one of personal disqualification, the point being whether one of the candidates had resigned as required by law. Here, then, we have in Canada five cases decided since the Statute of 1873, and every one of them was a case of disqualification, except that of Victoria, N.S., and in every one of them the House of Commons refused to interfere, except when the sitting member was personally disqualified. It is not necessary for me to call the attention of the House to the fact that such able counsel as Mr. Matthews, Q.C., who was Home Secretary of England, and Mr. Edward Clarke, Q.C., who was Solicitor General, the former in 1870 and the latter in 1882, expressed the opinion that even in cases of personal disqualification the House of Commons had no right to interfere, except when the disqualification had taken place after the election. These eminent lawyers were of opinion that in such cases the statute was inapplicable. It is not necessary, however, to examine that point. It is sufficient to notice, that in England, as well as in Canada, under the statutes I have mentioned, not a single interference in matters of irregularity or illegality, or even fraud at an election, can be quoted; all the precedents are in cases where the personal disqualification of the candidate is at stake. I am perfectly willing to accept the jurisprudence of England and of Canada, but I do not feel inclined to go beyond that, to extend it to cases not contemplated by the practice of Parliament. For those reasons I support the report of the Committee on Privileges and Elections, and I will vote against the last amendment.

Mr. PATTERSON (Essex). It appears to me that the hon. gentleman who has just sat down has missed the real point of the matter. He seems to think that we are now dealing with the question of an election. We are not dealing with the question of an election; we are dealing with the conduct of one of our own officers. We are dealing with an election return, the facts of which are all before us above the signature and under the authority of our own officer. Now, my position being rather peculiar in this instance, and somewhat painful to myself, in that I am separating myself on this question from those with whom I usually act in this House, I will be pardoned if I go over the facts of the case. Mr. Dunn was appointed returning officer for Queen's, N.B. On nomination day he accepted a deposit, which deposit was required of the candidate in consequence of an Act passed in 1882. That Act provides that a candidate must have a nomination paper with a certain number of names on it, and says:

"Unless a sum of $200 be deposited in the hands of the returning officer at the time the nomination paper shall be filed with him; and the receipt of the returning officer shall, in every case, be sufficient evidence of the production of the nomination paper, of the consent of the candidate, and of the payment herein mentioned.

Prior to that we had an Act respecting the election of Members of Parliament, in which it was required that payment should be made through an agent. The object of the payments to be made through an agent under that Act was something entirely different from this temporary deposit. That money was required to be paid through an agent in order to prevent corrupt practices at elections, and in order that irregularities or corrupt practices might be more easily detected at the trials of controverted elections. But that had nothing to do with deposits paid in to prevent vexatious elections, to prevent candidates running where the sentiment of the vast majority of the community was against them, and where there was no doubt that they would not be returned. In that case a deposit was required, and was forfeited if the candidate did not get one-third of the votes polled. Well, Mr. Dunn, the returning officer, received the money, gave a receipt for the money and the nomination papers, in accordance with the Act, and the election was held. On declaration day, when, in the presence of the candidates or their agents, the returning officer came to count the ballots sent to him by the different deputy returning officers, he found that Mr. King was duly elected by 61 majority. It was his duty then, and his sole duty, under the statute, to have returned Mr. King, the candidate having the majority of votes. Instead of doing so, reopening the question of the proceedings on the day of nomination, he constituted himself a court of appeal against himself. He heard counsel; various arguments were brought forward and technical points raised, all of which he disposed of except this one point, that the deposit of $200 should be paid in by the hands of an agent. Now, I am perfectly satisfied that the law never contemplated such an objection. The clause of the Act having reference to the deposit of $200 on the day of nomination, was passed nine years subsequent to the passage of the Act respecting the payments of money through an agent. A judge, dealing with a question of that kind, would look at the intent of the Act; and I consider that we are here to-night sitting on this matter in a judicial capacity, and are to decide it on our personal honor, and not on party grounds. Mr. Dunn took it upon himself to decide that Mr. King, owing to this deposit not having been paid by an agent, was disqualified, and that the minority candidate was duly elected. He sent in his return to that effect, accompanying it with a statement of facts showing that Mr. King had a majority of the votes. Then the question arises before this House, whether we have power to deal with an act of our own officer, and power to amend that return. It is not a case of a controverted election. It is a question of a palpable wrong in the papers connected with the return, which are now in the hands of our own official, the Clerk of the Crown in Chancery. As to the question whether we have power to deal with this return and, with this returning officer's action, as a servant of this House, section 18 of the British North America Act provides:

"The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and the House of Commons, and by the members thereof respectively, shall be such as from time to time are defined by Act of the Parliament of Canada."

Then, by chapter 23 of 31 Victoria, the Parliament of Canada enacted as follows:—

"The Senate and the House of Commons respectively, and the members thereof respectively, shall hold, enjoy and exercise such and the like privileges, immunities and powers as, at the time of the passing of the British North America Act, 1867, were held, enjoyed and exercised by the Commons, House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof, and so far as the same are consistent with and not repugnant to the said Act."

So it is not questioned that this House, at the time of the passing of this Act, had power to deal with a question of this kind. In fact, in 1873, before divesting ourselves of the trial of election petitions by committees of this House, and delegating those trials to the judges, a case in point occurred, the Muskoka case, in which various doubts were raised. But, on a motion of Mr. Blake, who was then a member of the Opposition, setting forth the facts, and showing that even under the most unfavorable circumstances Mr. Cockburn was elected by a majority of 26, it was carried that the return should be amended, and Mr. Cockburn was unanimously declared elected.

Mr. GIROUARD. Was that before the statute or after?

Mr. PATTERSON (Essex). It was before the statute. We had the power down to that time. Then, later on, so as not to embarrass the business of Parliament, and also in order that the trial of election petitions might be conducted with greater impartiality, we delegated the power to try them to the judges of the land; and in order that there might be no mistake or evasion, the fullest power was given to the judges, in order that no case might arise which could be evaded. But it was never intended that this House should divest itself of that power which, as the Supreme Court of Parliament, we