

curtail this latitude and bring the law back to its original meaning in this respect. He provided that :

“The frequent or habitual treating of individuals or assemblies of individuals, by any candidate or his agent, at any time before an election, shall be held to be general treating, whether it be done ostensibly with a view to influence the votes or opinions of electors or not, and whether it be accompanied by any attempt to influence the votes or opinions of electors or not, and notwithstanding any declaration made by any party to the treating, either at the time of the treating or any other time, on oath or otherwise, that such treating is not or was not intended to influence the votes or opinions of electors, and notwithstanding any plea that it has been the usual custom of any such candidate or agent to practise such frequent and habitual treating.”

In other words, the law would assume that the frequent treating by a candidate or agent, was done with corrupt intent, while the law at present assumed that he was innocent, and he did not think he was asking too much that the candidates should abstain from habitual treating. He also provided :

“If a Judge has reason to believe that general treating has been practised during any election by the successful candidate or any of his agents, he shall declare the election void, and shall report the name of every party guilty of such general treating. If the Judge has reason to believe that general treating has been practised by the unsuccessful candidate or any of his agents, he shall report such fact, together with the name of the guilty party.”

He next provided that :

“Any person who shall practise such general treating, shall incur a penalty of \$200, recoverable in the same manner as is provided for the recovery of like penalties by the Act 37 Victoria, chap. 9, as amended by this Act ; or in default of payment thereof, shall be imprisoned for a term not exceeding three months.”

He then went further, in order to make the provision which Vice-Chancellor Blake said should be made. The fifth clause provided that :

“The treating of any elector by any candidate or his agent at any time before an election, if preceded, accompanied, or followed by any attempt to influence the vote of such elector, or the frequent treating of any elector by any candidate or his agent at any time before an election, whether accompanied by any attempt to influence the vote of such elector or not, shall be held to be corrupt treating within the meaning of the Act 37 Victoria, chap. 9.”

MR. CASEY.

He then went to a different branch of the subject to provide a penalty for any person voting who was disqualified by law from voting. This would supply a defect that had slipped into the original law. He had been unable to find any penalty for a person voting who had no right to vote. There was a provision that such and such persons should not vote, but there was no penalty attached to the infringement of the law in the event of their happening to pass the scrutineers ; consequently, he had provided that the penalty for that should be the same as for corrupt practices, namely \$200 or imprisonment. His last section touched the basis of the whole electoral system of the country. As he had said, in a change from the system of open voting to that of ballot, it was natural there should be defects in the law. Under the existing law a large number of electors had been practically disfranchised by the informality of the deputy returning officers. He thought it was in the East Hastings case in which it appeared that a large number of ballots had been improperly marked by the deputy returning officers, and the Court held that these ballots must be thrown out. Of course, the electors who cast their votes were disfranchised. It was not intended that a deputy returning officer should disfranchise an elector, and he thought the time had come when this fault should be remedied, consequently he had provided in the last clause :

“No informality, neglect, error or omission, whether intentional or otherwise on the part of any returning officer, deputy returning officer, poll clerk, or other official, in connection with the taking of the poll at any election, either in providing or dealing with the ballots, ballot-boxes, envelopes, poll-books, or any other documents or apparatus used in taking a poll, before, during or after the taking of the poll, or in making reports, or in any of the acts prescribed by law for such official, shall be held to invalidate any ballot appearing to have been cast by any elector at such election, unless it shall appear to the Judge, or a County Judge who is re-counting the ballots appearing to have been cast at such election, that in consequence of such informality, neglect, error or omission, fraud on the part of some elector or other person has actually occurred, and has affected some of the said ballots. If it so appear to such Judge as aforesaid, he shall decide, after hearing all obtainable evidence, which ballot or ballots have been affected by such fraud, and shall hold the same to be invalid. If it do not so