would be a result which everyone should strive to reach, a result that would take from us the responsibility of dealing with what I have pointed out to be a question in which we are all personally interested. In order to lead the House to understand the importance of this question, I trust hon. members will bear with me while I read one or two extracts from a very eminent member of the bar, written before the present Election Act was introduced into England, for his remarks embody opinions which I might imperfectly express. Sergeant Pulling, in 1866, said:

"The claim of the House of Commons to alone adjudicate on the validity of its own members is a principle very objectionable. It is, in fact, neither more nor less than the claim of a body of individuals to act as judges in their own case."

Again, he said, in 1869, after the Act of 1868:

"It has come to be at last recognised in the case of the House of Commons, as in that of other elective bodies, that all questions affecting the due return of the individual members who constitute it must not only be regulated by the general law of the land, but be disposed of by tribunals emanating and wholly governed by such law. There can now be no retrograde movement; nothing can upset the concession thus solemnly made to the nation, that all questions affecting the election of its representatives in Parliament must henceforth be disposed of by an established system of judicial enquiry, wholly free from the bias, the defects and the inevitable evils of the election committee."

Then Rogers, who is an authority on the law regarding elections, says:

"The House of Commons from the earliest time claimed and exercised the exclusive right of deciding upon the validity of all elections to its own body; its exercise was first regulated by Statute in 1707, by the Grenville Act, which provided for the decision of such questions by select committees of the House. The decisions of many of these committees have been reported and are still of authority where there is no statutory direction for the Court to follow.

"The right of deciding such questions has now, by the Parliamentary Elections Act, 1868, (31 and 32 Vict. chap. 125) been transferred to the tribunal (consisting originally of one judge, but since 1879 of two, under 42 and 43 Vict. chap. 75) created by that Act, so far as elections are concerned; but the House retains the right of deciding upon the qualifications of its members.

"The last-mentioned right has been exercised in several instances since the transfer of the jurisdiction over petitions to the judges; *e.g.* in the case of Sir S. Waterlow, who was declared disqualified under 22 Geo. III, chap. 45 (relating to contractors) by a select committee in 1869, and in the cases of O'Donovan Rossa, whose election was declared void by the House in 1870, and John Mitchel, an escaped convict, whose first election in 1875 was disregarded by the House; also in the more recent cases of Sir Bryan O'Loghlen, in 1879, who had accepted an office of profit under the Crown; of Michael Davitt a convicted felon in 1882; and of Mr. Bradlaugh, who was expelled in the same year."

And while mentioning the name of Mr. Davitt, and recollecting the allusion made by the Minister of Justice to that case, I would point out to the House that, as far as the proposition for which I am contending is concerned, legal gentlemen of high standing in the debate on that occasion challenged the position taken by the Attorney General of that day, Sir Henry James. It will be found that in that discussion these legal gentlemen contended that even as regards the question of disqualification or the eligibility of the members of the House, the House of Commons by this clause to which I have directed attention, had relegated the whole matter to the tribunals of the land. And in the Tipperary case that position was taken by counsel at the bar, and the argument was addressed to the court that even in those cases the House of Commons had by that Act deprived itself of its authority. They, of course, admitted that the House of Commons could pass another Act and so arrange to bring the matter within their jurisdiction, but that while the Act stood unrepealed they had no right to deal with a case touching the election of members, no right to deal with the eligibility of members to sit in the House of Commons; but in the Tipperary case the court gave a decision neither one way nor the other, as they were able to arrive at a decision without dealing with that point. This only shows to what a length this provision in the Act will carry us in cases of this kind. Now, every authority that the hon. gentlemen can find in the library, all the leading authorities of the day regarding election petitions, go to show that the position taken by the Minister of Justice is sound, and that this House has nothing to do with the consideration of the due return or election of a member to the House, because in those cases which have been pointed out the only causes affecting the eligibility of a candidate or his disqualification in which this House can act are when the candidate is a felon, a minor, a convict or a woman.

An hon. MEMBER. Why refer it then?

Mr. TUPPER. My hon. friend asks, why then refer it? I have already stated that from the search I have made on this occasion, I think that if the Minister of Justice took the strict position he is entitled to take, in virtue of these cases, he would not refer it for a moment, but would call on the House at once and summarily to dispose of it and refer it to the tribunal appointed by the country. But the minister's position is very strong, and should commend itself to my brother judges in this matter. So anxious is he that a judicial spirit should prevail, so ready to admit that this is a case of the kind that should engage the attention of the House that he is willing that all those cases with which individual members have made themselves acquainted should be carefully examined and calmly discussed in the committee, and then that the committee may take such a course as to it may seem proper. I think his position is an extremely strong one; he is not technical, but I consider that he has shown a desire to-day to be eminently just. Now Leigh and Marchant, in their "Law of Elections," quote this section, and our Act is just the same as the English:

"From and after the next dissolution of Parliament no election or return to Parliament shall be questionned except in accordance with the provisions of this Act.

The words are not exactly the same as in our Act, but any one, I think, will see that there is no substantial difference between that clause and the clause of our Act. The text writer goes on to say:

"Questioned means questioned by election petition, by persons having an interest in raising the question and wishing to vindicate their own rights, and does not take away from the House of Commons their authority to decide on the eligibility of a candidate, in the event of a felon, a minor, or a woman being returned. So in the case of O'Donovan Rossa, convicted of treason-felony under the 'Crown and Government Security Act, 1848,' who was returned for the county of Tipperary, the House of Commons agreed almost unanimously, on 10th February, 1870, 'That he, Rossa, having been adjudged guilty of felony and sentenced to penal servitude for life, and being now imprisoned under such sentence, has become and continues incapable of being elected or returned a member of the House.' A similar resolution was passed on the election of John Mitchel, a convicted felon, and an alien, as member for the same county; and it is to be noticed that this power of declaring ineligible by resolution, a person who has been elected, does not involve as a consequence that the resolution of the House of Commons can, *per se*, affix a disability not previously existing. If the House of Commons had not this power, it would make the rejection of a disqualified member contingent on a petition being presented. By the exercise of this power the House of Commons might refer to the consideration of a committee the seat of a member called in question by any member of the House; for instance, when a member accepts an old office of profit from the Crown, and has not sought re-election, and no writ has been issued for a new election; or, as in Sir S. Waterlow's case; or when a member already holding one office of profit received another to hold with the first, and does not vacate his seat. In the two latter cases it would seem that no other mode of raising the question would be left, as these cases would not fall within the provisions of the Parliamentary Elections Act of 1868."

Because, as you will see, the time for petitioning and the procedure would not at all apply to these cases, which might arise long after a general election. Well, to come nearer home, we have the decision in the Bagot case, in 1879, after the Act of 1874 became law. We have that decision, Mr. Speaker, given by one of your predecessors which, while it was not on all fours with this, throws some light on the point to which I address myself, and with the permission of the House I will read an extract from that decision, because on that occasion the opinion of the House was unanimous. As stated by the Speaker of this House, the matter was not within the jurisdiction of the House since the legislation to which I have referred was introduced.