

Mr. MONCRIEFF. No one has a right to a seat in this House, and to exercise the powers with which the constituency has entrusted him, if he take any other course than an independent one on every question coming before the House. I agree with hon. gentlemen who have preceded me who say that it is repugnant to their idea of what is right, that any person being a minority candidate should occupy a seat in this House. But while I make that statement, I say it is also as repugnant to my sense of justice and right that any person holding the majority of votes in any constituency obtained by corrupt practices and bribery, should occupy a seat here; and when we find persons occupying seats in either of those two positions, we have to consider what the law has provided for those who are dissatisfied with the position of affairs. I may refer for a few moments to the condition of matters in England in years past. At that time election contests were decided by the whole House and not by a committee. It was acknowledged that whenever a dispute on a parliamentary return occurred, such was actually decided not upon right or wrong but according to the strength of the political party. I do not know that I could do better than read the remarks made by Lord Grenville, when he moved the Act referred to in the early portion of the evening, taking away the power from the body of the House and conferring it on a sworn committee. He said:

"Instead of trusting to the merits of their respective causes, the principal dependence of both parties is their private interest among us; and it is scandalously notorious that we are earnestly canvassed to attend in favor of the opposite sides, as if we were wholly self-elective, and not bound to act by the principle of justice, but by the discretionary impulse of our own inclination—nay, it is well known that in every contested election many members of this House, who are ultimately to judge in a kind of judicial capacity between the competitors, enlist themselves as parties in the contention, and take upon themselves the partial management of the very business upon which they should determine with the strictest impartiality."

Such was the condition of affairs when it was determined to take the power out of the hands of the House. I observe that this question has not been approached by hon. gentlemen opposite, with that spirit of impartiality which I think ought to have actuated them, and I judge from the strong expressions used, and from the prejudged expressions of those hon. gentlemen that I might not be astray in saying that if the shadow of Lord Grenville should come into this House of Commons and hear the remarks of hon. gentlemen opposite, it might well say that hon. gentlemen opposite were the reflection of a number of people who were in Parliament at Walpole's time, and on account of whose partisan conduct the Act to take away the trial of election petitions from the House of Commons was passed. Passing from that point, I may say that I was rather surprised to listen to hon. gentlemen opposite on the discussion of the amendment referring this matter to the Committee on Privileges and Elections. The committee were not spoken of in very complimentary terms by hon. gentlemen opposite, and I came to the conclusion from the expressions used that it was no great credit to belong to that particular committee. Let me state what one of the hon. gentlemen said in speaking of that committee. In opposing the submission of that question he said:

"We have had enough of election committees, we know what they are, and if it goes before the Committee of Privileges and Elections when will it get out, what report will it make?"

Another hon. gentleman said:

"What was the reason for sending this case to the Committee on Privileges and Elections? There can be only one result that is an effort to kill the proposal in some way or other."

Other hon. members followed in the same strain, well knowing who composed the committee. The expression of such views was an insult to the members of that committee. Such is the conduct of those hon. gentlemen when they do not desire a certain question to go

before the Committee on Privileges and Elections; but when it suits them for party purposes to make a reference, that committee is a very convenient place indeed. The very next motion that took place was one in regard to the Clerk of the Crown in Chancery.

Mr. MILLS. A proper reference.

Mr. MONCRIEFF. Excuse me for a moment; I will reply in a minute. Hon. gentlemen opposite have been condemning the Privileges and Elections Committee, and yet the very moment the case of the Clerk of the Crown in Chancery was presented, they moved that it be referred to that committee, which they had been for hours traducing. That may be consistency; it was not the consistency to which I had been accustomed before coming to Parliament. I presume, if I had been an old member like the hon. gentleman who interrupted me, I might have understood that that was the consistency of his own particular party. These interruptions, I may say, are generally a kind of relief, a post or chair upon which one can rest for a few minutes, and I thank him for the observation he has made. He says that such was a proper case to submit, and why? When this question of the returning officer came up, those hon. gentlemen stated that there was not a single question to leave to the committee, that everything was proved, and they ridiculed the idea of leaving it to a committee. Let me recall what the hon. gentleman said, when discussing the question with reference to the conduct of the Clerk of the Crown in Chancery, in which case he also claimed there was no doubt about the facts:

"I am inclined to think that if the Secretary of State and hon. gentlemen opposite had had the frankness to answer the question which I put to them a few days ago, perhaps the Secretary of State would have been able to tell us how it was that over a hundred members on that side were gazetted as the law directs, and that, out of ninety and over on this side, only fifteen were gazetted as required by law. We would be able to know why the law was in this respect so flagrantly disregarded, that the deliberation and design manifested, about which there can be no doubt, admit of no explanation but one—that the Clerk of the Crown in Chancery deliberately withheld the names of hon. members on this side from being gazetted immediately after they were returned."

So, Sir, this committee which hon. gentlemen were traducing in the early part of the Session was, in a few days afterwards, the very committee to whom they proposed to leave the question of the Clerk of the Crown in Chancery. The real question before us is whether, after the change of the law which was made in 1873, we should deal with election matters or leave them to the courts. I am expressly in favor of the report of the committee, for I believe this is just one of those questions which should be left to the courts to decide. If once we undertake to decide such a case here, we will establish a precedent for this Parliament assuming functions which it has delegated to the courts. That statute was approved by every gentleman in the House, and I think, after passing such an Act, it would be a most improper thing to infringe upon the functions which are handed over to the judiciary. The hon. member for Queen's county, P.E.I. (Mr. Davies), urged very strongly this evening, that the Prince Edward Island case was one which would justify this House in now interfering and making a change in this return. Upon that point I take issue with him at once, and I say that the decision in that case, is one which supports the contention of hon. members on this side in the present case. In that case three candidates contested the riding; McIntyre had the highest number of votes, Robertson had the next highest number, and McDonald the next, and a double or special return was made in which the circumstances were set forth. The difference between that case and this is that Mr. Robertson was disqualified, and, therefore, the case comes within the class with which this House has reserved to itself power to deal. He was disqualified because he was a member of a Provincial House. Let me call