

moments, to the Act of 1872, and I call the attention of the House to that Act because it is entirely inconsistent, not only with the spirit, but with the language of the Act of 1874. The Act of 1872 provided:

"1. No person shall be eligible to, or be capable of being nominated to or voted for, or of being elected to, or of sitting or voting in the House of Commons, who, on the day of nomination at any election to the House of Commons, is a member of the Legislative Council or Assembly of any Province in which, by law, members of the Senate or House of Commons are rendered incapable of being appointed to, or of sitting or voting in the Legislative Council, or of being elected to, or of sitting and voting in the House of Assembly thereof, or who, on the day of any such nomination is a member of the Legislative Assembly in any Province in which, by law, after the dissolution of the present House of Commons, the sitting or voting as a member of the House of Commons by such member of the Legislative Assembly, will have the effect of voiding his election to the Legislative Assembly thereof and vacating his seat, or of rendering him incapable of sitting or voting in the Legislative Assembly of such Province.

"2. If any such member of a Provincial Legislature shall, notwithstanding his disqualification as in the preceding section mentioned, receive a majority of votes at any such election, such majority of votes shall be thrown away, and it shall be the duty of the returning officer to return the person having the next greatest number of votes, provided he be otherwise eligible."

The second clause gives a judicial function, for it says the returning officer shall return the person having the next greatest number of votes, provided he be otherwise eligible. It points out, in fact, what I know was then the law in New Brunswick, that the returning officer, the Sheriff, had the power to hold a scrutiny before the return of the writ. But when that was taken away, I contend that not only the language, but the spirit of the Act of 1872 was utterly inconsistent with the General Elections Act. The latter Act provided for the withdrawal of election cases, not only from Parliament, but from the returning officers, and to place their decision far above political feeling and party bias, so that the rights of the electors might be as fully protected as civil rights. The Act of 1873, which provides that the election of members of the Legislature who may hereafter be elected members to this House shall not be valid, and that they shall be liable to a penalty, does not touch the question of the returning officers deciding respective votes. In the case of Mitchell, who was disqualified as a felon, the Imperial Parliament did not seat Moore, but on notice being given the Judge at the trial set aside the election of Mitchell, and declared Moore was elected: first, because Mitchell was disqualified; and, second, because this fact was known and notice given to the electors, and therefore they wilfully threw away their votes. But I hold that, under the law, if notice had not been given the Judge would have decided that Mitchell was not duly elected, and that there must be a new election, but not that the minority candidate should be seated. The action now proposed in this House would be a violation of the law of the land if carried out, and an invasion of the rights of the people of Prince Edward Island, and the House should pause before it declared in favor of a principle which, if carried out, must affect the interests of the majority candidate in every case. This is not a case between Dr. Robertson, and Mr. McDonald alone, but it affects the rights of the electors of King's, and deals with the question as to whether the returning officer has done his duty. It has also a bearing on the case of Queen's County. The returning officer returned Mr. Jenkins. The present member (Mr. Brecken) appealed from that decision to the courts, and when the case came finally before the Supreme Court a decision was given in his favor. During that time Queen's County was not disfranchised because Mr. Jenkins occupied the seat until the Supreme Court gave its decision. There we have an example of the manner in which the spirit and meaning of that Act of 1874 had been carried out, for the case had been disposed of by that tribunal, to which all these matters had to be referred, a tribunal which was free from party prejudice and party bias, and its decision would

Mr. WELDON.

be fully acquiesced in, not only by the people of Prince Edward Island, but by the people of the whole Dominion. But as it stands now, here we have a man proposed as the member, by the Committee, and by this resolution, who it is claimed has the majority of the votes of this House, but is in a minority with the electors; and I say in conclusion, that if he has one spark of feeling and honor, and this resolution is carried, the very first moment that he takes his seat, he will rise up and say: I resign the seat at once into the hands of the people. Mr. Speaker, I beg to move in amendment that this motion be not concurred in, but that all the words after "that" be left out, and the following words be inserted:—

In view of the provisions of the Dominion Elections Act, 1874, and the duties of the Returning Officer, as therein defined, and also in view of the fact, elicited from the evidence produced before the Select Standing Committee on Privileges and Elections, now before the House—it was the duty of the Returning Officer at the last election for the Electoral District of King's County, Prince Edward Island, to declare and return James Edwin Robertson, as one of the members elected at the said election.

Mr. CAMERON (Huron). I have just a word or two to say upon the subject of this motion before it is submitted to the House. This is, of course, an important question; and I may say now, that after having heard the evidence submitted to the Committee on Elections and Privileges, the whole question has assumed a different phase altogether to what it assumed when I formerly discussed this question. Then I proposed to discuss, and only did discuss, this proposition,—as to the duty cast by the Act of 1874 upon the returning officer; and my contention was, that his duties were purely ministerial, and that Dr. Robertson, having the majority of the legal votes, was entitled to be declared returned, and ought so to be declared returned by the returning officer. To the motion I submitted on that occasion an amendment was moved by the hon. First Minister, and upon that amendment coming up before the Committee on Elections and Privileges, of course the whole of the papers and some evidence were submitted to that Committee; and now the matter comes before the House in an entirely different aspect and in an entirely different shape. I have said, Sir, that this is an important question. It is a question that I think we ought to approach with unbiassed and unprejudiced minds.

Sir JOHN A. MACDONALD. Hear, hear.

Mr. CAMERON. I recollect, when I discussed the question before—and I think that the hon. First Minister, at all events, will give me credit when I say so—I did nothing more than submit a calm, dispassionate statement of the facts, as I then understood them, to the House. We were warned, by one or two hon. gentlemen on the other side of the House, that this was a judicial question, that we ought to approach it in a judicial spirit, that we should deal with it in a judicial spirit, and that we ought, so far as possible, to divest our minds of our political leanings and of our political inclinations, and approach the question in the spirit of judges, and solely as if we were judges adjudicating upon this case. Now, Sir, that is the spirit in which we ought to approach it; and I hope, Sir, although I occasionally fight a political battle, both in this House and out of this House, if I know myself I will be enabled to discuss the few propositions which I will submit to this House this evening without any political prejudices, and that I will be enabled to divest my own mind of all political bias, and to deal with this case and to comment on this case as if I did not know to what side of politics either Dr. Robertson or Mr. McDonald belongs; and I hope that every hon. member of the House will approach the consideration of it in the same spirit. I only hope that, in dealing with a question of this kind, a purely judicial question, the result of which must depend almost entirely on the construction of the Statutes of Prince Edward Island, and of our own disqualifying Act, I say I hope