwards. I beg the Committee to bear that in mind—to look at the decision in the case of *Cooper v. Slade*, which goes fully into the matter. The principles eliminated in *Cooper v. Slade* are these—that an unconditional payment of expenses or money for loss of time, which does not amount to more than the ordinary sum a man would earn by his labour, might probably