

Elec. Case.]

NORTH GREY ELECTION PETITION.

[Ontario.]

at least such is the impression he left upon my mind, that he never entertained the idea of merging his own independent quarrel on behalf of the township of which he was reeve, and which he regarded as a matter of grave public moment, in the mere agency of an individual, nor do I think the respondent had any idea that he had enlisted the Doctor in the capacity of an agent. Such an idea, I have no doubt, never entered the mind of either the one or the other. It is said that at the Chatsworth meeting, which was held in the limits of the Doctor's own township of Holland, he, in the presence of the respondent, stated that he was acting there on the respondent's behalf. Now with respect to what actually took place there, there is much discrepancy of opinion. The gentlemen opposed to the Doctor do not themselves agree as to what did take place, one thinking the Doctor's remarks were confined to the particular act of insisting to know how many of Mr. McFayden's friends intended to speak, for they seemed to be numerous, before they should proceed further, and that he made this demand on behalf of the respondent, others attributing a wider significance to his words, namely, that he was there attending the meeting on the respondent's behalf. The Doctor himself says, that what he said was, that the meeting was being held in his own township of Holland, of which he was reeve, and that therefore he had a right to interfere. The respondent says that he was in and out of the room, and that he did not hear the Doctor make use of any such expression as that he was interfering upon (his) the respondent's behalf, or that he was there upon his behalf. All admit that there was great noise and confusion made upon the Doctor's interference, so that I can well conceive it very possible that no one can very accurately tell us what was in fact said; but assuming that the Doctor did make use of the language attributed to him, in the sense strongest against the respondent, I can well conceive that in view of the position in which the respondent found himself outnumbered by the friends of his opponent, he might well desire to avail himself of the powerful aid of the Doctor in that particular emergency to secure an equality of the number of speakers on either side without making the Doctor his agent generally, so as to be affected by his acts out of doors in the indulgence of a habit which is so strong upon him, as he says, of treating his friends upon all occasions when he meets them away from home, that he could not resist doing it even though at the peril of the penalties attending a plain violation

of the law. Upon the occasion of this meeting at Chatsworth, the witnesses say that the Doctor claimed to be of more importance than the respondent. This view seems precisely to accord with what the Doctor himself gives us to understand, in virtue of his dignity as reeve in his own township, and I confess that the evidence has impressed my mind very strongly, as I should think it probably would every one who came in contact with the Doctor during the contest, that whatever he did was done in the carrying on his own independent battle, waged with the ministerial candidate for his own reasons and with his own objects. I mean of course public reasons and objects in connection with the particular matter which gave him offence, and not in any sense as the agent of the respondent, a position which I am satisfied the respondent never conferred upon him nor did the Doctor assume. The constitution of our municipal institutions is such, that it is not meet that public men should be fettered in the expression of their political sentiments, or in their right to address public meetings of electors during election contests, by any fear that, contrary to their intent, their public sentiments as expressed at those meetings should be attributed to mere advocacy as the agent of a candidate who may perhaps hold a few, and only a few, opinions in common with them. Nor is it meet that candidates should be exposed, against their will, to the peril of having persons presumed to be their agents whom they have not made and never intended to make such, merely because from their own public standpoint they declare themselves opposed to the election of the other candidate, and advocate, it may be perhaps as the lesser of two evils, the election of his opponent. Under these circumstances I cannot hold the respondent accountable for the corrupt practices of the Doctor, who himself must bear the consequences attendant upon his own violation of the law.

There remains to be considered the last ground relied upon, namely, that Mr. Paterson had treated Mr. Scott, and that this was in violation of the 66th section of the Act of 1868.

The facts relating to this charge are, that the respondent, between 3 and 4 o'clock in the afternoon of the polling day, when going down the stairs from one of the polling places in Owen Sound, in company with Robert Paterson, a supporter of the opposing candidate and one of the petitioner's sureties, not having had, as respondent says, any refreshment since 8 o'clock in the morning, and not having his sleigh at hand to take him home, expressed himself