

The petitioner says that 424 votes were cast by voters who qualified pursuant to the provisions of "The Canadian Forces Voting Rules" which is Schedule II of the Canada Elections Act. He further alleges that of this number 34 votes were cast by persons not entitled by law to vote in the Riding of St. John's West, by reason of their non-residence within its boundaries, and that 2 other votes should not have been counted as there was not sufficient evidence given by them to determine whether or not they possessed the necessary residential qualification.

These allegations can be transformed into the numerical result that Mr. Cashin was declared elected with a majority of 24 votes, but that hidden somewhere in the secrecy of the ballot are 36 votes which should not have been cast at all. As there is no means of ascertaining for whom these 36 votes were cast it simply means that it is not possible to say whether or not any candidate received a majority of the votes of electors legally entitled to vote in the constituency. This is the proposition which the petitioner asks us to consider.

In his Answer to the Petition, the respondent simply denies that any of the votes cast by Canadian Forces electors were cast by persons not entitled to vote in the said constituency, and puts the Petitioner on his proof of the allegation.

Particulars have been given by the petitioner of the names and residences of those persons who, he says, were not entitled to vote. In addition to the names and numbers this list gives two important further items of information, namely; the address of ordinary residence as given by the elector on Form 7, at the time of voting; and his address of ordinary residence as declared on Form 16 or 17, and on file at the Department of National Defence in Ottawa. The references to numbered forms refer to the Rules, as I shall, for the sake of convenience, call The Canadian Forces Voting Rules, which is a Schedule to the Canada Elections Act, and is thus part and parcel of the Act, and to be read with it.

Now the Act prescribes that a Canadian Forces elector, as defined in paragraph 21 of the Rules, is entitled to vote at a general election only under the procedure set forth in those Rules, or if he has not voted under that procedure, as a civilian voter at the place of his ordinary residence as shown on the statement made by him under paragraph 25 of the Rules.

So that provision having been made by the Act for the men in the Services (and their wives) to be able to perform their civic duty of voting at a Parliamentary election, we are obliged to consult the Rules to see how they may discharge this duty, or exercise this right, to vote.

The qualification of Canadian Forces electors is set out in paragraph:—

- "21. (1) Every person, man or woman, who has attained the full age of twenty-one years and who is a Canadian citizen or other British subject, shall be deemed to be a Canadian Forces elector and entitled to vote, at a general election, under the procedure set forth in these Rules, while he or she;
- (a) is a member of the regular forces of the Canadian Forces;
 - (b) is a member of the reserve forces of the Canadian Forces and is on full-time training or service, or on active service, or;
 - (c) is a member of the active services forces of the Canadian Forces."