

ELECTORAL COMMISSION—JUDICIAL INQUIRY.

Sir CHARLES TUPPER (Cape Breton). Before the Orders of the Day are called, I would like to be permitted to make a few suggestions to my right hon. friend in regard to the very important matter which he submitted to the House yesterday. In arriving at the conclusion that this commission should be appointed, he stated that we must have immediately a tribunal composed of the best judges of the land to make the fullest, most complete and most searching inquiry into all that we know, into all that has come to the attention of the House, and of the press and of the courts. That is a statement which has the entire concurrence of this side of the House, and I am sure my right hon. friend will be glad to receive any suggestions, in a matter of so much importance, in regard to some points that I conceive, having looked over the order in council, need to be considered in order to carry out that which my right hon. friend has promised to the House. The first question that arises is naturally the scope of the commission. That is a most important question, because unless the commission has sufficient scope to enable it to deal with this matter in the spirit in which my right hon. friend has declared his intention to proceed, I am afraid it might fail in accomplishing the object in view. This order in council is made under the provisions of chapter 114 of the Revised Statutes of Canada, entitled 'An Act respecting inquiries concerning public matters.' The commission goes on to provide afterwards for an inquiry and investigation into :

Any alleged fraudulent alteration, defacing, marking, spoiling, substitution or tampering in respect of election ballots, or by reason of any fraudulent conduct in respect of poll books, ballot boxes, or the lawful contents, or what should have been the lawful contents of the ballot boxes, whether by way of fraudulent alteration, addition, withdrawal or otherwise, during and until the close of the election, and until the return to the Clerk of the Crown in Chancery.

Now, that is all very well so far as it goes, but I beg to suggest to my right hon. friend, that in order to give this commission the far-reaching character that is involved in his pledge to the House, it appears to me it would be necessary to add : 'And any fraudulent practices, persons or means connected therewith.' In order to have that complete and searching inquiry that is necessary, the terms of the commission would fall short of what the right hon. gentleman suggests ; to meet what has been indicated by the press of the country in regard to what is admitted to be a question so important as to necessitate a measure of the character now before the House, it would require that we should go a great deal further than to deal with a certain number of individuals who may be either local offi-

cials or parties in their employ, or, perhaps, who have acted in connection with them in pursuing these fraudulent practices. In order to reach and cure the evil we must be able to investigate the means that have been used in order to induce these parties to take such extreme measures in violation of the law of the land, and to discover any persons who may be associated with them for that purpose. I may say that the Act under which this order in council is passed does not seem to me to clothe the commissioners with the authority and powers that are absolutely necessary in order to make their work effective. I shall draw the attention of my right hon. friend to a very high authority on that question, and it is the authority of a gentleman who is recognized in this House as a very eminent authority in all questions of law. I refer to the Hon. Edward Blake. It will be found on the 208th page of *Hansard*, of February 3, 1876. When introducing the Bill in regard to corrupt practices at elections, Mr. Blake used the following language :

The Bill gives full powers for the calling of witnesses and for punishing those who do not attend, and contains also a very ample clause for indemnifying those witnesses who may have answered truly, in the opinion of the judges, all questions put to them on the subject of the election. I may say that the earlier Act of England contains a more limited clause, and it was found wise afterwards to extend it. The object one has in view in an inquiry of this description, where corrupt practices appear to have extensively prevailed, is to get at the proof, to search to the bottom, and ascertain how far corruption has prevailed in the constituency; and I think it is wise, under the circumstances, that a very liberal indemnity clause should be placed in the Bill.

We can see very clearly what the consequence of this may be. In the first place, it adds strength and vigour to his testimony, supposing he was guilty; in the second place, it proves the fact, morally at any rate, that he is guilty, and is consequently some argument in favour of a more extensive indemnity clause.

But whatever the argument may be, it is absolutely essential for this part of the investigation, that there should be a clause to indemnify witnesses who attend and give evidence, but not for witnesses who refuse to speak or who cannot claim a certificate of indemnity on other grounds.

I submit, Mr. Speaker, that this language is most pertinent to the present occasion. I am instructed that there is no such clause in the Acts under which this commission is appointed. I have no doubt that the commissioners may undertake that no prosecution should be founded on the testimony of any person who had admitted his own complicity, but it requires, I think, to go further than that. It requires to go the full length that Mr. Blake went in regard to that question in order that the judges may be in a position to absolutely grant immunity from prosecution to a witness. Otherwise, while you do not prosecute him upon the testimony