

functions—it was his duty at the time the money was paid to have decided that case one way or the other; to have told Mr. King that his deposit was not sufficient, and if he did not do that, then he should have decided that the deposit was sufficient and that the nomination was a proper one. Being a judicial officer and having decided that—because there can be no question that he did decide it—having received the money and given a receipt, having proclaimed these men as candidates and issued the notice, and held the elections, and printed the ballots, he was *functus officio*; he had no power whatever at a subsequent time to review his action. I am not arguing the question whether the nomination was lawful. I maintain that it was a perfectly regular and lawful nomination, but even if it were not that judicial officer, having exercised the power which the law gave him, it was not in his power subsequently to review that decision. Such being the case, the election took place, and Mr. King received a majority of the votes. The law, then, is perfectly plain and beyond controversy, that the duty of the returning officer was to declare Mr. King duly elected. The language of the Act is imperative; it says that he shall do so. Instead of that he disregarded his plain duty and the plain wording of the statutes, and declared the minority candidate elected. Sir, until this House votes, I cannot believe that the hon. members will do Mr. King a wrong—that they will be a party to an outrage perpetrated on the county of Queen's. I feel that it is the duty of this House at the earliest moment to purge itself of any suspicion of being a party to this wrong. It would be doing Mr. King a great wrong, doing the constituency a greater wrong, and it would be a dangerous act so far as the whole Dominion is concerned. It is all very well to laugh, but it may be your case, or mine, or any other hon. gentleman's at any time; and when questions affecting the dignity of Parliament come before Parliament, I say all hon. gentlemen on both sides should unite and say that the dignity of Parliament shall be upheld, and that no man shall have a seat here who does not hold it by the voice of a majority of the people.

Mr. FOSTER. I rise simply to make two or three observations before the vote is taken on this question. I am glad, for his sake, that the senior member for the city and county of St. John is not present to-night. I remember when he rose to bring this question before the House, he invoked the spirit of impartiality, and he tried, so far as his voice went, to exorcise the spirit of partisanship from the discussion. If he had been here to-night and had witnessed the outburst of partisan feeling which has just been exhibited, he would, I think, come to the conclusion that neither his appeal nor his objurgation had very much effect, and that this House had sadly deteriorated from his ideal of what an impartial tribunal should be. The speaker who has just addressed the House declared that he had heard from this side nothing but special pleading, although he had supposed that the discussion would have been conducted in a calm, judicial way. I ask hon. members who have listened to his fiery and fierce harangue if he occupies the position of a special pleader or the position of a calm, impartial judge bringing to the decision of this question a judicial and fair spirit. If anything was needed to prove that this House is not the place where a question of this kind should be brought for decision, the speech we have just heard, and the two or three speeches preceding it, have been the best proof of that. The hon. gentleman who has just spoken is very much opposed to the judicial committee of this House, the Committee on Privileges and Elections; he says that it is not a fair judicial body, and yet what does he propose to do? He proposes to take a body made up of men who have not all of them the legal attainments of that committee. He proposes to take a body of 215 men, of whom he is one, some

of whom I suppose, few, I hope, are animated by the same partisan spirit as himself. He proposes this as the judicial body to decide that question, but he is very much against relegating it to the committee of legal gentlemen chosen from amongst the best members of both sides of this House. My own opinion is, and has been from the first, that the courts of this country will take care of the rights of the people of this country, and that the courts of this country are well able to take care of this case. It has been brought here—who brought it? Not the candidate who at present has the seat in this House; it has not come through the courts; it has been brought here by gentlemen who did not dare trust the courts to give a decision upon it. It has been brought by gentlemen belonging to the same party who have over and over again deprecated the bringing of such questions to this body for decision, and who have laid down, and persistently argued from the dictum, that questions like this should be relegated for decision to judicial tribunals. An example of this is not very far distant, afforded by a late lamented member of this House. In 1883 the case of the King's county, P.E.I., election was before this House, and we were trying to decide which of two claimants had a right to the seat. I think it is reported in the *Hansard* of April, 1883, that Mr. Cameron, of Huron, made a motion on that case in this House, and made a speech in support of that motion. His motion was that inasmuch as this House was not a judicial body, but was partisan in part, and was not well adapted to take up and decide legal questions, therefore the question in dispute should be brought before the Supreme Court, in order that the law should be decided by that court for the guidance of this House.

Mr. MILLS. Did you agree to it?

Mr. FOSTER. The hon. gentleman had better ask himself if he and his party are consistent to-day with what he and his party voted for in 1883. It is more of the hon. gentleman's concern to keep a little charge of his own consistency than to ask what position we took on that question in the premises. Mr. Cameron said:

"I say there may be something in the view which they hold; it is a question open to argument, and it is the bounden duty of Parliament to obtain the very highest legal adjudication upon it in order that the law may be settled and determined. It may be argued further, and I think with some propriety, that although this Parliament has the power, by virtue of the law of Parliament, to declare that a sitting member that occupies a seat in Parliament is disqualified for personal reasons, such as holding a Government office, being a minor or a lunatic, or something of that kind; but I deny that, although this Parliament has the power to declare as vacant a seat in Parliament, it has not the power to do anything else, to declare that any other person shall occupy the seat. * * * * * The power and jurisdiction of Parliament was never invoked to give a seat to a member whom the returning officer did not declare elected, and the people at the polls did not elect."

And the hon. gentleman opposite will find that not one or two but many of his own party stood at the back of Mr. Cameron and echoed his demand that this question should not be tried here, but that the legal points involved should be put before the Supreme Court in order that the House might have the benefit of the judges' decision. Now, to show the calm judicial spirit which animates hon. gentlemen opposite, they not only plead in a special way, they not only make their fierce and partisan harangues, such as that made by the hon. gentleman who preceded me, but they actually passed sentence. They would tar and feather the returning officer; they would put him in a tower and keep him there, and from the many plaudits which came upon the heels of that assertion, it is not simply the hon. member for Lambton who has that fine, calm, judicial spirit, but a large number of hon. gentlemen on that side. These are the men who would be the judges. You heard what the hon. member for St. John (Mr. Ellis) said. He bore testimony to the character, the straightforward character of the returning officer. I have never heard anyone speak ill of the returning officer.