

"That the deposit made with Mr. King's nomination paper had not been legally made, since it was not made by his election agent."

The returning officer sustained that objection, declared all Mr. King's votes void and null, and returned Mr. Baird elected, stating in his report that no other candidate had been properly nominated. The nomination papers were admittedly all right. The consent of the candidate was put in, the money was paid to the returning officer accompanying the nomination paper, the returning officer accepted this deposit and acted upon it on the very day it was paid by granting a poll, and no objection was raised until the 5th of March, long after the polling had taken place. The law of course says the deposit should be paid to the returning officer; it does not say by whom in any of the provisions relating to the nomination proceedings. The words "agent" or "election agent" are not mentioned in any one of the sections relating to the nomination of candidates. Those sections are from the 19th to the 22nd section of the Act of 1874. Election agents are not referred to until section 121, at the end of the Act. I contend that the law is literally and fully complied with when, in the words of the Act, the sum of \$200 is deposited in the hands of the returning officer at the time the nomination paper shall be filed. As a matter of fact, when we come to read anything in the Act about the agent or the election agent, we find that the law does not require him to be appointed until nomination day, and he need not even be appointed on nomination day. The law provides that the nomination paper and the deposit with it may be filed at any time after the proclamation. Is it reasonable for the returning officer to claim that the agent should make that deposit with him when the agent need not be appointed for days after the deposit may have been made? Again, the nomination, we know, may, under the provisions of the Act, proceed legally and validly, if the candidate is away from the Dominion altogether. He need not be here when the nomination is made, and need not give his consent in writing; and if the nomination is made during his absence, it is so stated in the nomination paper. It would be impossible for a candidate, under the provisions of the Act, who was absent—as, for instance, in the case of the opponent of the First Minister in Kingston—to be nominated, if on nomination day, when the deposit had to be made, it had to be made by his election agent. That election agent may not then be appointed. No absent candidate should be made ineligible through such a strained and forced interpretation of the law. I can see now from the argument of the hon. member for Picton what I had before supposed, that this returning officer had got into his head that among the provisions as to election expenses in the Act, he could find some excuse for the requirement that this deposit must be made with him by the agent. Section 121 of the Act, under the heading of election expenses, provides: "No payment (except in respect of the personal expenses of a candidate), and no advance, loan or deposit, shall be made, except through the election agent." That appears to be the ground upon which the returning officer undertakes to give a decision he has no authority to give. But surely this deposit must be some loan, deposit or advance in connection with election expenditure. Can any one contend that the deposit of \$200 handed in with the nomination paper on nomination day can be held to be part of election expenses covered by this section? Why, it is paid back. Every hon. member in the House, and most of the candidates out of the House, have received their \$200 back, and how can that amount therefore be included in election expenses? Later on we are told that these agents must include all their election expenses in certain particulars filed with the public officer. I would like to ask how many members of this House have included the \$200 deposit made with the returning officer on nomination day in their election expenses? Not one. That has

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nothing to do with the election expenses. It has been useful to them to get it back to meet election expenses, but it was not election expenses, and therefore the idea that the provisions in this Act with reference to agents paying election expenses should have any connection with the deposit made on nomination day, under the nomination section in the beginning of the Act, seems perfectly frivolous and absurd. What are election agents appointed for? Do we not know why they were appointed in England? They are appointed to guard against corrupt practices, as far as the law can. If we are required to know what election agents are appointed for, we have it laid down in a recent case by an English judge. Referring to the English Act, the Act of 1883, in which these very words, with reference to election agents, were used, for we find it there provided that no payments, advances or deposit shall be made except through election agents, Mr. Justice Field, in the *Barrow-in-Furness* case, 4 *O'Malley and Harcastle*, page 82, says:

"If I understand the Act rightly, the object is that a person shall be the election agent who shall be responsible for all the acts done in directing the election. No contract is to be made but by him, because he is a known responsible man who can be dealt with afterwards and looked to afterwards for an explanation of his conduct in the management of the election."

Can any explanation be ever asked from the candidate as to any corrupt or illegal design he may have in depositing the \$200 with the returning officer? Can any such explanation be asked of an election agent? It is absurd. Therefore, the election agents, neither by the terms of the Act nor by the whole scope of the Act, can have anything to do with making this deposit to the returning officer. They may, as they very often do, make it for the sake of convenience, but they may not, and, as hon. gentlemen know very well, they have not done so in many of their own cases, and a large proportion of the members of this House have the same defect as Mr. King in this respect. The returning officer, I contend, has violated the Act in the first place, in assuming these judicial functions. His duty was otherwise than to have interfered in this matter at all. The evidence is now before the House that he committed this breach of duty, and I hope this House will, as the hon. gentlemen who have spoken before me have said, try and look at it in a judicial spirit; because it is creating an important precedent, and I am sure that the majority of the members of this House and the majority of the electors of this country do not want these election matters conducted in a spirit of hair-splitting and under the direction of a committee of lawyers, whose tendency—and I am a lawyer myself—is to be more technical than laymen, and I do think that this House should not be anxious, when a simple matter that they can all understand just as well as any lawyer, comes before them as this has been done for their consideration, to delay justice and to continue wrong any longer by sending it to the Committee on Privileges and Elections, because, if Mr. Baird is right, it will be continuing a wrong against him to delay a settlement of the question, and if Mr. King is right, it will be continuing a still greater wrong against him, and against the electors, by delaying the settlement of the question as it is proposed to do by the Minister of Justice.

Mr. LANDRY. In speaking upon this question, one cannot forget that perhaps the popular side of the question would be that of speaking on behalf of the candidate who received the larger number of votes. In speaking of the popular side, I do not mean to apply that expression in regard to members of this House, but I mean it in regard to the people in the country generally. But, while that may be admitted, yet upon this question the very people with whom it might be popular, just on the broad proposition as to who should be returned, the one receiving the majority or the one receiving the minority of votes, to sympathise with the one who had the majority of votes,