

Elec. Case.]

NORTH GREY ELECTION PETITION.

[Ontario.]

The question, as it seems to me, may be said to be one of intent. Did the candidate depute and authorise the person to be his agent, and did the person so authorised accept the deputation? If so, to what extent? namely, was it for the performance of a special isolated act, or for a few special acts, or was the appointment as agent generally, but with powers confined to a limited district, constituting part only of the electoral division? or was the appointment as agent general, extending over all parts of the electoral division? for upon the nature and extent of the authority conferred and accepted must depend the nature and extent of the liability of the principal. What the nature and extent of the agency is, may be established by direct positive evidence, or may be inferred from the acts and conduct of the parties; but all inference is excluded if the evidence ignores any intention upon the part of the parties, either to confer or accept authority, and at the same time shows with reasonable certainty that acts, which in certain events might be sufficient to warrant the drawing an inference of an authorised agency having been created, are attributable to or explicable by other influences affecting the mind and conduct of the party alleged to be an agent in the performance of the acts relied upon as establishing the agency. In such case there is no agency, and the party assumed to be a principal cannot be affected by the acts of the other.

Now, in the case of Dr. McGregor, the case may be briefly stated to be, that having heretofore been a member of the party to which the respondent has been always opposed, and being a public man of considerable importance and public influence in the township of Holland, recently by Act of Parliament separated from the North Riding of Grey, and being very much annoyed and indignant, upon public grounds or otherwise, with the separation of his township of which he had been just recently elected reeve, from what he conceived to be its geographical connections, he resolved to use all his influence to oppose the ministerial candidate for this riding. He publicly announced his intention of so doing, as I gather from the evidence, at the close of the meeting at which the nomination took place, or I should say previously, for some of his former friends seem upon that occasion to have called him a turncoat, which led to some warm altercation. The respondent formed a committee to act as his agents to promote his election. Dr. McGregor was not one, nor does he appear to have been ever asked to be one. It is relied upon that upon one occasion he was in the respond-

ent's committee room; but the evidence shows that this was for the purpose of consulting his local knowledge as to the most suitable places at which to call public meetings of electors in his neighbourhood, having regard to the then condition of the roads—the great depth of snow rendering most places inaccessible. He also was referred to in a printed circular as a person, with others, capable of refuting and proving to be untrue certain charges which had been made by the opposing candidate's friends, in a paper printed and circulated by them against the respondent, and he may perhaps have signed the paper for the purpose of testifying his willingness and his ability to refute the charges. He took also some of these circulars into the neighbourhood where he resided. An honourable man may surely express his willingness to refute, if in his power to do so, false charges made by one candidate or his friends against the other, without being held to be the agent of the latter. Upon one occasion the respondent, when passing through Chatsworth, where the Doctor resides, asked him to come to a public meeting convened at Desborough. True the Doctor was not an elector in the riding, but he was a public character in the adjoining township, and had, as the respondent no doubt knew, expressed his determination, as a public character, to take a very serious part in this election. The respondent does not appear to have asked the Doctor to come to the meeting to speak upon his behalf. He thought perhaps that it was very likely he would speak if he should come, and that if he should speak the subject of his oration would be the condemnation of the ministerial candidate, and the running sore which, for the present at least, had alienated him from his party. The respondent, indeed, very probably thought that the Doctor could not and would not stay away, and it may be conceded that he was not unwilling to derive whatever benefit should result to him as the natural consequence of this alienation. The evidence has satisfied my mind that the respondent's asking the Doctor to go to the meeting had very little influence upon him, for the Doctor confesses, I think beyond all doubt, at least this is the impression he conveyed to my mind, that he had mounted a hobby of his own which was very high mettled, and from which he had no intention to dismount until he should either fail or succeed in effecting the object for the time being nearest to his heart, namely, damaging as far as he could the ministry that had withdrawn his township from the riding by the defeat of the candidate who had been put forward in their interest; and I have no doubt,