

Then paragraph 5 of the report says:—

“On the 5th day of January, 1918, the Clerk of the Crown in Chancery for Canada published in the *Canada Gazette* pursuant to section 12, subsection 5 of part 4 of said Act official recognition of the candidate Alfred Thompson by the Government party, and of the candidate Frederick Tennyson Congdon, by the Opposition party and previously notified by cable, the Assistant Clerk of the Crown in Chancery, London, England, and myself as General Returning Officer for Canada, of such official recognition.”

I want to call attention to the word “previously.” It could only have been between the 29th day of December when I was nominated and the 5th day of January. I was the last one nominated. Dr. Thompson was nominated on the 10th of December, so that the information could be wired over there only after the 29th of December, the day of my nomination, and it could only have been wired after the votes had been taken. One of my arguments is that neither the Honourable Prime Minister nor the Honourable Leader of the Opposition could assign votes that had already been taken; they could only assign votes under this Act which were to be taken later.

Under paragraph 7 of the report it will be noticed that the contentions of said candidate were notified to the Governor General in Council and that on the 26th February, 1918, an Order in Council was passed, and I wish in that connection to point out that the assumption by the Governor General in Council of the exercise of the right under the Order in Council of the 28th February practically prevented the presentation of an election petition. I think the members of this Committee and of the House will in every possible way help out an inquiry into this case when they recognize the effect of that Order in Council. There are no other means known to the law by which an inquiry can be held; the Controverted Elections Act is absolutely useless, because before the return is made the date for the presentation of a petition in the case has expired. It is a well-known principle of the election law that you cannot present a petition against another person unless that person has been returned as member. I could not have presented a petition against Dr. Thompson, nor could I have presented a petition against the return or no return that would not have been set aside immediately it was attacked, simply because neither he nor I were returned, and it is only against a man who has been returned. The only petition that could be presented against the returning officer was one attacking a return which he had not made, and I could not compel him to make the return, because he could have made the reasonable answer: “I am not yet in the position to make a return.” I am merely presenting this point of view in order that the Committee may make all reasonable efforts to have an inquiry into this election, because before a petition could be presented protesting the election the opportunity has been absolutely lost.

Now, turning to part 4 of the Act, section 6, it will be noted that the first step taken under section 6 is a step to be taken “at the expiration of the time for nominating candidates.” Now let us read the section as applied to the Yukon Territory, and before doing that I want to point out this: suppose nothing is said here about when the poll should be taken, would any one doubt that a poll was absolutely invalid unless it had been taken on the election day. If in any constituency in Canada on the 17th of December there had been presented to the returning officer a box containing ballots which had been taken at the beginning of the month, was there a returning officer in Canada who would not have said: “The ballots cannot be counted, because they were not taken under the provisions of the election law.” It is stronger still when, in addition to that, you have the perfect prohibition of the Act against taking the election before a certain time. Had the Act been silent as to when the vote should be taken I think there would be no question that it must have been taken on the election day, but the Act is not silent on that, it contains an expressed prohibition against taking that vote before a certain date. I would ask the committee to read