on chap. 40 of the Statutes of 1873, by which he claims that the Acts of 1872-73 are in force in Prince Edward Island. With regard to that, I merely have to say that this Act was passed 23rd May, and before Prince Edward Island came into this Union. Therefore, I say these Statutes are not binding. The people of Prince Edward Island never had a voice or share in making them—never had an opportunity of expressing their approval or otherwise of those laws; and there is no principle by which a law shall be imposed on a people without their consent. I contend, therefore, that so far as the people of Prince Edward Island are concerned, those laws have no binding force. But even assuming these laws to be in force, the law of 1872 was abrogated and repealed by the law of 1874. There is no doubt but that the hon. member for Sherbrooke has, to a certain extent, correctly laid down the law with regard to repealed Statutes, but I think the rules are more explicitly laid down in Hardcastle's "Rules of Statutory Law," which is probably the latest work on the subject, and in which are laid down certain definite rules fortified by authorities. The very first case cited is that referred to by the hon. member for Sherbrooke, and I will read the rule in that case from Hardcastle's work, page 169:

"The second general rule laid down in Dr. Foster's case, 11 Rep. 61, with regard to the effect of a subsequent upon a prior Statute is, that when two Statutes, although both are expressed in affirmative language, are contrary in matter the latter abrogates the former. 'The said rule,' says Lord Coke, 'that *leges posteriores priores abrogant* was well agreed, but as to this purpose *contrarium est multiplex, scil.* if one is an express and material negative, and the last is an express and material affirmative, or if the first affirmative and the latter negative. 2. In matter, although both are affirmative, as by the Statute of 33 Hen. VIII. c. 23, it is enacted that 'if any person being examined before the King's council . . . . shall confess any treason . . . . he shall be tried in any county where the King pleases, by his commission'; and afterwards another law was made, 1 & 2 P. & M. c. 10, in these words, 'that all trials hereafter to be had for any treason, shall be had according to the course of the common law, and not otherwise'; this latter Act (although the latter words had not been) hath abrogated the former, because they are contrary in matter; but it doth not abrogate the Statute of 35 Hen. VIII. c. 2, of trial of treason beyond the seas, notwithstanding the negative words, because it was not contrary in matter, for that was not triable by the common law.

"This second general rule is often somewhat difficult in its application, because on every occasion when it is proposed to apply the rule the question will arise whether the two Statutes in question are actually or only apparently inconsistent with one another. 'I do not think,' said Grove, J., in Hill *vs.* Hall, L. R. 1 Ex. D. 414, 'that a mere accidental inconsistency between two Statutes amounts to a total repeal of the earlier; such a doctrine might be pushed to a mischievous extent.' 'What words,' said Dr. Lushington in the India, 33 L. J. Adm. 193, 'will establish a repeal by implication it is impossible to say from authority or decided cases. If, on the one hand, the general presumption must be against such a repeal on the ground that the intention to repeal, if any had existed, would have been declared in express terms, so, on the other hand, it is not necessary that any express reference be made to the Statute which it is intended to repeal. The prior Statute would, I conceive, be repealed by implication if its provisions were wholly incompatible with a subsequent one; or if the two Statutes together would lead to wholly absurd consequences; or if the entire subject-matter were taken away by the subsequent Statute. Perhaps the most difficult case for consideration is where the subject-matter has been so dealt with in subsequent Statutes that according to all ordinary reasoning, the particular provision in the prior Statutes could not have been intended to subsist, and yet, if it were left subsisting, no palpable absurdity would have been occasioned.' It must therefore always be a question for the court to decide whether this second rule is applicable or not, and in coming to a decision on this point it may be well to bear in mind that (as Lord Langdale, M.R. observed in Dean of Ely *vs.* Bliss, 5 Beav. 374) 'every Act must be considered with reference to the state of the law when it came into operation. Every Act is made either for the purpose of making a change in the law or for the purpose of better declaring the law, and its operation is not to be impeded by the mere fact that it is inconsistent with some previous enactment.'

"For this rule it follows that if one Statute enacts something in general terms, and afterwards another Statute is passed on the same subject, which, although expressed in affirmative language, introduces special conditions or restrictions, the subsequent Statute will usually be considered as repealing by implication the former one. for, as Eyres, J., said in Harcourt *vs.* Fox, 1 Shower, 520, 'affirmative Statutes introductive of a new law do imply a negative." Thus in *Ex parte* Carruthers, 9 East, 44, it appeared that 13 Geo II. c. 28, s 5, exempted from the impress service any harpooner or seaman in the Greenland trade, but 26 Geo. III. c. 41, s. 17, enacted that 'no harpooner whose name shall be inserted in a list shall be impressed,' and it was held that this subsequent Statute repealed by implication the general provision of the former Statute by requiring something special to be done."

On page 176 he says:

"But if a special enactment, whether it be in a public or private Act, and a subsequent General Act, are absolutely repugnant and inconsistent with one another, the courts have no alternative but to declare the prior enactment repealed by the subsequent General Act. Thus in Bramston *vs.* Colchester 6 E. and B. 246, it was held that the provisions of a Local Act under which certain arrangements had been made for maintaining borough prisoners in county gaols were repealed by the General Prison Act of 5 and 6 Vic. c. 93, s. 18, 'for' said Lord Campbell, C. J., 'I think it was the intention of the Legislature to sweep away all local peculiarities, though sanctioned by Special Acts, and to establish one uniform system except an so far as there are express exceptions. And Wightman, J., added 'it was intended to make one general law superceding all local laws as to prisons and repealing all Local Acts.' And in Duncan *vs.* Scottish N. E. Ry., L. R. 2, S. A. 20, it was held that the exemption from liability to pay rates which was conferred on the defendant railway company by the Special Acts under which it was made was taken away by the subsequent Poor Law Amendment Act, because, as Lord Westbury said, 'the rule given by this Poor Law Act is wholly inconsistent with the exemption contained in the company's Special Acts."

These principles we propose to apply to the law of 1872, because that is the law on which the report is made, and it is thoroughly inconsistent with the provisions of the Act of 1874. What was the state of the law in 1872? There was then no general law for the regulation of elections throughout the Dominion, but it was provided by the Election Act that the local laws of the different Provinces should govern elections. In 1874 a change was made, and a uniform law regulating elections generally throughout the Dominion was passed. Before calling the attention of the House to the words of the Act of 1872, referred to by the hon. member for Sherbrooke, I wish to explain the spirit and meaning of the Act of 1874 by comparing it with the corresponding English Act. Our Act of 1874 is based, to a large extent, on the provisions of the Election Act of 1868 in England, and whenever a change takes place we have a fair right to assume that this Parliament, in the exercise of its wisdom, felt that the change was more adapted to our Constitution than the strict following of the provisions of the English Act would be. One important difference was this: that in the English Act the returning officer counts the ballots, and is given certain judicial functions with regard to the question of ballots. It is not on the deputy returning officers, but on the returning officers that are cast the responsibilities with regard to the ballots. Our Legislature, for some particular reason, altered that, and they also altered the arrangements with regard to the nomination. The spirit and meaning of the Act of 1874 was that no discretion should be left to the returning officer after the nomination had been made. It has been strongly urged that under the Act of 1874 the returning officer had judicial functions, and the decision of Chief Justice Wilson in the case of Bannerman *vs.* McDougall, known as the South Renfrew case, has been cited in support of that contention. But that judgment was confined strictly to the position of the returning officer at the time of the nomination. All the language of the Chief Justice about the judicial functions of the returning officer applies to him in his capacity of receiving the nomination. The facts of the case were that the returning officer in that case, in the exercise of his discretion, rejected the petitioner's nomination paper on the ground that one of the twenty-five was not qualified, and then returned the respondent as duly elected. On the case coming before Chief Justice Wilson, he put forward that the returning officer has, so far as he is concerned, judicial as well as ministerial powers, and that he would have the right to reject the nomination, as he states there, of a woman or of any other disqualified person. No doubt that is entirely within the purview of the law, and the whole object of the Act of 1874 is to give to the returning officer at the time of the nomination power to reject a person who is not