

investigation into the corrupt practices charged against the sitting member. They declare that had they been substituted for the original petitioners and permitted to come into Court, they would have been able to prove that the member elect had been returned to Parliament by means of corrupt practices committed by his agents and himself personally. They declare that he has no right to the seat he has occupied up to the present time, and pray the House to allow them to come forward and lay before it all the evidence necessary to prove their various allegations. In other words, they wish this House to re-open the whole case, and review not only facts previous to the judgment of the Court, but such evidence as they may desire to adduce with respect to the serious allegations set forth in their petition. Now the only question that this House has to consider is, whether this petition is not in effect a petition, questioning the return of a member, which, as it has been admitted on both sides, cannot be properly received by the House, in view of the fact that it has divested itself of its right of trying such matters by referring them to the jurisdiction of an independent judicial tribunal. In handing over this power to the Courts, the House still reserved to itself the right of taking notice of any legal disabilities affecting its members, and issuing writs in the room of members judged to be incapable of sitting—but the petition now under consideration, both in its terms and scope, is a petition questioning the return of a member, and not within the purview of this House. By the Act 37 Victoria, Chapter 10, the House of Commons divested itself of its original jurisdiction for the trial of all matters growing out of the election and return of members having the right to sit therein, including the withdrawal and abatement of any election petition in consequence of alleged corrupt agreement between the parties concerned. That power now belongs to the Courts of Justice, which try all election cases in conformity with the Statutes in that behalf provided. The 63rd section of the Dominion Controverted Elections Act, 1874, expressly provides that all elections held after the passing of the said Act shall be subject to the provisions thereof, and shall not be questioned otherwise than in accordance therewith, showing clearly that the determination of the judicial body to whom that power has been delegated is final to all intents and purposes. Now the petition in question declares in express terms that the sitting member "has no right to the seat he occupies;" and were the prayer of the petitioners granted, the logical result would be the virtual resumption by the House of the jurisdiction which it has in its wisdom handed over to the Courts. It asks the House to sit as a Court of Appeal upon a judgment rendered by a Court of Justice, though such judgment ought to be final according to the law. If the petition should be received it would then be competent for any member to move that it be referred to a Committee; and if such a motion were agreed to, the various allegations in the petition would constitute the order of reference by which the Committee would be governed in its proceedings. In this way, a door would be opened to the indiscriminate reception of petitions attacking generally the return of members, though not governed by any of those formalities necessary even in those times when the House possessed full jurisdiction over controverted elections. To grant the prayer of the petition, would be to violate the general principle which lies at the basis of all the legislation adopted by the English Parliament since 1865, and by the Canadian Parliament since 1873, that the Courts should alone adjudicate on matters of controverted elections. When the law has been proved to be inadequate to provide a sufficient remedy in any case, then Parliament has always come forward, as the various Statutes in amendment of the Act of 1874 prove, and passed the Legislation necessary in the premises. The principle which guides Parliament in such cases can be understood by reference to a Statute passed in 1876. When

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no petition charging the existence of corrupt practices has been presented under the Act for the trial of controverted elections, then 25 or more electors of a district can sign and present a petition in which they state that corrupt practices have prevailed, or that they have reason to believe that such practices have extensively prevailed, at an election; but that petition must be accompanied by a solemn declaration under the Statute in that behalf, signed by the said electors stating that their allegations are true to the best of their knowledge and belief. They must also deposit with the Accountant of the House of Commons a sum of one thousand dollars. That petition must be presented within sixty days after the publication in the *Canada Gazette* of the return of the election if the House is sitting, or if Parliament is not sitting, within fourteen days after the next meeting of Parliament. Even in this case the House does not take cognizance itself of the allegations set forth in the petition. It may only present an address to the Governor General praying him to cause an enquiry to be made in such matters, and accordingly a Commission of inquiry is issued with such powers as determined by Statute. It will therefore be seen that this petition is irregular: 1st. Because it asks the House to sit in appeal of a judgment rendered in conformity with the provisions of the Dominion Controverted Elections Act, 1874; 2ndly. Because it is not in compliance with the requirements of 39 Victoria, chapter 10, "An Act to provide for more effectual enquiry into the existence of corrupt practices at Elections of Members of the House of Commons," nor with those of 42 Victoria, chapter 6, "An Act to amend An Act to provide for more effectual inquiry into the existence of Corrupt Practices at Elections." In view, then, of the fact that the petition is in conflict with the letter and spirit of the law which governs the House in such cases, and does in effect question the right of an hon. member to his seat, I have to decide that the objection raised by the hon. member for Bagot is well taken, that the petition cannot be received.

MESSAGES FROM HIS EXCELLENCY.

Sir LEONARD TILLEY delivered two Messages from His Excellency the Governor General.

Mr. SPEAKER read the Messages as follows:—

"*Lorne,*

"The Governor General transmits to the House of Commons, Estimate of sums required for the service of the Dominion, for the year ending 30th June, 1882; and in accordance with the provisions of 'The British North America Act, 1867,' he recommends these Estimates to the House of Commons.

"GOVERNMENT HOUSE,

"OTTAWA, 15th February, 1881.

"*Lorne,*

"The Governor General transmits to the House of Commons, the additional Supplementary Estimates of the amounts required for the Service of Canada, for the year expiring the 30th June 1881; and in accordance with the provisions of 'The British North America Act, 1867,' he recommends these Estimates to the House of Commons.

"GOVERNMENT HOUSE,

"OTTAWA, 15th February, 1881."

Ordered that the said Messages and Estimates be referred to the Committee of Supply.—(Sir Leonard Tilley.)

A Message was delivered by René Edouard Kimber, Esq., Gentleman Usher of the Black Rod:

"MR. SPEAKER,

"His Excellency the Governor General desires the immediate attendance of this honorable House in the Senate Chamber."

Accordingly the House went up to the Senate Chamber.

(In the Senate Chamber.)

His Excellency was pleased to give, in Her Majesty's name, the Royal Assent to the following Bill:

"An Act respecting the Canadian Pacific Railway."