

Elec. Case.]

MUSKOKA ELECTION PETITION.

[Ontario.

"He may rely also upon his local position, his intimacy with public men, his wealth, &c., as advantages in his favour. He may perhaps say that, being a supporter of the ministry of the day, he hopes he may be able to do more for the locality he claims to represent than the other candidate or candidates can do, who are in opposition to the ministry or to the Government, according to the general mode of speaking of the administration; and he may say that he will get such a public work done in the locality, or the timber dues remitted, or the land reduced in its valuation, or other advantages granted to the settlers.

"And he may perhaps say, if in office, that by reason of it he will be able more effectually to have carried out what he may undertake to do than the other candidate or candidates, who are not in office.

"He will be quite sure not to recommend his opponents too much, for elections are not commonly gained by praise of the opponent. A rich man may say he spends largely in the neighbourhood, and he employs many men, and he employs only those who are residents: for he is speaking only of facts and of past matters; and I think he might add that he would continue to follow the same course. How much further he might go, or how much further a mill-owner or contractor might go, I do not conceive it to be necessary for me to work out.

"If a minister of the Crown were to say he had the patronage of his office which was very great, and he would distribute it or he would use his influence to have it distributed only among those of the constituency, he would be using his office, I conceive, improperly.

"There could be no legal objection to the Commissioner of Crown Lands, or of Public Works, declaring that he had the expenditure of a very large sum yearly. But I think he could not properly say he proposed to lay so much of it out in the constituency, and to employ only the residents of the electoral district or the electors. He might say he had the expenditure or the patronage referred to, if he states the fact simply to show the labour or duty of his office, but if it were stated for the purpose of influencing the electors it would be objectionable.

"It is the intent, of course, with which a thing is said that makes it either objectionable or not objectionable. It is manifest that if some one said that a particular officer had the expenditure and patronage, and the candidate were to say that was an error, for he had them both, there would be nothing wrong in that.

"But if a candidate were to ask another for his

vote, and to say to him, I have a large sum of money to lay out here, or I have great influence in having it laid out here, and there will be work for the people about, it would be wrong in him to say so. Now addressing a body of electors is canvassing, the candidate speaks to the electors because he wants to secure their votes. It is canvassing often of the most effectual kind, and it is sometimes nearly all the canvassing in a comprehensive manner, and on a large scale, that is done; and what is said on these occasions must generally be judged of in the same manner as if said to a single elector. The question in all these cases is whether an inducement was held out improperly to influence the electors, and to control or subdue their free will and judgment. Was anything improperly done to prevent the electors from choosing fully which of the candidates they would support, and to induce or compel them as it were to vote for one, although not their choice, and to give up the other. The question is one of fact and intent. A landlord may legally give a notice to quit at the proper time to his tenants, but if he do so during an election because their politics are different from his, very little done or said at such a time may show it was done by or was an abuse of influence. So the like as to a master dismissing his workmen, and also as to the withdrawal of custom from a tradesman.

"When the respondent made the declaration he did, which is the subject of this charge, what was its nature, purpose and import? It was to show the electors that under any circumstances, he, the respondent, would have the influence and patronage of the Government in the electoral district, and that he would distribute them among the residents; and that under no circumstances would his opponent have any such favour or influence. The effect of that was to draw votes to himself, and to withdraw them or keep them from his opponent; and it is a fair conclusion that the respondent intended to bring about such a result, for it is the natural tendency of the language which he used. It must be assumed that it was his purpose so to do. I think that it is not a fair or warrantable course of argument to take. It does interfere with the free deliberation and choice of the electors of their candidates. It is made hopeless to struggle against the influence and patronage of the Crown so to be exercised, and useless to vote for a candidate who is in no case to have any voice or influence in such matters in the constituency. Whether such language will operate upon a large body of the electors, or upon what precise number it will operate, is