

March 7, 1873

HOUSE OF COMMONS

Friday, March 7th, 1873

The **SPEAKER** took the chair at 3.20 p.m.

Prayers

ROUTINE

Mr. DALY presented several petitions, praying the House to enact a prohibitory liquor law.

Mr. BEAUBIEN presented a petition from the Montreal Northern Colonization Railway Company, praying for the extension of its charter.

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PETERBOROUGH WEST ELECTION

Hon. Mr. BLAKE rose to call the attention of the House to one of the questions of privilege of which he had given notice, namely, the case of the Peterborough West return. He proposed to move a resolution, which was framed upon precedents of the Parliament of the late Province of Canada, to the effect that Mr. Bertram instead of Mr. Cluxton ought to have been returned by the Returning officer as duly elected. He should have to trouble the House at greater length than perhaps would be necessary were it not for the exceptional and very extraordinary position in which, as a deliberative assembly they met, with reference to the electoral law.

It was to be remembered that no less than 47 members of this House were returned under four different statutory provisions, and that the remaining members were returned under laws different again from that. He would not assume that all the hon. gentlemen from the western and eastern sections of the Dominion were as ignorant of the election laws of the other sections as, he was ashamed to confess, he was of the details of their electoral laws; but he did not think he should be doing wrong in supposing that there was not that thorough acquaintance on their part with the electoral law of Ontario and Quebec which existed amongst members who had been elected under that law.

There were some general observations which must present themselves to the mind of every member, under whatever law elected. They were the choice of the people, chosen to debate upon the affairs of the people, and no doubt it must be the wish of everyone that there should be a full representation of the people in this House, that every constituency should be represented before they proceeded to transact the business of the country, and represented by the men chosen by the majority of the electors; and

where there was no dispute upon the questions of fact, where there were no issues raised which demanded an examination of witnesses and an investigation into contested facts, there existed, neither in theory nor in practice, any inconvenience in accomplishing that natural and laudable desire which they must all entertain, that the whole country should be represented. There must be a peculiar desire on the part of members of this House that that result should take place having regard to events that transpired in the late Parliament.

They were refused by the wisdom of that Parliament an election law, which would have permitted the trial of the question which he was about to bring to the attention of the House, during the recess. Had such a law been passed, the question might have been tried, and the opinion of a Court properly constituted for the purpose might have been obtained; and the result would have been achieved, before today, of determining not merely the question as to whom, under the circumstances, the returning officer ought to have returned, but also all other questions that could possibly arise in such cases. Having been deprived of that law, the present Parliament must be all the more anxious that no unnecessary delay should take place in according justice to the people of that constituency.

There was yet another reason of general application why Parliament should be prompt to act in such a case as this. A change was made in the electoral law by the wise and judicious Parliament, which repealed the law that certain officials who had a standing in the community should be *ex-officio* returning officers. That protection was removed, and the Government were entrusted with the power of appointing whom they pleased as returning officers. Under these circumstances an added wrong would be inflicted upon the people, if the House should refuse in a case where there were no disputed facts. He should be able to establish that the course was clear for the House to assert its own authority and admit the gentleman who stood without the bar to his proper place within it.

That the House had power to deal with a question of this description, and to it summarily, was established by many precedents. Gentlemen opposite were fond,—and he admired them for that fondness on their part, and it was delightful to have some ground for admiration,—were fond of referring to British precedents; and to that he understood they owed the present Speaker's presence in the chair today.

He should refer them to British precedent under circumstances which did not exist here, and which made the power of this House demonstrable *a fortiori*. Remember that in England they had the system of trial of election petitions by the judges and further that the law contained provision that no return of election should be