

Election Case.]

EAST TORONTO ELECTION PETITION.

[Election Case.

to the conclusion that paying the expenses of a co-candidate is not bribery, and is not prohibited by the Statute. He further adds. "You must show an intention to do that which is against the law, before you bring the case within the highly penal clauses of the Statute."

From the evidence given, and the surrounding circumstances, I do not feel warranted in inferring that the sums really paid to electors for putting up placards, distributing cards, and similar services, were paid colorably and to influence votes.

The course pursued, as I understand, was that Mr. Cameron's friends formed themselves into committees in the several wards, and persons came forward and volunteered to distribute cards in the several localities. They were furnished with books showing the names and residences of the parties they were to call on, and they returned these names and the answers they gave as to whom they would vote for, to the Secretary of the committee; and in that way the information was conveyed to the scrutineers as to the parties who were on the list, whether they were in the city, whether they were dead, and for whom they were expected to vote. The parties entrusted with these books and tickets were, it may be presumed, those in whom the friends of Mr. Cameron had confidence, or they would not have had that position. When the parties commenced to distribute cards, &c., they often found the parties on whom they were to call at public houses, and when there, and speaking on the subject of the election, they, as seems to be the almost universal custom with the class of men whom they meet, asked them to drink, and if others were present they were also asked. The consequence was, the parties distributing tickets frequently spent their money, lost their time, and got no pay. When this was represented to the parties having funds to expend, they considered it a legitimate purpose to pay these parties for their services a reasonable sum, not at any time exceeding what would be paid to a person for working the same length of time in other employments. I cannot say that the evidence of these general payments, shows any such bribery as would justify me in setting aside the election.

On this particular feature of the case, I may as well remark that when a candidate or his friends expended large sums of money during an election, it is always more satisfactory to have such expenditure shewn by correct and proper vouchers; and if any money be paid to voters, or large sums paid out for refreshments, or teams used in any way, this will be open to attack and observation, and judges will be less inclined as the law becomes known and its provisions pointed out, to take a favorable view of acts and conduct that may bear two constructions, one favorable to the party elected, and the other against him.

As to \$10 paid to Mr. McDonald, the son-in-law of Carruthers, Carruthers himself says he gave him a dollar or two. McDonald says he borrowed from him during this election, \$5 at one time and \$5 at another, and this had nothing to do with the election. He seemed to be a warm supporter of Mr. Cameron, and I am not inclined to think Carruthers gave him the \$10 on account

of his services during the election, or to bribe him.

The next point is that with intent of promoting Mr. Cameron's election, Mr. Chisholm spent money for supplying drink to a meeting of electors, assembled for the purpose of promoting such election.

Mr. Chisholm gives evidence on that point, and it is the only evidence given on the subject. He says his own expenses were, on the whole, for cab hire and money paid at ward meetings, about \$40. He was ill before the election, and hired cabs to take him from one place to another. After the meetings were over he asked those present to drink, and all present drank. He said his object was to be friendly with them, and if, after that, they were friendly to his candidate he was glad of it. His largest expenditure in any evening was six or seven dollars, including cab hire. When he asked the people to drink the question of voting was never mentioned. He did it on his own account. In doing so he had no desire to influence the people's votes. The object I had in view was this: "When men take an interest in these matters, as I did, and exert themselves, if they don't treat people they think they are mean, and I did not wish to be considered mean." Without deciding that furnishing refreshment by an agent of a candidate, without his knowledge or consent, and against his will, will set aside the election, I think I may dispose of this point in the case, in deciding whether what was done was done corruptly, to influence votes. The lengthened exposition of the cases, as to furnishing refreshments, in the judgment of Chief Justice Hagarty, in the *Glengary Case*, makes it unnecessary for me to refer to them at length.

In the *Tamworth Case*, where men were employed to keep the peace on the polling day by an agent of one of the respondents, amongst whom were some 29 voters, at 10s. a-head, Mr. Justice Willes had to consider why the agent employed those men, and he said, "I believe he employed them because he desired to gain popularity for himself, and because he desired to make a handle of their employment to gain favor for himself amongst the class to which the men belonged. * * * Upon the whole, however, I come to the conclusion, that it was an unauthorised act, done by Barclough for the purpose of obtaining popularity for himself, and that it was not, either in respect of the question of Law, or upon the established facts, an act which I can designate as having been bribery. It is an act which, so far as I judicially can, I reprehend and condemn; and if I thought it had been done by him with any view of advancing the interest of his employers, so that I had to impute the intention to do that which was the natural consequence of the act, I must have held the election to be void."

Looking then at this as an unauthorised act against the wishes of the candidate, I think the fairest and most reasonable conclusion to arrive at is what Mr. Chisholm himself says, viz.: that he treated because people would have thought him mean if he did not, and without any corrupt intent.

The next class of cases to which my attention was directed was that of those to whom offers of