

policy of retaining and maintaining in its efficiency, and in purity, honesty and uprightness, the election law of the land. It is not, therefore, a matter of this particular election simply, but it is a matter affecting the public at large and the rights of the people, and, therefore, it seems to me that when it is put forth that this person is standing here subject to penalties, or that there is a second charge for a particular offence, I maintain that he does not stand charged with any offence but that under the direction of the House he is brought to its Bar to give explanations as to his conduct. The case referred to by the Minister of Justice seems to me so entirely conclusive upon this point, that any one who has followed the argument must see that the plea that this House has no jurisdiction is one without any foundation, legal or constitutional, to sustain it. I submit that under these circumstances the question I propose must be answered.

Mr. DAVIES. I do not propose to argue the question at any length, but I think it is desirable to state one fact with respect to the remarks of the learned counsel. The learned counsel based his arguments on two principles, one of which was that the House had deprived itself of all its jurisdiction in respect to controverted elections. I think it is well understood by all those who have given the subject any consideration whatever, that the passage of the Controverted Elections Act, vesting in the judges of the land the power to try election petitions, has not deprived this House, as a court of Parliament, of any jurisdiction which it possessed prior to the passing of that Act. In other words, the judges do not possess any jurisdiction which the House possessed before. The judges possess about the same jurisdiction that the Committee on Privileges and Elections possessed before Parliament in its wisdom chose to give it to them. My own opinion has been, and I think it will be borne out by all precedent in the Parliament of Canada, and by the Parliament of Great Britain, from which we draw our authority, and by whose precedents we are to a large extent governed, that this authority has been not only possessed by the House but that it has been exercised. The other point, the learned counsel suggested was, that because certain penalties attached to an act of malfeasance on the part of the returning officer, he may be punished for that act in the courts of the land, and that, therefore, Parliament should not try his action at all here, is an argument which I think is unfounded, and for this reason: The penalties which the law prescribes for any act of malfeasance on the part of its officers, are penalties which are payable to any person who is individually damaged, and they can only be recovered by the person who alleged that he suffers that damage. If the gentleman, who, we think, ought to have been returned in place of Mr. Baird, brought an action, it would be necessary for him first to institute a suit before the judges of the court, and only after we have a declaration by that court of his right to be returned, could he maintain an action for damages. That action is one personal and peculiar to himself: it does not affect the rights of the people, and it does not in any sense affect the privileges of the House, and therefore, so far as Mr. Dunn is concerned, if Mr. Dunn was liable to damages at all, at any time, those damages cannot be recovered against him now, because the time for filing a petition has expired. I have not the slightest doubt in my own mind as to the jurisdiction of the House.

Mr. SPEAKER. The objection not having been sustained by the House, you are ordered to answer the question. I will repeat the question: "Were you returning officer for the electoral district of the county of Queen's, N.B., at the late election, and who was your election clerk?"

Mr. DUNN. I was returning officer for the electoral district of the county of Queen's, N.B., at the now late election, and my election clerk was Councillor T. Williams.

Mr. WELDON. I move that the witness be now asked the following question: "Look at number three of the Votes and Proceedings of the House now shown to you: are the writ and letter of Mr. Pope, pages 13 and 14, correct copies of the writ and instructions sent to you; and is the return you made correctly set out on pages 15 and 16?"

Motion agreed to.

Sir HECTOR LANGEVIN. I think it is customary that the party at the Bar should have the question in his hand.

Mr. CASEY. It is being written out for that purpose.

Mr. HESSON. I think the gentleman charged should have had notice of the—

Some hon. MEMBERS. Order, order.

Mr. HESSON. I am quite in order.

Some hon. MEMBERS. Order, order.

Mr. HESSON. Hon. gentlemen opposite cannot put me down.

Some hon. MEMBERS. Order, order.

Mr. HESSON. I would suggest—

Some hon. MEMBERS. Order, order.

Mr. HESSON. I would suggest the propriety of the gentleman at the Bar having notice of the questions which are to be put to him. Some gentlemen in this House are in possession of the notice, but the gentleman at the Bar may not have notice, and now we have to wait till he gets through with the question and discovers for himself whether or not he thinks it is a correct representation of the case. I say that he ought to have been supplied with the ordinary notice, so as to have a fair opportunity of answering the questions.

Mr. SPEAKER. I have put the question, whether the question which Mr. Dunn now has in his hands will be put to him or not, and the House agreed that it be put. It is, therefore, not now a debatable question whether that question shall be put or not.

Mr. HESSON. Mr. Speaker, I wish to say—

Some hon. MEMBERS. Chair, Chair; order, order.

Mr. HESSON. I will speak, and hon. gentlemen opposite cannot put me down. I have my rights in this House.

Mr. SPEAKER. The suggestion which the hon. gentleman is making may very well come up when the next question is put.

Mr. HESSON. Mr. Speaker—

Some hon. MEMBERS. Order, order; Chair, Chair.

Mr. MILLS (Bothwell). Mr. Speaker—

Mr. HESSON. I ask the hon. member for Bothwell (Mr. Mills) to take his seat, as I have the floor.

Mr. SPEAKER. I beg hon. gentlemen to sit down, as I have given my ruling. When the question is put and answered, and the next question is asked, it will be time enough to raise this point.

Mr. FERGUSON (Counsel). Mr. Speaker. I consider it proper to object to this question, and to the witness answering it, on grounds which might have been urged at the beginning of this examination, but which I consider can more properly be urged now, when this question, the nature of which I consider has a tendency to inculpate the witness, has been asked. I object to the question which is now directed by the House to be put to this witness, on the ground that it will expose him to a prosecution for a penalty under the Election Act; and I need scarcely urge, especially to the legal members of this House, that the privilege which I claim for this witness is one which is acknowledged by the law of the land, and in