

On motion of Mr. Lamont, seconded by Mr. Haultain,

Ordered, That the Clerk of the Executive Council be summoned by Mr. Speaker to attend the bar of the House and amend his certificate relating to the return of the member elected to represent the electoral division, of Prince Albert at the election held on the 13th December, 1905, by inserting the name of Samuel James Donaldson in lieu of the name of Peter David Tyerman.

And so the legislature of Saskatchewan, having inquired into the facts through a committee, unanimously decided that the action I have taken should be taken and that Mr. Donaldson should be given the seat, Mr. Tyerman having already filled one term in the legislature. It will be observed that it is of first-rate importance that an opportunity should be afforded in a case of this kind for counsel to appear to present the precedents, to examine the authorities, and to make such legal arguments as the facts and necessities of the case warrant. If therefore this petition is now decided to be out of order, it follows that no opportunity will be afforded for any committee to examine into this matter and determine wherein the jurisdiction of parliament ends and the jurisdiction of the courts begins.

I do not for a moment allege that it may not be determined by that committee ultimately that the petition is one that should not be considered; but I do assert emphatically that we should be doing violence to every notion we have of justice and of fair play, to every precedent that has come to us down through the centuries in relation to the jurisdiction of parliament over its own officers, if we decided that the petition of a free citizen of this Dominion to this parliament, citing certain facts which affect a seat that he believes to have been improperly deprived him through the fraudulent conduct of the officers of the House, should not be inquired into by a parliamentary committee. That and that only is our case.

Mr. MACDONALD (Antigonish): Does the hon. member assert that the matters that are alleged in this petition do not come within the purview of the petition which will be dealt with by the judges of Alberta under the Controverted Elections Act?

Mr. BENNETT: I say that the case under that act may proceed and never touch the point at all.

Mr. MACDONALD (Antigonish): That will be the petitioner's fault.

Mr. BENNETT: The hon. member for Peace River (Mr. Kennedy) is the defendant in an action in the courts under the Controverted Elections Act in which Mr. Collins, the aggrieved person, is not the plaintiff.

Mr. MACDONALD (Antigonish): He may appear under the law.

Mr. BENNETT: But he is not in charge of the proceedings, and the question might be decided without this point being touched upon. I am sure that in the heart of every member of this House there is a sense of justice, and justice requires that the petition shall be received. Mr. Collins claims that he should have the seat which is now occupied by Mr. Kennedy; that Mr. Kennedy should resign it and, if he so desires, endeavour to regain it by proceedings under the Controverted Elections Act. The justice of the case demands that at that bar our Chief Electoral Officer should stand and that, because of the fraudulent conduct of an officer of this House, the return should be amended by inserting the name of Collins in place of that of Kennedy.

We are all weak and are inclined to be influenced by our personal feelings and our political views. But when it comes down to a case of real, essential justice, observe what was done in Saskatchewan. There you find the attorney general, a Liberal, moving, and the leader of an opposition small in numbers seconding, a report to have the clerk of the executive council brought to the bar of the legislature, strike out the name of Mr. Tyerman and substitute therefore the name of Mr. Donaldson, the circumstances having warranted this. That was justice. I do not say that this House is prepared to take a similar course, but I do urge, Mr. Speaker, that we do not lightly dispose of a matter that so vitally affects the honour of this assembly. If this petition is rejected, think what a premium we put upon dishonesty. It would mean that in every election held in Canada, if you could only get enough dishonest deputy returning officers to manipulate ballots so as to return for the moment a required number of members, you would deprive parliament of its authority and frustrate the will of the people.

Mr. MACKENZIE KING: Is not the hon. member entirely ignoring the fact that parliament has provided that the courts of the country shall take into consideration all these matters to which he is referring? Has not the court the right, after it has heard all sides of the case, to inform Mr. Speaker of the matters which it thinks ought to come before the House? The intention is not to deprive the House of Commons of the right of remedying any wrong; it is to prevent the kind of discussion we are having now, before the matter is settled by the proper tribunal.