

gentlemen opposite differ about our constitutional rights. We find the member for Albert (Mr. Weldon), a professor of constitutional law in Dalhousie College, entirely differing with hon. gentlemen opposite, with the hon. member for Queen's, N.S. (Mr. Freeman), who prides himself upon his knowledge. The hon. member for Albert admits that we had the right to apply the remedy, but he says it is a dangerous application of the remedy. Mr. Speaker, is it a dangerous application of the remedy when a returning officer has chosen to exercise a function which he has no right to exercise, that we should set the wrong right? The hon. member for Queen's, N.S. (Mr. Freeman), says that Mr. Dunn consulted lawyers. Sir, he had the law before him, and that law said that the man who had the majority of votes should be returned. Let him return that man, and let the courts decide whether he was right. But he takes it upon himself to act the judge and to place a man in the seat against the well understood wishes of the people of the county. The hon. member for Muskoka (Mr. O'Brien) admits that the returning officer did wrong and deserved censure, but, says, my hon. friend, I think the case ought to go to the election courts. Surely my hon. friend when he sat in this House, and when the case of King's, P.E.I., came up, had no conscientious scruples about the duty of the House upon that occasion; he did not refer that case to the courts. When the gentleman who then sat for Centre Huron in this House moved that the case should be referred to the Supreme Court for the opinion of the judges, I think we will find in the divisions against that motion the name of my hon. friend from Muskoka (Mr. O'Brien). In that case he felt that this House had full right to control the action of its returning officer, and to exercise jurisdiction in matters like this. But now, although he admits that a great wrong had been done, and that the minority candidate sits in this House, he finds that the matter must go to the courts. The hon. member for Albert said: Why do not the parties agree to go to the courts? The hon. member for Queen's, N.S., says: Why do not these gentlemen go to the courts? That we are not here to set to work and try cases. I say we are here to protect our own privileges, and it is the duty of this House, to use the language of the right hon. Premier, in the North Victoria case, not only to punish and censure, but to control the acts of a returning officer, a servant of this House. Now, Mr. Speaker, it is admitted that a great wrong is done, it is admitted that a gross violation of law was committed. The case is not here in the shape of an election petition, as was the case of North Victoria. But standing here we have the facts before us connected with this case, showing that Mr. King had the majority of votes and was entitled to be returned. Whatever may have been done on nomination day, as was done in the Mayo case, is another question altogether. We find that the returning officer undertook to perform his duty at the time of declaration, which is entirely distinct from the day of nomination. His duty was to sum up the votes and return the candidate who had the majority. He set to work and ignored that duty, and undertook to perform the functions of a judge. As I said on a previous occasion, he then did what no judge has a right to do, namely, to reverse his own judgment and to prevent the party who was fairly entitled to the seat from being returned, and depriving him of his rights. The Minister of Justice in replying to the hon. member for Bellechasse (Mr. Amyot), said the election was not over, there was a recount. But the recount was stopped by an order of the Supreme Court. As I said before, I am not going into an argument on the question of the jurisdiction of the Supreme Court, or on the authority of the judge. That matter is now before the court. It is practically of no utility, because we all know that even under the Act, Judge Steadman has now no power to go further. Moreover, we have got the ballots and the papers here, and we

Mr. WELDON (St. John).

see by these papers that the man who was returned is not entitled to the seat. Sir, I say this is a case that ought to be considered free from party spirit. This is a matter affecting the rights of every elector in this Dominion, and it will create a precedent that after a poll has been granted and an election held, the returning officer can ignore the poll, can ignore the whole proceedings and return whichever candidate he chooses. We ought to be very careful what course we take at present, because our action to-day in this matter will be a precedent in future times. If this House ignores this fact, and says, practically, by its vote, that the returning officer had a right to do this, I think public opinion will pronounce a different verdict. The sitting member for Queen's, N.B., said to day that he was hounded by the press, alluding to the hon. member for St. John (Mr. Ellis) in no measured terms. Sir, I believe that if you look over the whole Conservative press of this Dominion that supports the Government, you will find, with very few exceptions, that it declares this act to be an outrage. Look at the *Evening Journal* last evening, a paper published in Ottawa which gives a support to the Government; that paper characterises this outrage in a very severe manner. Take the *Fredericton Farmer*, published in the city of Fredericton, one of the leading organs of the Conservative party in New Brunswick, and see what that paper says about it. I happen to have in my hand an extract from the *Sherbrooke Gazette*, a Conservative paper, commenting on this outrage, and I could not use stronger language:

"To hold that the House of Commons cannot amend the wrong publication of a return is to declare they have renounced all their powers over their officers. This is a new doctrine we can't recognise as a Conservative one. The musty old precedents, as one member called them, all point the other way. They were conservative precedents. They recognise a conservative principle which we can clearly understand and appreciate. When the House of Commons surrenders its powers, its privileges and its independence, and agrees to abide by the opinions of a credulous and ignorant returning officer rather than take his certificates of facts, it does not, to our mind, represent Conservative principles or Conservative practice, and we reprobate such a course with all the force we are capable of.

If that is a proper exposition of Conservative principles, and I believe it is, in this case it is not a party question in which the interests of Conservatives are involved, but it is an appeal to the sense of justice, of right, and of fair play on behalf of the electors of the constituency of Queen's, and a demand for the assertion of the rights and privileges of this House and that they are being trampled upon by the course which hon. gentlemen opposite sought to pursue; and, moreover, that the wrong done by the returning officer shall be righted, and that we shall do justice between the parties and place the majority candidate in his seat, and in that way show that a member of this House does not represent the minority of the electors of an electoral district, but the majority of the electors of the district of which he claims to be the representative.

Mr. MONCRIEFF. Hon. gentlemen opposite have stated twice already that hon. gentlemen on this side of the House will not vote according to their convictions, and I think it is due to myself, having some views upon this question, that I should express them to the House as briefly as possible. I agree with those hon. gentlemen who have already spoken who said that this should not be considered as a party question. We have heard charges made from the other side of the House to members on this side that we were making it a party question, and we have heard the insinuation that any one who votes in favor of the amendment of the Minister of Justice is being dragged along by the Government and not voting according to his conscience. I wish to say, as was said by the hon. member for Essex (Mr. Patterson), that I believe every member on this side will cast his vote as fairly and as independently as any hon. gentleman on the other side.

Mr. MITCHELL. I hope so.