

case of Michael Davitt decided in 1882. All those were cases of disqualification; not a single case of illegality of an election or even of fraud at an election. The hon. member for Queen's, P.E.I. (Mr. Davies) insisted very strongly on the Mayo case in Ireland, where a great fraud was consummated on the electors, just as it is said a gross fraud was perpetrated on the electors of Queen's, N.B. That may be, but where did the parties go in the case of Mayo? Did they go to the House of Commons? They went to the courts.

Mr. DAVIES. There was no election.

Mr. GIROUARD. We know that the courts of justice have a right to interfere only when an election is held. There was a nomination of three candidates and the returning officer omitted one nomination, and proceeded to the election upon the nomination paper of the other two candidates.

Mr. DAVIES. He declared the two elected.

Mr. GIROUARD. But did the person whose nomination was passed over by the returning officer go to the Imperial House of Commons to complain? No, he went to the ordinary courts of the land, and that is exactly what Mr. King or any of his friends should have done. I challenge any hon. gentleman to point to a single case where the House of Commons in England has interfered in a matter as to the legality or illegality of an election, in fact, in any matter where the disqualification of the sitting member was not at stake.

Mr. DAVIES. It is not a question here of legality or illegality. The election was legal, but the returning officer did not return the one he ought to have returned.

Mr. GIROUARD. If the election was all right, why do you complain against Mr. Baird?

Mr. DAVIES. Because the returning officer gave a false return.

Mr. GIROUARD. Cases of false returns are relegated to the courts, as well as cases of illegal elections. This is a question of an undue return, of illegality in the conduct of the election by the returning officer. It is certainly not a case of disqualification on the part of either of the candidates, and, therefore, the precedents in England have no application; on the contrary, they prove beyond doubt that we have no right to interfere in the matter. As I have said, I shall not call attention to Canadian precedents before 1873, because they have no bearing whatever. I would refer to cases decided by this House since the Statute of 1873, which, as I have already quoted, says that no election held hereafter shall be questioned, except under the provisions of this Act. The first case reported in the proceedings of this House is the Perry case, which is not quoted in the report of the sub-committee that is incorporated in the report of the Committee on Privileges and Elections upon the present case. The question in that case was whether Mr. Perry was qualified or not—whether his resignation as Speaker of the House of Assembly of Prince Edward Island had been sent in at the proper time. It was, therefore, a question of qualification. The Committee on Privileges and Elections in that case, was of opinion that the resignation was sufficient, and the House gave the seat to Mr. Perry. However, seeing that there was some doubt in the matter, the committee recommended that a Bill of Indemnity be introduced in favor of Mr. Perry, and it was introduced accordingly. The next case was that of Louis Riel, which has already been referred to by one of the speakers who preceded me. That was also a case of disqualification; and it was moved that as Riel was a fugitive from justice, having already being charged with murder, that he was disqualified from taking a seat in the House, and it was in consequence declared that he was not entitled to his seat. The third case is the Gaspé case which was

decided in 1874—not the Gaspé case which is mentioned in the report of the sub-committee, but one which is still more striking in its bearings upon the present matter. On the 20th April, 1874, it was moved that the petition of Mr. Horatio LeBouthillier praying that the return for Gaspé be amended, and that, as a matter of privilege, the name of Mr. LeBouthillier be inserted instead of the name of Louis George Harper, he being at the same time the returning officer. The Journals of the House, page 84, state:

And objection being taken to the receipt of this petition on the ground that the subject was one which should only come "under the cognizance of the courts of law, as provided by statute," the petition was refused by the Speaker.

The member for Queen's mentioned that if returning officer Dunn was allowed to proceed as he had proceeded, he might have declared himself elected. Here is a case in point in which the returning officer was a candidate, and was declared elected. He was returning officer, he allowed the clerk to proceed with the election and he became a candidate.

Mr. LANGELIER (Quebec). The returning officer did not return himself in that case. He resigned immediately at the commencement of the election and left the papers in the hands of the election clerk, and the return was made by the election clerk.

Mr. GIROUARD. Is it not true that the writ of election was addressed to himself?

Mr. LANGELIER (Quebec). Yes.

Mr. GIROUARD. And was he not then the returning officer? After the writ was addressed to himself he resigned and became a candidate, and he was declared elected. I will take the liberty of quoting somewhat at length from the opinions held by leading members of the House at that time, and as the *Hansard* was not published then I can only quote the report of the newspapers of the day, and in fact the only paper that published a complete report was the *Mail*. Mr. Palmer, at present one of the most distinguished judges of New Brunswick, says:

"He thought the election court very clearly covered the case, and it (the petition) should not be received."

Then Sir John A. Macdonald said:

"It had been ordered by Parliament that all petitions praying for election returns should go before a different tribunal, in order to take away from the House all interference in such questions. He thought that they should avoid making such a precedent, and that they should come to the understanding that any petition that should go before the judges should be refused in the first instance by the House. Such a course would relieve Parliament of a great many petitions and a great many tasks.

"Mr. Kirkpatrick said that the petition complained of the undue return, and prayed that the return might be amended. The election court was the proper tribunal to try in such cases. The House ought not to be dragged into the arena of party politics.

"Mr. Cauchon said they had their own laws with regard to contested elections, and only in extraordinary cases the House claimed jurisdiction."

Mr. LANDERKIN. Yes, extraordinary cases.

Mr. GIROUARD. It does not mean that extraordinary cases are cases such as the one now before us. The Gaspé and Victoria cases were just as extraordinary. Mr. Cauchon went on to say that he thought the petition ought to be referred to the judges.

"The Speaker said he had no precedent to guide him in deciding as to whether the petition ought to be received by the House, and, therefore, he left it entirely to the House to determine. Consideration should be given to the question in order that in the future similar petitions might not again be presented. His opinion was that the petition should not be received."

Then you have the case of Victoria, Nova Scotia, in which there was a complaint about certain irregularities in the election, and the House would not entertain the complaint. Finally we have the King's county election case, which was