

answer any question that may be put to him and try him for this very offence. But I ask whether the House will do anything—I am sure it will not—that is not right and just to the party. If Mr. Dunn would be prejudiced, as he must be prejudiced by being tried in a Court such as this, if the House considers itself such a court for the purpose of trying Mr. Dunn, then look at what a position he is in. The very first thing that is done with this criminal in this court, is to put questions to him as to whether he is guilty of the offence charged, and on those questions he is going to be convicted. Further than that, the very material that will come out in evidence before the House of Commons here to-night would be used against Mr. Dunn by parties outside the House to bring suits against him to make him liable to penalties under the Election Law, and he would be punished a second time for this offence. I take it then that the House should be very slow to go further in this matter unless they feel that it would be just, right and proper to do so. I wish to ask, what other object can there be in this enquiry further than to punish Mr. Dunn? The House has passed a general law to leave all these disputed elections to the courts. In this very matter it has decided by its own resolution not to interfere in the case between the sitting member and the candidate whom it is alleged should have been returned. Then, as I take it, the only other object that can possibly be reached by this investigation, is to punish Mr. Dunn. I submit very respectfully to the House that he has already been punished. He has felt, at least, the power of the House; he has been brought here from his home, a great distance away; he has been put on his trial; he has been forced to employ counsel to take these objections before the House; and I do trust, Mr. Speaker, that, under the circumstances of the case, and in reference to one point—if the House consider it well taken, that the law already provides amply for this very case, and can deal with it better in every way than the House can do—that Mr. Dunn shall be further discharged from this investigation, and be dismissed without being called upon to answer any questions.

Mr. THOMPSON. I presume after the remarks the learned counsel has made for Mr. Dunn, the House has to consider whether the question proposed by the hon. member for St. John (Mr. Weldon) should still be put. The learned counsel who has argued against the further proceeding of this case, has taken various points against the propriety of the House so proceeding. In so far as his argument has been addressed to the House as a means of persuading the House that it ought not to further consider this question, I submit that that point can be more appropriately decided at the close of the investigation, and after the House has heard the questions which it proposes to put to the person at the Bar. In so far as the learned counsel has contended that it is not in the power of the House to proceed further, I submit that the power of the House remains notwithstanding the passage of the Election Act and the penalties therein prescribed. The argument has been substantially this: That in consequence of Parliament having in the Election Act established certain penalties against Mr. Dunn, he ought thereby to be relieved entirely from the procedure and penalties which attach to a contempt of the privileges of this House. I submit that the establishment of penalties by an Act of Parliament has not that effect. Notwithstanding the general operation of the principle that a man ought not to be punished twice for the same offence, it is a well recognised principle that the enactment of various penalties sometimes has merely the effect of establishing cumulative penalties against the offender, and not substitutive penalties. The effect of that would be, in this instance, that a returning officer who offended against

a provision of the Elections Act, would be, in the first instance, liable to the public for the wrong done to the public by indictment, or by any other suitable procedure for an offence against the Elections Act; and he would, in addition to that, be liable for the pecuniary penalties which the Act declares may be recovered by any individual aggrieved, and notwithstanding the establishment of those penalties he might still be liable at the hands of Parliament for contempt committed against its privileges. I might illustrate my view of this question by changing for a moment the offence for which the person at the Bar is charged, by supposing it was a case of libel, in order to give an illustration more familiar to the House. Assuming that you, Mr. Speaker, or any individual member of this House acting as such, had been libelled, it would be quite clear that the offender would be liable, first, to criminal prosecution for libel; second, to a civil suit at the instance of the person aggrieved; and, third, the offender could be summoned for contempt against the privileges of this House. Under these circumstances I, as one member of this House, entertain this view: that this House should persevere in the question proposed; and I only presume to express these opinions now because it may be convenient on both sides of the House, according as questions of law arise, that those conversant with such questions should express their opinions, and consequently lead the House more clearly to a decision.

Mr. WELDON (St. John). I think the opinions expressed by the Minister of Justice are in accordance with the law and the precedents which were presented before the Committee on Privileges and Elections. We are not trying Mr. Dunn at the Bar for penalties, but he is here simply for the purpose of interrogating him with respect to matters connected with the privileges of this House, and I fail to see that by the statute respecting election trials this House has divested itself of its ancient rights and privileges in that respect. While the judges are entrusted with the power of trying election petitions, a power conferred on them by Parliament, Parliament has not divested itself of the right to investigate into any subject. We find not only by the cases referred to before the Committee on Elections which are on the Journals of the House, but we are also aware that in many cases to which the learned counsel has alluded the House of Commons of England has investigated election matters ever since the Election Act came into force. The person at the Bar is not being cited on any criminal charge. That is a fallacy on the part of the counsel. The House of Commons has considered that this is a subject of public importance and public policy, and that explanation should take place, and for such purpose as subsequently this House may determine; and for that purpose they have required Mr. Dunn, the returning officer for Queen's county, to attend at the Bar for the purpose of giving explanation as to certain matters. With respect to the argument of the learned counsel that the Independence of Parliament Act takes away the right of the House to deal with this matter, I have only to say that the answer to that argument is furnished by the case of Sir Sydney Waterlow. In the case of Sir Sydney Waterlow, who sat for Dumfries, and the cases referred to in the report of the sub-committee, although the petition against him was abandoned in the Court of Sessions in Scotland, yet afterwards the House of Commons took it up and referred it to a select committee, and that committee reported that Sir Sydney Waterlow was disqualified to sit in the House. This goes to show that the power to investigate the question remains. In this case Mr. Dunn stands here as a witness, as a servant and officer of this House, for the purpose of offering explanations to this House for its information with respect, not merely to what took place in that particular election, but with regard to the public