

declaring that it was made according to law. There is another matter to which I wish to refer. On the day of declaration there was some speeches made at the court house, and Mr. Baird, among others, made a speech and here is the report of what he said :

"He felt that a respectable election had been run, and when it was over he was willing to accept the verdict of the people. Then he went to St. John afterwards; he met Mr. King on the street and congratulated him upon his victory. When asked about a protest he said no. Then he was called upon by the party leaders in St. John. They had asked him to go to Queen's and run the election and he had accepted. He was discharging a duty to the party in doing so. Mr. King, poor fellow, had fought hard, but had not won. Then after the election it was discovered that this error was in the nomination paper and there was one grand rush of the party to his office.

"These party leaders who had raided his office spoke thus to him: 'What kind of a party man are you? You are a part of a political machine, and we call upon you to drop your sentiment and open Queen's county again.' He consented to do so. He had no particular glory to gain for this election, but he was working in the interests of the party. He had tried to persuade them in the matter, but had failed, and they gave a majority for Mr. King.

"And he concluded his speech by declaring that the only hope that remained for the Liberal party was in the Province of Quebec, the majority in which was composed of Rielites."

I mention this, not for the purpose of arousing any political feeling, but because I think it is not the correct position of the leaders of the Conservative party of St. John or anywhere else. As far as I can judge from the public expressions of opinion which have been made on this question, the Conservative party in St. John, and throughout New Brunswick generally, have been surprised, astounded—I might almost say they have been paralysed—at the daring way in which this thing has been done, at this daring attempt to deprive the people of their rights. I do not think the Conservative party will be the gainers, if this course is pursued. I do not think the Conservative party will take the responsibility of sustaining Mr. Baird in his conduct. Moreover, Mr. Carrey, Mr. Baird's legal adviser, came to St. John and was interviewed by a reporter of one of the newspapers, and here is a report of the interview :

"When asked what Dunn had done with the ballots, Mr. Carrey stated that Baird, having been elected by acclamation, there was no ballots. He went on to say that this was the only way to elect Baird, as the revising barrister had disfranchised a great many Conservatives throughout the county, and it would have been impossible to elect Baird without taking advantage of a technicality."

Now on behalf of the revising barrister I feel bound to say that, although he is not a political friend of mine, he is an exceedingly fair and just man, who would not allow his party feelings—or rather his personal feelings, because I do not think he has any party feelings—to influence him to do a wrongful act. I believe the list was a fair one. I make these statements to the House and country because I think Mr. Baird places the Conservative party, by the speech he made on that occasion, in such a position that they will have to assume the great responsibility of saying whether he is right or wrong. It is the easiest and simplest thing in the world for every man to decide on his conscience what is right to do in this matter. It is an easy matter, perhaps even in the simplest case, to get up a large display of legal lore, but you cannot throw dust in the eyes of the people, or prevent them from seeing what is right or what is wrong in a matter of this kind. The Minister of Justice, the hon. member for Pictou, and indeed all who have spoken on that side of the House, admit that this Parliament has reserved to itself rights which enable it to deal with a question of this kind. These hon. gentlemen say that many of these questions should go before the courts for decision. No doubt it is true, but this is one case in which Parliament would be justified, under the powers which it has reserved, in interfering in the interests of public liberty, freedom, fair play and justice, as it is an important case in which all these are concerned.

Mr. DAVIN. The hon. gentleman who has just taken his seat thinks it is an easy matter for this Parliament to

Mr. ELLIS.

interfere in the present case. But, Sir, I think this Parliament has denuded itself of the power of interfering in a case of this kind. So far as the question whether the returning officer has the power of deciding whether Mr. Baird or Mr. King is elected is concerned, I have no hesitation in saying that I think the returning officer has no such power. I agree that the position of the returning officer is as described by a member on this side—that he has nothing whatever to do but to make a return. He has no judicial function to discharge; all he has to do is to make a return. But in this case he has made a return. Let us suppose he has made a return in error—that he has subjected himself to the penalty clauses of this Act. What has this House to do? Is this House to take a course which will be contrary to the law as laid down by itself? Is this House—to use a colonialism—to go back upon itself? Is this House, to use the language of a great lawyer and parliamentarian, to drive a coach-and-four through its own Act of Parliament? That is the real question. We might set a precedent here which would be a very serious thing indeed. If this House decides that it can declare whether a man can take his seat here, in regard to the validity of whose election a question has arisen, then, Sir, we may find that when either the party with which I act has a majority here, or when the party opposed—if the day comes, as in the lapse of time it may—has a majority, we may find that this will be a precedent for seating a man here improperly. I will call the attention of the House to the case of Mr. Wilkes. He was elected to the Imperial Parliament. He was obnoxious to the majority in the House and what did the Imperial Parliament do? It unseated Mr. Wilkes although he had a majority. The fact that a person not seated here has according to the returns a majority, has nothing to do with the principle of the case. The question is this—has this House the right, having denuded itself of the power of dealing with such cases, to go and deal with them? When there was before the Imperial Parliament a Bill for taking out of the hands of Parliament the power of dealing with questions of this kind, the Right Hon. Mr. Bouvier, Chairman of Elections Committees for some time, a great parliamentary authority and a man of judicial mind and great force of character, spoke as follows :—

"They should recollect that once having parted with their authority, however much they might impugn the decisions of the judge, they would have no power to remove him."

Sir, this House has parted with its power to deal with a case of this kind; and even if it be the case, as I think is proved by the return, that Mr. Baird's opponent had a majority of the votes, even if it be the case that this returning officer has behaved badly or mistakenly, I think it would be a very improper thing for this House to take any action. I think it would be improper because, above all, political feeling may run high here at the present minute, and it would be unwise and undesirable that either Mr. King or Mr. Baird should be prejudiced by political passion. I look over the names on this committee, and I find that the leader of the Opposition and other distinguished lawyers on both sides of the House are on the committee; and can any man doubt that before such a tribunal, having all the advantages of a deliberative assembly like this, and at the same time the weight and responsibility of a judiciary, a question of this kind would be more properly entertained, more properly discussed, sifted, and decided upon than before this assembly? I happened to have my attention directed to a question of this kind before I took my seat in this honorable House. It happened that the gentleman who opposed me, Mr. Ross, had not resigned his seat in the North-West Council before running. The Act against dual representation did not come into force in the North-West Territories until the 1st of March, so that if he had resigned on the eve of the 1st of March he would probably have been a qualified candidate. But not having resigned by the 1st of