

appointed that anything will come before it? If it is intended that that committee is appointed for any purpose, then I think that such a case as we have before us to-night is one that should be dealt with by that committee. Mr. Bourinot, who is considered a very high authority, mentions that committee as the first committee of the House of Commons, and says that it shall be empowered to examine and enquire into all such matters as may be referred to it by the House. But there are other things connected with this case that must be considered before giving a decision. I think we must at least assume that there is honesty in human nature, and remembering that there is provision made for the punishment of those who violate the principles of this law, we must assume if hon. gentlemen are correct, that the returning officer in this case was not only void of common sense and a disposition to do right but that he had not before his eyes any fear of the punishment which is provided for in the case of his committing a wrong. In the first place he takes an oath that he will do his duty, that he will act faithfully in that capacity, without partiality, without fear, favor or affection. Now if he violates that oath, as hon. gentlemen have assumed that he has, if he violates it wilfully he in the first place perjures himself, and in the next place he gives evidence that he is so sunk in dishonesty and vice that he is not fit to be recognised in respectable society. Now, we have not heard it claimed that he is such a character. We have not heard it claimed by any hon. gentlemen opposite that he is not a respectable man, a man who is honest in his intentions. If we assume that he is honest in his intentions and has taken that oath and believes that he has faithfully carried it out, then we have the right to assume that this is only a case of want of co-ordination in the interpretation of the law—he interpreting it in one way while others give it a different interpretation. The hon. member for South Oxford (Sir Richard Cartwright) said that this was only another evidence of what we might expect by the appointment of returning officers who were not sheriffs or registrars—in diverging from the former method of appointing sheriffs and registrars to act as returning officers. The hon. gentleman forgets that only last Parliament we dealt with a case where a sheriff was a returning officer and returned both candidates, and for so doing was dismissed from his office for the very act which they said would not have occurred in this case had this returning officer been a sheriff or registrar. If I am correctly informed the returning officer was not a lawyer but a layman. Now, what interpretation did he put on the clause which says that no payment shall be made—no advance, loan or deposit on behalf of any candidate before or during or after the election, on account of such election, except by the election agent. Now, if he interpreted the law as a layman to mean that this deposit which was made on behalf of the candidate must be made by the election agent, although he overlooked that fact at first, and in his scrutiny of the law afterwards, in the disposition to do what was fair, decided to reconsider it and held that it was the duty of the agent to make the deposit, instead of the party who had made it, I think we have the right to assume that he was honest in his intentions, in so far as his knowledge of the law went. Is it to be wondered at that we should find a difference in the interpretation of the law in such a case, when we find so much difference in its interpretation by the legal gentlemen of this House. Some of these gentlemen sitting on this side of the House give one interpretation of the law, and others sitting on the opposite side give an interpretation the very reverse; and is it, therefore, to be wondered at that this returning officer, who is not a lawyer or a judge, but only a layman, should happen to interpret the law a little differently from the best legal minds of the country. I think we should assume that the interpretation was made with the belief that he was justly

Mr. SPROULE.

interpreting the law and was honestly endeavoring to carry it out correctly. The hon. member for Northumberland (Mr. Mitchell) went on to say that the returning officer's interpretation of the law was such a crime and vice that it should be stamped out, and he wondered that any hon. gentleman should entertain the idea that this was a thing which should not be remedied by the House. The hon. gentleman seems to forget that there is a penalty attaching to the crime of the returning officer, if crime it is. The penalty is that he can be sued and five hundred dollars can be recovered from him, as well as all the damages that the candidate has sustained and all the expenses connected therewith. That is one of the penalties. The other is that he can be prosecuted for perjury, if he wilfully violates his oath, and in addition he can be sued by any individual elector within a year, and the person suing can collect the sum of two hundred dollars. Are we to suppose that he did not think of these things, that he had not these penalties in view when these proceedings were going on and that he was not endeavoring to carry out the law? It seems to me that it is assuming a great deal to say that he deliberately misinterpreted the law and allowed his political fealty to lead him to declare the candidate elected who was not the choice of the people. The hon. member for South Oxford went on to say that we were violating a principle that had heretofore existed in elections by appointing other persons than sheriffs or registrars as returning officers. I think he forgets the Algoma case. The Provincial Government of Ontario reserved to itself power to pass over sheriffs or registrars for cause. Why did they pass over the registrar and sheriff in the Algoma case? It was currently rumored in the press that it was because those men were not venal enough to carry out their wishes, and therefore they selected a man who was a stronger partisan and was willing to do their bidding. If I understand the function of Parliament, it is to make laws, and the function of courts and judges and lawyers is to interpret them; and if this case can be brought before the courts, as no doubt it can, then I think we have no right to be asked, as laymen, as lawyers, as political partisans on both sides, to give our interpretation of the law, and sit as judge and jury on this particular case. In doing that, I think we would be abrogating our functions as the makers of laws. We would not only have ourselves placed in the position of men whose political bias might warp their judgment, but whose feelings might be excited by that bias, by the rancor of debate and a hundred other influences which would never affect the judges on the bench. In view of these considerations, I think it strictly in accordance with our duty that we should send this particular case to the Committee on Privileges and Elections, which is appointed for the very purpose of dealing with such cases; and if that committee cannot decide the case, it can be taken to the courts of the country. The candidate who thinks he did not get justice has the courts of law to appeal to, and he can prosecute that officer for perjury if he has wilfully violated the law, and by these means he can obtain his rights if rights are to be got. But it is not consistent with our duty that we should take this case in hand, for in this House it is not likely to be decided in the calm, judicial spirit that would animate judges on the bench, who are not interested in seating one candidate or the other, as the political parties of this House might be expected to be.

Mr. AMYOT. I am rather surprised at the argument that because the returning officer knew the penalties attached to his wrong-doing, we must presume that he did not do the wrong intentionally. When a murderer is taken before a court we say to the jury, that man must have known that if he killed his fellow-citizen, he would be hanged. The returning officer is exposed to a penalty of \$500. When we see in some counties, I will not say by