

Elec. Case.]

MUSKOKA ELECTION PETITION.

[Ontario.]

It is important to give in full the argument of Mr. Justice Wilson as to the speech at Matthias Hall.

After reciting the evidence, he said :

"I must make out in the first place what Miller really said, as well as I can extract it from the above accounts of what he said.

"His own statement, especially when it is adverse to him, may be accepted as a genuine account of his language. The respondent says he used the words following : 'I was the recognised ministerial candidate, having been nominated by the Reform party. That I understood it to be the constitutional practice, here and in England, for the ministry to dispense, as far as reasonable and practicable, the patronage of the constituency on the recommendation of the individual who had contested the constituency in favour of the Government.' He said, 'I did not state I would have the patronage whether elected or not. I said I understood the constant practice was as above stated. I said the patronage would be in me, and I would redress the grievance complained of, that is,' as he expressed, 'if elected.' The respondent, although not now in words, in effect shows that he did say or gave those at the meeting to understand that he would have, as the Government or ministerial candidate, the influence or patronage of the Government in the district whether he was elected or not, because, he says, he told them he understood the practice was 'that the Ministry should dispense the patronage of the constituency on the recommendation of the individual who had contested it in favour of the Government—not on the recommendation of the person who had contested the constituency in favour of the Government, if that person were successful at the election, or were elected, or, in other words, on recommendation of the member if he were a Government supporter, but on the recommendation of the person who contested the constituency on the Government side, or in other words, whether he was successful or not.

"Dill, one of the respondent's witnesses, says : 'To a certain extent Miller said, as I understood him, that, being the supporter of the Government, he would have the patronage whether he was elected or not.' Meyers, also one of the witnesses, says : 'His speech was that, as he was the Government candidate, it was the interest of the people to support him whether he was elected or not ; that he would have the patronage and Mr. Long would not—he was not the Government candidate.' The petitioner's witnesses are quite sure that Miller

declared he would have the patronage of the district whether he was elected or not, because he was the Government candidate, and Long would not, of course, have it although he were elected. Assuming, then, that the respondent did use such language, and on the occasion spoken of, is it an offence within the Election Act, or is it an act or the exercise of undue influence 'recognised by the common law of the Parliament of England,' according to 36 Vict. cap. 2, sec. 1 ? Is such language an offer or promise, directly or indirectly, of any place or employment, or a promise to procure, or endeavour to procure, any place or employment to or for any voter, or any other person, in order to induce such voter to vote or refrain from voting ? The language was, in effect, 'I am the Government candidate, and, because I am so, I shall have the patronage and influence of the Government as to appointments and in the laying out of money appropriations in the district roads, and in the appointment of overseers for such works, and I shall have such patronage and influence whether I am elected or not, and I shall take care that no outside persons, but residents only of the district, receive such appointments.' I think it is not an offer or promise of any place or employment, or a promise to procure, or to endeavour to procure, any place or employment to or for any voter or other person. I think it is not so, because the number of overseers in the district would be comparatively small for the expenditure to be made there, and the promise, if one were made, was not exclusively addressed to those present at Matthias Hall, but to the whole constituency. If the respondent had said the district was about to be formed into a county, and a sheriff would have to be appointed at once, and he would have the disposal of that office, and he would see that a resident of the district would get it, I think it could not properly be said that the respondent had offered or promised a place or employment, or had promised to procure, or had endeavoured to procure, a place or employment to or for any one within the meaning of that section of the act.

"The expectation that each one of the constituency would form or might form on such language, would be of the vaguest and most indefinite kind. But if the respondent had said that 100 or 500 men would be required for a particular work at good wages and for a good while, and he would have the selection of them, and he would take care they were taken from the district, and that no outsiders should be employed, and that he would have that patronage