

*Peace River Election*

5. That on the 2nd day of January, the said Donald Macbeth Kennedy was gazetted as the member returned for the electoral district of Peace River to serve in the House of Commons of Canada, and he has taken his seat in such House of Commons.

Before I read the next paragraph I desire to point out that this petition makes known to this House the fact that proceedings are pending under the Controverted Elections Act, and gives the character of those proceedings.

6. That on or about the 26th day of February, A.D. 1926, proceedings under the Controverted Elections Act were taken by one John B. Page against the said Donald Macbeth Kennedy, but no such proceedings have been taken by your petitioner, or by anyone on his behalf.

7. That at the said election, the said electoral district of Peace River was subdivided into 298 polling divisions, No. 4 of such divisions being known as Brule Mines poll.

8. That the final recount by His Honour Judge Mahaffy, as aforesaid, showed that at Brule Mines poll, being poll No. 4 as aforesaid, twelve votes were cast in favour of Donald Macbeth Kennedy and 127 votes in favour of William Archibald Rae and twenty-one votes in favour of your petitioner.

9. That at least 111 electors voted for your petitioner at Brule Mines poll, No. 4, aforesaid, but through the action of the deputy returning officer, one Peter A. Robb, and other persons, to your petitioner unknown, ballots were fraudulently manipulated to produce the result mentioned in the next preceding paragraph of this petition.

10. That on or about the 18th day of January, 1926, the said Peter A. Robb, deputy returning officer, aforesaid, was charged before the Honourable Chief Justice Simmons of the Trial Division of the Supreme Court of Alberta.

"For that he, the said Peter A. Robb on or about the 29th day of October, A.D. 1925, at polling division No. 4, at Brule Mines in the province of Alberta, at an election held under and by virtue of the Dominion Elections Act for the election of a person to serve in the House of Commons of Canada in and for the electoral district of Peace River, in the province aforesaid did fraudulently destroy a number of ballot papers used by voters at the time and place aforesaid.

And also for that he, the said Peter A. Robb, on or about the 29th day of October, A.D. 1925, at polling division No. 4, at Brule Mines, aforesaid, at an election held under and by virtue of the Dominion Elections Act for the election of a person to serve in the House of Commons of Canada in, and for the electoral district of Peace River, did fraudulently put into the ballot box used in connection with the said poll papers other than the ballot papers which he, the said Peter A. Robb, was authorized by law to put in the said ballot box.

And also for that he, the said Peter A. Robb, on or about the 29th day of October, A.D. 1925, at polling division No. 4, at Brule Mines in the province of Alberta at an election under and by virtue of the Dominion Elections Act for the election of a person to serve in the House of Commons of Canada in and for the electoral district of Peace River in the province of Alberta and being a deputy returning officer at said polling division, No. 4, did fraudulently put otherwise than as authorized by the said Dominion Elections Act, his initials on the back of papers purporting to be, or capable of being used as ballot papers for the said election," to which said charges, the said Peter A. Robb pleaded "Not guilty."

[Mr. Cahan.]

11. That the trial of the said Peter A. Robb commenced at Edmonton, Alberta, on Monday the 29th day of March, 1926, before the Honourable Mr. Justice Walsh of the Trial Division of the Supreme Court of Alberta and a jury, and at the conclusion of the said trial on the first day of April, 1926, the said Peter A. Robb, was found guilty by the said jury on all the three charges aforesaid (as amended at the said trial) and was sentenced by the Honourable Mr. Justice Walsh to imprisonment for five years in the penitentiary at Prince Albert with hard labour, for each of the said offences, such sentences to run concurrently. A certified copy of the proceedings at the said trial accompanies this petition.

12. That at the election held on the 29th day of October, 1925, in the said electoral district of Peace River aforesaid, more ballots were cast for your petitioner than for either the said Donald Macbeth Kennedy or William Archibald Rae.

That, Sir, is a relevant allegation in this petition, that at that election more ballots were cast for James Arthur Collins than for any other candidate.

Wherefore your petitioner prays that the House of Commons of Canada may determine and declare that the said Donald Macbeth Kennedy was not duly elected and returned at the said election, held on the 29th day of October, 1925, and that his said return was and is void, and that it may be declared that your petitioner was duly elected at the said election and is entitled to be returned as the member elected to represent the electoral district of Peace River in the House of Commons of Canada.

And your petitioner, as in duty bound, will ever pray.

Mr. Speaker, that petition was presented to this House by a member of the House of Commons of Canada and was referred to the clerk who deals with such petitions. That clerk has reported this petition back to this House. The Prime Minister of this country now asserts that this House of Commons of Canada should not receive that petition. In due course that petition would, on motion by one of the members of this House, have been referred to the committee on Privileges and Elections. That would have been the motion, to refer this petition which alleges that more ballots were cast for a man who is out of this House than were cast for a man who is in it, to the committee on Privileges and Elections. We are now met with the point of order that this House should not consider such petition. Four precedents have been referred to. Two of them are the expressions of opinion by the Speaker, but I venture to say, Sir, that if you will be good enough to traverse the whole debate that took place in the Coderre case in 1912-1913, you will find there a careful analysis of all the authorities, and it will be observed that my friend the Minister of National Defence (Mr. Macdonald) was then very strong in the opinion which he now condemns.

Mr. MACDONALD (Antigonish): Not at all.