

enquiry has been frustrated (I am paraphrasing the words of the Act, but I think I am not departing from the sense), and that some further enquiry is therefore necessary. I take it that in either of those two cases Parliament contemplated, in passing the Controverted Elections Act, that the hands of the Speaker should be stayed until the action of Parliament in regard to either of those questions was determined. In the first place because, if it be a case of corrupt practices having extensively prevailed, it is for Parliament to consider what remedy it will apply to that state of affairs in that constituency. It may overlook the fact that corrupt practices have extensively prevailed and order the writ to issue, as the hon. gentleman suggests it should do in this case. It may be, on the other hand, that the House will stay its hand and not order the writ to issue until a Bill has been introduced to disfranchise that constituency for a limited time, as has been done sometimes in the Imperial Parliament; or until a Royal Commission shall issue to ascertain to what extent corrupt practices have generally prevailed, in order that, if they have prevailed to an alarming extent, indicating a disposition in the county to frustrate the will of the constituency, a measure of disfranchisement may follow. So the object of having the judge report that corrupt practices have extensively prevailed may be, first, the introduction of a Bill for the disfranchising of the constituency on the judge's report, or second, the issue of a Commission of Enquiry to ascertain more fully than the judge has been able to do, in disposing of the petition which he had in hand, how far those corrupt practices have generally prevailed. In considering the report which the learned judge has sent in to this House we find, as the hon. gentleman has stated, that he has reported that corrupt practices have extensively prevailed. He has added, as the hon. gentleman has said, a rider stating that full enquiry has been made and no further enquiry is, in his opinion, necessary. I take it, that the judge's report in regard to further enquiry relates entirely to the enquiry before himself. It disposes of the second proposition put forward as an exception in the statute. The learned judge indicates that the trial of the election petition has proceeded without interruption before him, and he had all the evidence necessary to come to a conclusion, not only that the seat ought to be vacated, but to enable him to report that corrupt practices had generally prevailed at the election. But the rider which the judge has added can have no relation whatever to the enquiry which it is the right of this House to make as to how far corrupt practices have prevailed, and as to how far remedial legislation should be passed in regard to the constituency. It was entirely beyond the scope of the judge's enquiry to report in relation to any necessity for any further investigation, beyond those matters which were brought before him under the petition, and he certainly did not intend by that rider to intimate that there was no necessity for Parliament making any further enquiry, but that the writ should forthwith issue. That was a matter in reference to which he has no jurisdiction whatever, and I am sure he did not intend to suggest that. As a further illustration on the point, let me suggest to the House what the result would be of adopting, as a matter of course, the suggestion of the hon. gentleman that the writ should issue immediately on a report like this. It would entirely frustrate the operation of that portion of the section which makes exception of the case in which a judge reports that corrupt practices have generally prevailed. It would lead to this result: That when a judge reports that corrupt practices have generally prevailed, and that the enquiry before him has been conclusive as to the fact that corrupt practices have generally prevailed, that that fact is no longer in controversy, the provision of the statute that the issue of the writ shall be stayed by the report that corrupt practices have prevailed, is entirely frustrated. I do not mean

Mr. THOMPSON.

to say that the interpretation I have put forward is one that the House will adopt or the committee will adopt; but inasmuch as the statute is open to the construction and the report of the judge is a special one, I think it is but reasonable that the opinion of the Committee on Privileges and Elections, which is in the habit of advising the House on questions referred to them, should be ascertained, so that in any such case the practice may be well understood. In this instance no inconvenience has been felt. The report of the judge was received but a short time before the opening of Parliament; but cases might assume much greater importance, if, shortly after prorogation, such a report was made and action was taken without the House having an opportunity to make enquiry or apply the remedy that Parliament, I think, intended should be in the hands of the House, whenever a judge reports that corrupt practices have extensively prevailed in a constituency.

Mr. DAVIES (P.E.I.) I think the action of the House is important in establishing a precedent which may probably be hereafter acted upon. If I understand the hon. gentleman correctly, he was of the opinion that the matter should be sent to the Committee on Privileges and Elections, because there was some doubtful point of law arising in regard to the statute. I understand that such is not now his desire, and I have failed to ascertain from the speech of the Minister of Justice exactly what were the reasons for proposing to refer it to the Committee on Privileges and Elections. If the position taken was that the law was doubtful and that the House had a right to be advised by the Committee on Privileges and Elections, composed, as it is, almost entirely of lawyers, I think it was one that ought to be approved and adopted. The practice has been laid down lately by the British Parliament. I take it, that, under our statute, if a judge reports simply that there have been corrupt practices prevailing in the election, or that he has reason to believe that there have been corrupt practices prevailing, then it is the duty of those in charge of the proceedings of this House to propose, not that the House shall act on that report, for there is no evidence before it under which to act, but their duty is, and it is the practice in the British Parliament for the Attorney General to move for a Royal Commission to take evidence on the statement of the judge and report to the House, on which report a Bill is brought in to disfranchise the constituency, or other action is taken by the House. Here, if the learned judge had confined himself to reporting in compliance with the statute, that he had reason to believe that corrupt practices prevailed extensively, I take it that the hon. gentleman could not have referred it to the Elections Committee. There would have been nothing to refer. His course then would have been, in accordance with English precedents, to have moved for the issue of a Royal Commission. The House might, or might not, have assented to his proposition; that would have been a matter entirely in their discretion. In some cases they did accept the notice of the law officers of the Crown, and the Royal Commission issued. In other cases they did not accept it. The Act is, no doubt, defective in some respects, for the House had not the material to enable it to form a proper judgment. In this case I assume that both sides of the House will agree that it is important for the House to act promptly—that if an enquiry ought to be made, it should be made at an early date; and if we have anything on the record to lead us to the conclusion that an enquiry is unnecessary, we ought to have the writ issued without delay. It seems to me we have something on the record. After stating that there is reason to believe that corrupt practices have prevailed, the judge expresses the opinion that further enquiry as to whether corrupt practices have prevailed extensively is not necessary in the public interest. Well, the judge is the only person capable of forming an opinion on