

(In the Committee.)

Mr. T. CHASE CASGRAIN (Montmorency). Before we consider the Bill, I would ask the Solicitor General if he does not think it advisable, that while he is amending the Election Act he should also amend the Controverted Elections Act, because, however severe the provisions of the electoral law may be, if it is possible to pair one controverted election with another, or to 'saw-off' as is generally said, I think the provisions of the electoral law will be nullified. The difficulty that was found in the province of Quebec in carrying out the law that was passed there—and the provisions of which are contained in the amendments I propose to the House—the difficulty was found in the fact that we have no public prosecutor as they have in England. In England the public prosecutor attends all election trials, and ex-officio he takes up the prosecution of any of the offences against the election law. I would suggest, first: That the Controverted Elections Act be amended, and second, if it be found possible, to have such an officer as in England is designated the public prosecutor. Under the Act of 1895, in the province of Quebec, amending the Controverted Elections Act, no petitioner can discontinue an election protest without taking the following oath:

I (description of the petitioner or one of the petitioners), being duly sworn, depose and say:

That in discontinuing the election petition (or the proceeding, as the case may be)—(describe the petition by the names of the parties, the number and date)—I do not act in collusion with the defendant, or with any other person for him or in his interest; nor on account of any undertaking or agreement, express or implied, with the respondent, or with any person representing or acting for him or in his interest; nor on account of any promise, agreement or undertaking, express or implied, by reason whereof I have received, or shall or may receive, any gift, sum of money, reward, profit or advantage whatever; nor on account of any agreement or understanding, express or implied, by reason whereof any election petition that is now pending, or which is to be taken, or any judicial proceeding whatever now pending or to be taken, will be discontinued, abandoned or suspended;

That the only reason for my discontinuing the said petition (or proceeding) is that, after having personally made all possible efforts, I was unable to find and procure proof of the facts alleged in the said petition (or proceeding), and that the efforts that I made to find and procure the said proof are the following: (describe here in detail all steps taken and the means employed);

That, in discontinuing the said petition (or proceeding), I do not act in any way to favour the respondent, but solely in the interests of justice and truth.

No election petition, or proceeding in an election petition, could be discontinued without the following oath being taken:

No election petition or essential proceeding therein, which, being dismissed, would cause the petition to fail, shall be dismissed by the court

or judge, nor taken under advisement, unless the petitioner or petitioners have produced, before the hearing, an affidavit in the following terms:

I (description of the petitioner or one of the petitioners), being duly sworn, depose and say:

That in the prosecution, conduct and trial of the present election petition (or proceeding, as the case may be), I made all diligence in my power to discover and adduce evidence of the corrupt practices alleged in the petition and in the bill of particulars; that I have not acted and do not act in collusion with the respondent, or with any person on his behalf, or in his interest, to shield him from the penalties against him by law enacted, or to favour him in any way whatever, or to maintain his election; that I have taken no part in and have no knowledge of any agreement or understanding, express or implied, by reason whereof the present petition (or proceeding) should be withdrawn, abandoned or dismissed for want of proof or otherwise; that I exerted all my efforts to have the respondent condemned and his election set aside, and that, in the prosecution, conduct and trial of the said petition (or proceeding), I acted in good faith, without fraud or collusion, and in the sole interests of justice and truth.

No petition can be dismissed or discontinued by the judge without that affidavit appearing in the record. Moreover, if an election was controverted the member who was elected, or supposed to be elected, could not take his seat in the assembly without subscribing to and filing with the clerk of the House, the following affidavit, which was immediately transmitted to the court before which the election petition was pending:

I swear that, in the organization, conduct and holding of the election, by which I became a member of the legislative assembly of Quebec, I did not knowingly commit any corrupt practice prohibited by the Quebec Election Act, 1895, nor given my consent to the commission of any such practice by any of my agents or by any person whomsoever, in my behalf, nor personally participate in any such practice; that I have done nothing to delay the trial or hearing of the election petition now pending against me; that I have not entered upon, commenced or concluded any agreement or bargain, express or implied, by reason whereof the said election petition should be abandoned, suspended or settled in any way whatever, and that the trial and hearing of the said petition follow the ordinary course of law.

If it was afterwards found, upon the oath of two persons, that this candidate or member elected had committed any of the offences enumerated in the election law, he was disqualified for five years. I do not say that these are the best provisions that can be made to prevent the sawing-off of election protests, but, it seems to me, that in order to put this Act of the Solicitor General into proper shape for operating it, some provisions should be made on the lines I have indicated.

The SOLICITOR GENERAL (Mr. Fitzpatrick). My hon. friend (Mr. Casgrain) will realize that it is not possible to prepare an amendment to the Controverted Elec-