

not raised at all. Mr. Cameron, the member for Huron, wanted to refer it as a special case for the Supreme Court of Canada upon a special order of this House; and if I recollect well I think it was laid down we had no such power. We had no power to deal with the case under the Controverted Elections Act of 1874, which still governs such cases. Had the attention of the House been called to that point, we might, perhaps, have referred the case to the ordinary courts of the country. There is, however, considerable difference between that and the present case. King's county election took place six months before the sitting of Parliament; the time had elapsed to file an election petition, and none had been filed, and there was no representative in the House for the county. The question was raised, that as the courts would not deal with the case, should we allow the county to remain unrepresented or not? In the present case, the time for filing the election petition has not lapsed; the parties who have been injured have all their rights intact; the question would be, whether this is the proper tribunal to examine the case. From the quotations from the Statutes, I have no doubt that we have no jurisdiction in the matter. I am satisfied that we have parted with that jurisdiction by vesting it in the ordinary courts of the country, and it should be to those that the parties ought to go. It is not a question of injustice or fraud, but purely a question of procedure: Have we the power to deal with the case? This is a question which should come before the Committee on Privileges and Elections, and will be open there to the fullest discussion. Parties interested will have the right to employ counsel to plead their cause, and more than that we will not be called on to give a hasty decision, as we would, if we gave one this evening. These are sufficient considerations to induce hon. members to refer this case to the committee. The matter is a very important one. To-day it may be a clear case of injustice, but it may be a doubtful case to-morrow; and when you have the ordinary courts of justice given jurisdiction do not let Parliament take that jurisdiction that has been invested in them so wisely. To-morrow it may be a doubtful case, and partial majorities may, perhaps, deprive a member of his seat. I will refer to the statute and conclude by it, to show that really we have divested ourselves of all jurisdiction. Section 7 of the Controverted Elections Act of 1874, with rules this case, because the Revised Statutes only came into force on the 1st March, declares:

"The petition complaining of an undue return or an undue election of a member, or no return or a double return."—

Look at these expressions. "An undue return." That is, if the election has been irregular, if all the proceedings have been illegal up to the very day of the election, if there has been an illegal return, if there has been an undue return, then you should go to the court of justice. Then, if there is no return, or if there is a double return, as there was in King's county, P.E.I., in 1883, you should go to the court of justice, and yet the motion of the hon. member for St. John (Mr. Skinner) is that we should declare who was returned, that we should declare that the majority candidate was returned. What power have we to do that? Section 29 of the same statute says:

"At the conclusion of the trial the judge shall declare whether the member whose election or return was complained of, or any other person is duly returned."

The judge is to declare that, and here you are proposing that we should declare who is returned. You have no jurisdiction in the matter. You have no more jurisdiction than the first man passing in the streets of Ottawa. Look at the last clause of the statute which is still more precise, which says that in every matter connected with an election we have no jurisdiction:

"All elections held after the passing of this Act shall be subject to the provisions thereof, and shall not be questioned except in accordance therewith."

Mr. GIBOUARD.

I am certainly against injustice. I am against oppression, whether exercised by a public officer or by anyone else. I am also against all frauds at elections. I am for justice for everyone, but I want justice in a constitutional manner, according to the rules laid down by the Parliament of this country, and, before coming to the relief of the county of Queen's, or coming to the relief of Mr. King, I will respect the law of the land which has been passed by this Parliament, and that I consider my first duty. For that reason I would have been prepared to declare immediately that we have no jurisdiction, but every member of this House, perhaps, is not so prepared; every member of this House is not a lawyer.

Mr. WELSH. Thank God.

Mr. GIROUARD. You say "thank God." Perhaps, if you knew more law, you would exercise your judgment a little better in this matter. Let us go before the Committee on Privileges and Elections, and hear counsel on both sides, and after a few days of deliberation we may be able to come to a more satisfactory conclusion. I express no opinion on the merits, but simply upon the jurisdiction of this Parliament to deal with the case.

Mr. FISHER. After the last few words of the last speaker, I think I have not the same high opinion of the profession to which he belongs that I think he would like all laymen to hold. He has told us very clearly and distinctly that he, as a lawyer, having examined this question thinks the proper course is to leave it to the courts, but, by his proposed action, he declares the very opposite to his expressed opinion. If the lawyers of this House give us such an example as this, may we not fairly consider that the laymen of this House are more trustworthy in their judgment, more trustworthy in dealing with a matter of justice and right than these professional gentlemen who give such opinions as that. I do not desire to say anything against that profession, or to say that there should not be in this House many members of that profession, but from the example we have had to-night from the lawyers on the other side of the House, I think it is very necessary that there should be in this Chamber some other members than lawyers. The whole burden of the song of the hon. gentlemen on the other side is that this matter is not within the jurisdiction of this House, that it should be referred to the courts of the land. If that is their conviction, why is it that they have not so proposed, why is it that an amendment has not been moved to leave it to the courts of the land and declaring that this House should not express an opinion upon it? They say now that it should be referred to the Committee on Privileges and Elections, but what is the Committee on Privileges and Elections? As far as I understand the constitution of the standing committees of this House, they are committees to which are delegated the work of this House, which may do that work and then present a report upon which this House is called upon to pass. When the Committee on Privileges and Elections presents its report, the House will have to pass upon this question as we are asking the House to pass upon it to-day. If this means anything, it is simply a postponement of the question, a postponement of the date when the House will have to pass upon the question and declare its opinion upon it. I do not consider it necessary that this question should be entered into by the Committee on Privileges and Elections, because the whole facts of the case are before us. It is not such a case as that which has been cited by the hon. member for Victoria, N.S. (Mr. McDonald). He cited an instance in which the details of the case were unknown, in which there was a dispute as to the details, and it was necessary that witnesses should be summoned in order to arrive at a decision as to the details. In such a case, it might be right to