

the exception of two or three unimportant cases, in which the rights of the other party were not pressed either to discussion or to division in the House, the House of Commons of Great Britain exercised no powers in relation to any controverted election except that simple power of ascertaining whether the person who had been returned to Parliament was qualified or not. In the Parliament of Canada we had, in 1882, a question something like this presented to the House, in which it may be contended that the House undertook to declare the return of one person void and the return of another person good. Let me remind the House, however, that in 1882 the state of things in King's county, Prince Edward Island, was this: That the House was required to decide, upon that return, whether a fit and proper person had been returned to Parliament or not. It was alleged against the return of Mr. Robertson that he was a disqualified person, and, therefore, in 1882, while this House did take up this question and did decide who was entitled to the seat, the House was only acting as possessor of the power which, as I have said, the House of Commons of Great Britain reserved to itself, the right of saying whether a qualified person had been returned in obedience to its writ, or not. But let it not be supposed by anyone who has not a distinct recollection of that case, that the House on that occasion transgressed the rule which, as I have said, has been recognised in both Parliaments since the change of the election law, by ordering not only that the disqualified person should be unseated, but that the opposing candidate should be seated in his place. It is true that was the result of the action of the House, but it is not correct that the House, in taking that step, in any way reversed the return which had been made to it by the returning officer. The circumstances in that case were exceedingly peculiar, because both parties had been returned to Parliament, and, therefore, the House had only to say who was the disqualified person, and to leave the other not seated by the action of the House, but seated by the return of the returning officer, which the House did not require to touch or to amend. I have already shown the House that in the case of Mitchell, and in the case of Robertson in this House in 1882, while the House exercised the power to decide on the question of disqualification, it did not exercise the power of seating a person who claimed the seat. My hon. friend from St. John (Mr. Skinner) has referred this afternoon to a recent English authority on the question of the powers and rights of returning officers. I do not wish at all to be understood as minimising in any degree the weight of the authority in that case, or the force of the reasoning by which it is sustained. I do not pretend, this afternoon, to express any opinion whatever as to whether the conduct of the returning officer, Mr. Dunn, in this case was similar to the conduct of the returning officer as in the case of the Queen vs. the Mayor of Bangor, or whether he did right or wrong. But the hon. gentleman, I think, pressed that case a little beyond its legitimate length when he insisted that it was an authority for unseating the person returned and seating the person claiming the seat. The hon. gentleman will remember that that was a case of a municipal election, in regard to which the returning officer had no return to make. The returning officer had simply to sum up the vote; and it is mentioned by the Master of the Rolls that the returning officer had no return to make as a parliamentary returning officer would have, and for that reason it was that the court decided that it was unnecessary to proceed by election petition. The returning officer in that case had summed up the vote, he had declared who was entitled to the office, and his functions had entirely ceased; and having declared who had a majority of the votes, he had no other return to make. The Master of the Rolls, in discussing that objection, that the candidate not seated ought to have resorted to an election petition, made this statement:

Mr. THOMPSON.

"It is said that the returning officer having declared Pritchard duly elected and Pritchard having qualified and taken his place in the council, the office was filled by him *de facto*, and he could not be ousted, except upon petition. I have already said that the returning officer had no power to make that declaration and that it was void; if so, it is equally clear that what the town clerk, acting upon that declaration, did, was of no effect whatever; nor, if Pritchard was never properly elected either in form or substance can the fact that he assumed to qualify for the office make that which had gone before any less void."

I perfectly agree with the argument the hon. gentleman made, not only as to the importance of this case, but as to the right of the majority of the electors to have their candidate returned. In this case, however, whichever way the majority of votes was cast, the rights of other parties are concerned, and let not this House, in its zeal and haste to do justice to the majority, violate the rights of any other persons whomsoever. I am not going to propose that this resolution ought to be voted down; I am not going to urge the House to vote this afternoon that the argument I have endeavored to present as regards the propriety of leaving this case to the courts is one that this House ought to affirm. I have presented that view, first of all, because it is the view I honestly entertain; and, secondly, because I believe I have only to present to the House sufficient grounds for the House to conclude that at least it is an arguable case in order to induce the House to stay its hand from the measure which the hon. gentleman proposes, and by which he proposes to seat one of the candidates, and to enquire whether, without any hearing whatever, without any regard to his rights whatever, without ascertaining whether he has any rights whatever, it should unseat the gentleman who rightly or wrongly has acquired rights which cannot be taken from him without due and proper authority. Let us see for a moment whether it would not be more fair and more proper, in view of all the circumstances surrounding this case, and in view of its novelty, that the House should at least make some enquiry into the subject before taking this action. The House has a committee for the purpose of dealing with privileges and elections. It is a committee composed, to a large extent, of members having legal attainments, and it is a committee like that committee to which the case of King's county was referred in 1882. It is a committee which I am sure will command the confidence of the House, not only because its members have more opportunity of giving careful consideration to the matters connected with law and with parliamentary precedents than the House has, upon the spur of the moment, but because it is always recognised that this committee acts in relation to those elections with the same sense of responsibility as judges would do.

Some hon. MEMBERS. Oh! oh!

Mr. THOMPSON. I understand from the expressions of dissent which have come from the other side of the House, that that remark does not meet with the approval of some of my hon. friends.

Mr. MILLS (Bothwell). Hear, hear.

Mr. THOMPSON. The hon. member for Bothwell says "hear, hear," but I may be able to convince him that I am not altogether mistaken in that matter, by reading to hon. members what an eminent member of this House said on that subject in 1882. The hon. member for West Durham then said:

"It has been my fortune when sitting among the majority in this House to have been concerned with the other hon. members in the settlement of two cases which affected the seats of the members of this House—one in which a member of their minority was concerned, the hon. member for Two Mountains, whose seat was attacked, and the other in which the right to sit here of an hon. gentleman, who at that time filled the chair, Mr. Speaker, you now occupy, was disputed. On those two occasions the matter was referred to the Committee on Privileges and Elections, and in both cases we were able to arrive at a unanimous deliverance, and to deal with them in a spirit which reflected, I think, no discredit on Parliament as a judiciary on those occasions."