

The present Petitioners now allege that the trial was not brought to issue in good faith, but that it was conducted collusively with the view of presenting any full 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 1868, 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 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