

has always the power to inquire into the conduct of its own returning officers and to prevent them from wrong doing. (Bourinot, page 134). This has been unquestioned since 20th March, 1875, when both Sir John A. Macdonald and Hon. Edward Blake agreed that the House had not abandoned its right to control, censure and, if need be, punish returning and deputy returning officers. This was also the view held by Sir Louis Davies, Hansard, 1899, volume II, page 5308.

The result of the precedents cited is summed up by our old standard authority, Bourinot, 4th Edition, pages 133-134, where he states:

Among the conclusions reached from a review of the cases cited in the controversies one may be stated, namely, that the strong sense of parliamentary and public opinion is opposed to any return to the old system of parliament interfering in the trial of election questions, although it continues to retain all the powers not expressly, or by fair interference, entrusted to the courts. The provisions of the statutes on controverted elections and kindred matters do not supersede the jurisdiction of the House in questions affecting the seats of its own members not arising out of controverted elections. The House is, in fact, bound to take notice of any legal disability affecting its members and to issue writs for election to fill the places of members adjudged to be incapable of sitting without waiting for the return to be questioned by persons outside of parliament; that the House has always the power to enquire into the conduct of its own returning officers and to prevent them from wrong doing. Of course it will proceed cautiously in any case that might be more satisfactorily settled in the courts, though it is always regular to receive petitions setting forth grievances and praying for a remedy, provided they do not question the return of the member within the meaning of the Controverted Elections Act.

Before the passage of the Controverted Elections Act, the House by the Privileges and Elections committee tried all election petitions, the practice had been in force for many years, witnesses and parties filled the lobbies, and charges of unfairness and partisanship were constantly alleged. It was to get rid of all these difficulties and to set up an impartial tribunal that parliament passed the act and delegated all such matters to the courts.

Exclusive jurisdiction was given to the courts by section 91 of the act, which reads as follows:

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

The force of all these authorities and precedents is so impressive that I have come to the conclusion to rule that this petition cannot be received.

Hon. R. B. BENNETT (West Calgary): Respectfully but firmly, Mr. Speaker, I ap-

peal from your ruling that future generations may realize that a considerable number of the members of this House still attach a real value to a petition to parliament.

Mr. SPEAKER: The Speaker having ruled that the petition of James Arthur Collins, praying that he be declared entitled to be returned as the member elected to represent the electoral district of Peace River in the House of Commons, cannot be received, under rule 75, subsection 8, because parliament has delegated its powers in such matters to the courts, under section 91 of the Controverted Elections Act, Mr. R. B. Bennett, West Calgary, appeals from that ruling. Those in favour of the Speaker's ruling being sustained will please say aye; those against will please say nay.

Before putting the question I would call the attention of the hon. member for Peace River (Mr. Kennedy) to rule 69:

If anything shall come in question touching the return or election of any member, he is to withdraw during the time the matter is in debate.

An hon. MEMBER: He is not here.

The House divided on the question: Shall the ruling of the Chair be sustained, and the ruling was sustained upon the following division:

YEAS

Messrs:

| | |
|--------------------|-------------------------|
| Baldwin, | Fiset (Sir Eugene), |
| Beaubien, | Fontaine, |
| Benoit, | Fork, |
| Bettez, | Fournier, |
| Bird, | Gardiner, |
| Boivin, | Garland (Bow River), |
| Bothwell, | Gershaw, |
| Bouchard, | Gervais, |
| Boucher, | Girouard, |
| Beutillier, | Goulet, |
| Brown, | Guérin, |
| Cahill, | Hall, |
| Campbell, | Hatfield, |
| Cannon, | Heaps, |
| Cardin, | Heenan, |
| Carmichael, | Howard, |
| Coote, | Howden, |
| Cross, | Jacobs, |
| Delisle, | Jelliff, |
| Denis (St. Denis), | Jenkins, |
| Denis (Joliette), | Johnston (Long Lake), |
| Desaulniers, | Kay, |
| Descoteaux, | King (Kootenay East), |
| Deslauriers, | King, Mackenzie (Prince |
| Dionne, | Albert), |
| Donaghy, | Lacombe, |
| Donnelly, | Lafflamme, |
| Duff, | Lanctot, |
| Dunning, | Lapierre, |
| Dussault, | Lapointe, |
| Elliott, | Lavigneur, |
| Evans, | Letellier, |
| Evanturel, | Lovie, |
| Fafard, | Lucas, |
| Fansher, | Macdonald (Glengarry) |