

*Peace River Election*

where they would have been heard and received with proper attention. I agree with the hon. member for Labelle (Mr. Bourassa) in regard to the reception of this petition; it seems to me this petitioner ought not to be refused access to parliament.

What is the point at issue? The point is whether Your Honour shall rule this petition may be received, or that the point of order raised by the Prime Minister is sound. Last fall writs were issued for an election; the chief electoral officer was instructed to carry out an election under the act, and the returning officer for Peace River was appointed. What was he told? He was instructed to return the writs to Ottawa on a certain date, and to state what candidate received the greatest number of votes. In this case the deputy returning officer made a false statement of the result of the voting at his poll. There is no dispute about that; he has been convicted of changing ballots, and sentenced for the offence. Under these circumstances the writ was never returned to Ottawa in accordance with the act; in other words the writ did not properly state who had received the greatest number of votes. To say that this House has no authority over its own servants when misconduct of this kind has occurred is, it seems to me, going much further than anyone should care to go.

Hon. gentlemen opposite have referred to a case back in 1874 and a later case, but there were two still later occasions on which matters of this kind came before the House. I do not know so much about the case in 1887, but I remember very well the Huron case, which came into this House, I think, in the year 1900. It was referred to a committee of the House, and was argued before that committee for weeks before a report was brought into the House. Therefore I claim that Your Honour has a specific precedent for allowing this petition to be received by the House and dealt with afterwards in such way as the House may see fit. In other words, I claim that the Huron precedent of 1900 is a perfect precedent from the point of view of Your Honour in deciding the question before us.

I was very much struck with one of the arguments put forward by my hon. friend from West York (Sir Henry Drayton), when he stated that under the Controverted Elections Act no power rested in the judge to compel any witness to say how he voted. In other words, the secrecy of the ballot has been guarded as strictly as it was possible to do it in our legislation, and as I understand it, no voter can be compelled in an election trial in the courts to say how he voted. That being

[Sir George Perley.]

the case, I put it to my hon. friends opposite that there is no way in which a case of this kind can properly be tried under the Controverted Elections Act. If the voters cannot be compelled to say for whom they voted, how is it possible to bring home this scandal in connection with the action of the deputy returning officer in Peace River? What happened there was this. As I understand it, in general terms, the deputy returning officer having the ballot box in his charge and under his authority, opened or got someone else to open it, took out the ballots that were in it, and substituted for them a lot of other ballots marked in a different way. At the criminal trial of the deputy returning officer, certain electors appeared and volunteered the evidence that they had voted in a certain way. They satisfied the judge and jury that this officer had committed a very serious crime, and thereupon the judge sentenced him, and not only sentenced him but made the statement that Collins was the man who should have been sitting as member. Therefore, Mr. Speaker, I submit that on the merits of this case this petition ought to be received and referred to the committee on Privileges and Elections, where all these arguments as to why the case should be sent to the courts instead of being tried by a committee of this House could be submitted in a better way than they can possibly be argued here.

I am not a lawyer, and I am treading on dangerous ground when I deal with matters which lawyers have been discussing all afternoon. But if I am right in my understanding that under the Controverted Elections Act no voter can be forced to say how he voted, I would say that when parliament undertook to divest itself of jurisdiction in ordinary election trials for corruption and improper practices in an election as we understand them, it certainly did not undertake to divest itself of jurisdiction in a matter of this sort, where an officer of this House has committed the crime of changing the ballots and has wrongly declared the result of the poll, knowing that he was telling a falsehood. I do not believe the law passed in 1874 was intended to cover a case of that kind, particularly when this is the only place where a voter can be compelled to say how he voted. I submit to Your Honour, therefore, that as, at the election last fall, the returning officers were instructed to declare to this House the candidate receiving the greatest number of votes, and as this deputy returning officer in Peace River criminally changed the ballots and made a false return from his own poll, knowing it