

*Peace River Election*

by law for correcting election wrongdoing or punishing offenders in connection with such wrong doing; first, the Dominion Election Act; second, the Controverted Elections Act; third, the Corrupt Practices Inquiries Act, and fourth the House of Commons Act. The purpose of the enactment of the Controverted Elections Act was to remove from the jurisdiction of parliament to the courts matters relating to the election of members. I would in that connection point out the difference between a matter relating to the election of a member and a matter relating to the qualification of a member on grounds other than those pertaining to his election. Under the House of Commons Act, the House reserves to itself full power to deal with any matter referring to a member's right to sit in the House other than the right as affected by the elections; matters arising out of an election, parliament has, in its wisdom, expressly removed from the arena of decision or discussion here to the courts, having recognized long ago that it is difficult if not impossible for a question of the kind, which may give rise to so much party feeling and partisan discussion, to be satisfactorily dealt with by the House.

May I remind the House, Mr. Speaker, that the Controverted Elections Act was passed in 1873. The statute will be found to-day as chapter 7 of the Revised Statutes of 1906. At the time of the enactment it was referred to as "an act to make better provision for the trial of controverted elections of members of the House of Commons and respecting matters connected therewith." Section 91 of the act reads:

All elections shall be subject to the provisions of this act, and shall not be questioned otherwise than in accordance herewith.

This would appear to make clear the intention of the Controverted Elections Act to remove from the House of Commons questions with respect to election of members otherwise than in accordance with the act's provisions.

The act as I have just stated was passed in 1873. In 1874 a case in point came before the House. It is reported in the Journals of the House of Commons for 1874, April 20, at page 82. I shall read from the Journals:

A motion being made and seconded, that the petition of Horatio Le Boutillier, of Gaspé Basin, province of Quebec, presented on Thursday last, praying that the return for the last election for the electoral district of Gaspé be completed and amended, as a matter of privilege, by substituting the name of the petitioner for that of Louis George Harper, be now received:

And objection being taken to the reception of this petition on the ground that the subject is one which could only come under the cognizance of the courts of law as provided by statute:

[Mr. Mackenzie King.]

Mr. Speaker said: "I cannot find any rule or precedent to guide me in coming to a conclusion on this question. I think it would be well for the House to consider this matter, and lay down a rule with respect to similar petitions in the future. I am of the opinion that it is an election petition. Looking over the late English Journals, I cannot find any cases of petitions of this nature having been ruled out. After considering all the circumstances, I think that the petition ought not to be received.

Mr. BENNETT: That was Mr. Speaker Anglin.

Mr. MACKENZIE KING: The Hon. T. A. Anglin was Speaker of the House at the time. I would draw Your Honour's attention to these words:

Looking over the late English Journals, I cannot find any cases of petitions of this nature having been ruled out.

It will be inferred, I think, from that language that no petitions of that character had been presented to the House of Commons in England, the House having recognized the desirability of following the method, which indeed we in Canada copied from the British legislation, of having all matters of the kind dealt with by the courts. I would further direct special attention to the ruling of his honour the Speaker in these words:

After considering all the circumstances, I think that the petition ought not to be received.

The petition was one relating to the election of an hon. member of this House and in that particular was similar, if not indeed in many respects identical, to the one which we are discussing at the moment.

May I now cite another case in point. On January 17, 1881, Sir Wilfrid Laurier, then Mr. Laurier, moved in the House of Commons:

That the petition of Edmund Ritter, and others, of Sorel, representing that there has been a failure of justice in the matter of the trial of the election petition, complaining of an undue return for the electoral division of Richelieu; and praying to be allowed to make proof before the House, be now read.

The motion was agreed to on February 3, and the petition read. The words first quoted will be found in Hansard of 1881, Vol. 1, page 485. A debate followed as to whether the petition should be received by the House, and on February 14, Mr. Speaker J. G. Blanchet decided that the petition could not be received by the House. The discussion will be found in Hansard of 1881, Volume 2, page 961 and Mr. Speaker's ruling will be found in the Journals of the House of that year at page 199. Mr. Speaker Blanchet went very carefully and fully into the subject under review and I should like to read to Your Honour the ruling which was given by Mr.