

The general rule which is followed, and which is a matter of equity, is, that as soon as a vacancy occurs in the representation of the House, Mr. Speaker is to issue his warrant at once for a new election. The aim is to provide that no interregnum shall occur in the representation of this House. There is, however, an exception to this, and it is the only exception, so far as I am aware. If the vacancy occurs after the judgment of a court, and if the judge who has tried the petition, reports to the House that in his opinion there is cause to believe that extensive bribery and corrupt practices have prevailed, or that the enquiry has been rendered incomplete by the action of any of the parties to the petition, or that a further enquiry be desirable as to whether corrupt practices have extensively prevailed, then, in such a case, the Speaker has to withhold the issuing of a writ, and to await the action of the House, and under such circumstances the House alone is to order the issue of a new writ. Now, what is the reason of this exception? It is to be found in the subsequent Act, which is the "Act respecting enquiries into corrupt practices at Elections of Members of the House of Commons." This Act provides that whenever such a report as I have mentioned is made by a judge, that is to say, when a judge reports that, in his opinion, there have been extensive corrupt practices, or that the enquiry has been incomplete, and that it is desirable to have a further enquiry into the matter, then, upon an address, a Commission may issue further to investigate the matter, further to ascertain how far corrupt practices may have prevailed, and how far the electorate of the county has been affected by corruption, in order that the House, with the evidence before it, may judge whether extraordinary measures are necessitated. Now, in this case, it seems to me that the report made by the judge precludes the House from making any further enquiry. Now, although this matter may be, to a certain extent, left to the discretion of the House, although the statute does not say that, as soon as the judge has made such a report, the Commission is to issue, but the House itself is to say whether the Commission is to issue or not. Under all these circumstances great weight is to be attached to the opinion of the judge. So far as I have observed, whenever a judge has made such a report, if he made it simply in the language of the statute, adding nothing further, I would be disposed, for my part, to take the ruling of the judge and to say that under such circumstances the law and justice would be met by issuing a Commission just to ascertain how far corrupt practices have prevailed. But in this case the judge seems to have made a special report. He not only reported in the language of the statute, but he went beyond the language of the statute. The report made by the judge says:

"There is reason to believe that corrupt practices have prevailed extensively at the said election. I am not, however, of opinion (so far as I can form an opinion from anything which came before me on the trial) that the enquiry into the circumstances of the election has been rendered incomplete by the action of any of the parties to the petition, or that further enquiry as to whether corrupt practices have prevailed extensively is desirable, by which term I understand, likely to prove useful or effectual."

Now, it seems to me that in adding these words the judge has precluded that matter from going further, that is to say, his opinion can be accepted by this House and ought to be accepted by this House. He went further than the statute goes. I can understand that there might be some difficulty in the construction of this statute. It is not perhaps framed as happily as it might have been. These words added: "or that further enquiry as to whether corrupt practices have prevailed, is desirable," whether those terms apply only to a case when an enquiry has been prevented by the action of the parties, or whether they will also apply to this statute, that might perhaps be a subject for a argument and contention. But in this case, I think there is no ground for question. The

judge states that in this case, according to his opinion, not only further enquiry is not desirable, but he goes further and says that he does not believe that further enquiry would prove useful or effectual. Well, if in the opinion of the judge who tried the case, that there is no reason for further enquiry, that it would prove useless or ineffectual, I do not see that the House ought to go any further and order a new enquiry. The reference which was made by the right hon. gentleman was to ascertain whether, according to the terms of the statute, a Commission should issue. Now, if the writ is not to issue at present, if it is to be suspended, what can be the reason? Why should we delay the issuing of a writ and leave the county unrepresented, unless there is reason to suppose that a further enquiry may be necessary, in order to ascertain whether any extraordinary measure should be taken? But since the judge says that in his opinion no further enquiry is necessary, that it would prove useless and ineffectual, I think that under such circumstances we should accept his ruling and say that the writ shall issue, and that the county shall not be left unrepresented. We must remember that the judge said he had found certain parties guilty and had punished them, and that, after having exhausted the matter, he advises the House that it would be better to leave the matter where it is and to issue a new writ. We must remember that the judge has had this matter in hand, the trial seems to have been exhausted, nothing seems to have been left undone, all the circumstances must have been considered, the guilty parties seem to have been brought before him, and having all the facts and parties before him he says that, in his opinion, there is no occasion to go any further. I believe under such circumstances, were it not for the rider which the judge himself has placed in his report, I would be disposed to agree with the right hon. gentleman; but as there is such a rider the law may be allowed to take its course and the Speaker order the issue of the writ. If that rider were not in the report I would be glad to have agreed to the course suggested by the hon. gentleman, but as it is inserted there by the judge himself, the matter seems to be determined and a writ might issue at once without any further enquiry.

Mr. THOMPSON. I think the hon. gentleman, in discussing this question has to some extent misapprehended the reasons on which the motion has been founded. I think the hon. gentleman has been discussing it as if it were founded on a view of the practice in this case—as if it were proposed that the Committee on Privileges and Elections should be asked to consider the merits of this case of the riding of West Kent alone, and what should be done in regard to it. I think the object of the proposed reference to the Committee on Privileges and Elections is somewhat wider than that. If it is not the first time this question has arisen, it is on very rare occasions that such a question does arise, and it is most important that Parliament should settle once for all what should be done when judges make a report like this in regard to the prevalence of corrupt practices at elections, and with this view the matter should be referred to the Committee on Privileges and Elections. I take a somewhat different view from the hon. gentleman, and without at all prejudging the conclusion which may be arrived at by the Committee on Privileges, I may put that view forward for the present as indicating what may be suggested in opposition to the hon. gentleman's line of argument, and it is this: The statute provides—and the hon. gentleman will indulge me in quoting it, because I am stating it from memory, and am only referring to those parts of the statute which may be pertinent to the present discussion—that when a judge reports the seat vacant, a writ may issue on the Speaker's warrant, except in two cases. One is the case in which a judge makes a report that corrupt practices have generally prevailed, and the other is the case in which he reports that