

Mr. BARRON. The hon. gentleman is mistaken if he thinks I did not. I not only brought it to the attention of the Committee, but sent a draft of it to the hon. gentleman himself.

Sir JOHN THOMPSON. I never heard of the proposal before. Grievances with respect to returning officers were discussed repeatedly, and, if the hon. gentleman sent me such a suggestion, I certainly did not receive it. If he mentioned it in Committee, I have forgotten it. Either he is mistaken on that point, or I am; but that, however, is not very material. The hon. gentleman did not move his clause or take the opinion of the Committee upon it, and I think the Bill ought not to be sent back for that purpose now. I will not enter upon a discussion as to the instances which the hon. gentleman has given of complaints against returning officers. Whenever an election takes place, if any irregularity occurs at all, the responsibility is thrown on the returning officer who has the conduct of the proceedings. The hon. gentleman has suggested that certain judicial functionaries should be substituted for these; but we all know that, when the judges were entrusted with duties which appeared to hon. gentlemen opposite to be of a political nature, the revision of the voters' list, we had as emphatic and as strong an attack in the session of 1886 on the way in which these judicial officers did their *quasi* judicial duties as we have had at any time with regard to returning officers. I think it would not be wise to adopt the amendment for another reason. When the question of returning officers was under discussion, the proposition was made from the other side that permanent returning officers should be appointed, and I promised to consider that in connection with other amendments to the Election Act, which no doubt will be brought to the notice of the House before very long again. We are opposed to accepting as returning officers for elections to this Parliament any permanent officers who are under the control of another Government. Whether that Government is opposed to us politically or not, is not to the point. Its interests may be totally different from those of this Government and Parliament. It may be, and it is very likely to be, that on questions not political in the sense of being party politics, a Provincial Government may from time to time have a policy adverse to that which prevails in this Parliament; and we are opposed to giving the control of elections, in so far as it is possible for returning officers to control them, to officers who, not only are appointed by Provincial Governments, but are dependent on them for their offices. As regards many of these officers in various parts of Canada, who, hon. gentlemen opposite have suggested, should be entrusted with the duties of returning officer, they are liable to be dismissed at a moment's notice by the Provincial Governments; and I think it would be unacceptable to the deliberate judgment of any gentleman in this House, that persons whose tenure of office is of that description should be chosen as our officers in the performance of duties in connection with this Parliament. I am not averse to the principle of having returning officers permanent, however, and the question to be considered is whether we can select a class of officers with whose other duties this work might not be inconsistent, and who at the same

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time possess sufficient independence as to tenure of office to make them perfectly free and fearless as regards the discharge of their duties. If we can suggest to the House a class of officers of that description, the suggestion to have them permanent officers would be very acceptable. We must consider the present position of the returning officer as regards emoluments, and the mode of his appointment, in considering the value of the amendment proposed. The emoluments are very trifling indeed, for active, responsible work extending over there weeks, or a month, or even longer, involving the appointment of a large number of deputies, involving a very considerable activity and work during that four or five weeks, and the utmost allowance we allow a returning officer is \$60, for which he has to incur, not only the labours of the office, but likewise very considerable responsibility, civil and criminal. Now, what the hon. gentleman proposes is that when we find anything in the procedure which is improper, the burden of proof is to be thrown upon the returning officer to prove that he is innocent. In other words, these ill-paid and hard-worked men are to be presumed to be criminals if anything improper has transpired in connection with the boxes under their charge, in a legal sense. All I have to say about this is that I think this matter ought to be left to the ordinary rule of law which exists on this subject; of that rule of law, I suppose, there can be no doubt. That rule is, if it has been proved that a criminal practice has been committed with regard to the ballots which have been in the actual custody of the officer himself, there is a presumption created which calls upon him to prove his innocence. But in so far as the amendment would alter that rule of proof, and throw upon the officer the entire burden of proof, involved in the mere presumption arising from the fact of his having had legal possession and control of the boxes, and these irregularities having been committed, I think the rule of evidence ought not to be changed. I understand, from hearing the amendment read, that its effect is that the mere fact of the ballots having been tampered with in the first instance would be sufficient to throw the presumption of criminality upon the officer himself. More than that ought to be done. It ought to be proved that the officer had control of the boxes, that they were in his actual custody and keeping, and that, during that time, reasonable care would have prevented the commission of any such offence. When that has been proved, the presumption of guilt is established by the present rule of evidence, and there is no necessity for such a provision with regard to that state of facts. If less than that is proved, it is cruel and unjust that the burden of proof of innocence should be thrown upon the officer.

Mr. LAURIER. If this amendment be of a nature to commend itself to the sense of the House, I hope the Minister will not press the objection with which he has met it, that it came rather late and should have been moved in Committee. I understand, in any case, that the amendment was suggested to the Minister of Justice and to the Committee. I am sorry to see that the Minister has not yet thought it wise to have the officer who now administers the law in the province, the sheriff or registrar, appointed returning officer. The objection that they are dependent upon another Government seems to me hardly a good one.