

*Peace River Election*

Rule 80 has been cited by the hon. member for South Wellington (Mr. Guthrie) as giving the House sufficient authority to take up this petition but this rule is nugatory today as it was superseded by the Controverted Elections Act which has been on the statute book since 1874. It has nothing to do with the different laws which fully provide for the trial and punishment of corrupt practices at elections; it only reiterates the House's privilege to deal with offences of bribery and corruption after they have been proved before the competent courts.

That parliament, in Canada, as well as in Great Britain, has consented to transfer the exercise of some of its privileges to special courts constituted by law, there can be no doubt. There is very little difference between the English and the Canadian Controverted Elections law; and May, 13th edition, page 642, after dealing with the organization of the election tribunals, says:

Petitions complaining of undue elections and returns are presented to these courts instead of the House of Commons, as formerly—the House has no cognizance of these proceedings until their termination; the judges are also to report whether any corrupt practices have been committed with the knowledge and consent of any candidate.

The act provides here as well as in Great Britain that when the election trial is over, the judges shall make a report in writing to the Speaker showing that any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate; the names of the guilty parties; whether corrupt practices have extensively prevailed; whether the inquiry has been rendered incomplete by the action of any of the parties to the petition and whether further inquiry is desirable.

Nothing could more clearly show that the House has transferred to these courts the functions formerly performed, by its own committees than the following comment of May at page 643:

All such certificates and reports are communicated to the House by the Speaker, and are treated like the report of election committees under the former system. They are entered in the journals; and orders are made for carrying the determination of the judges into execution. A report that corrupt practices have extensively prevailed is equivalent to the like report from an election committee for further enquiry into such corrupt practices.

I now come to the right of petition alluded to during the debate. Our rule 75 deals with the procedure to be followed as regards petitions. Subsection 8 provides that:

Every petition so reported upon, not containing matter in breach of the privileges of this House and, which, according to the rules or practice, of the House, can be received shall then be deemed to be permitted to be read and received.

[Mr. Speaker.]

Mark these words, "can be received." It is well to bear in mind the wording of this rule. Does it not clearly indicate that whilst the right of petitioning may be acknowledged as a fundamental principle of the constitution, yet it is

4 p.m. limited? The petition can be received if it does not contain matter in breach of the privileges of the House. To be received it must conform to its rules and practice.

In the course of the debate, great stress was laid on the immemorial right of every British subject to petition parliament. Redlich, volume 2, page 239, refers to that time honoured usage in the following words:

The venerable institution of petition, the oldest of all parliamentary forms, the fertile seed of all the proceedings of the House of Commons, has but little life at the present day. It is, no doubt, the birth-right of every British subject to address petitions to the House of Commons and the House of Lords as it was fifty years ago, and thousands of petitions are annually sent to the House of Commons. Thanks, however, to the ample development of courts of justice and administrative bodies, the value of petition as a protection against denials of right has disappeared.

May, page 608 observes that:

Before the constitution of parliament had assumed its present form, and while its judicial and legislative functions were ill-defined, petitions were presented to the crown and to the great councils of the realm for the redress of those grievances which were beyond the jurisdiction of the common law.

In the present case, the judicial function is certainly well defined and nobody will contend that the grievance is beyond the court's jurisdiction.

This petition prays that the House of Commons of Canada may determine and declare that Mr. Kennedy was not duly elected and returned at the election held on the 29th of October, 1925, that his return was and is void, and that it may be declared that the petitioner was duly elected at the said election, and is entitled to be returned as the member elected to represent the electoral district of Peace River in the House of Commons of Canada. A prayer of this character is of far-reaching importance, and the reception of such a petition requires careful consideration and examination of precedents before it is entertained or received by the House.

If this petition merely asked the House to deal with complaints against an official of the House, such as a deputy returning officer, for violation of his duty under the law, such as fraud and manipulation of ballots and other corrupt practices, or if it asked for the punishment of such an officer, the right of parliament to receive such a petition and apply the remedy is undoubted. The House