

Mr. Mills also contended that, while Parliament had relegated to the courts the power of trying cases of contested elections, they had parted with no more of their own power of controlling all matters in which their privileges were concerned than was defined by the express words of the statute; that therefore the county judge, in making a recount, was a Parliamentary, and not a judicial, officer, and a court of law had no power of interference; and that therefore the action of Mr. Justice Tuck, in granting a writ prohibiting him from further proceeding, was a violation of the privileges of Parliament.

Upon the first point taken by Mr. Mills the opinion of Lord Palmerston, cited by Mr. Davin, may be given as one of the highest Parliamentary authorities:

"He would not attempt to lay down on the present occasion the functions of the House of Commons, but it was at all times desirable that they should not press these functions to their extreme confines in cases on which doubt might arise, whether they were not transgressing the limits assigned to them by the constitution. Now, an interference in the administration of justice was certainly not one of the purposes for which the House of Commons was constituted. He thought nothing could be more injurious to the administration of justice than that the House of Commons should take upon itself the duties of a court of review of the proceedings of the ordinary courts of law, because it must be plain to the commonest understanding that they were totally incompetent to the discharge of such functions. Even supposing they were fitted for them in other respects, they had no means of obtaining evidence, and taking those measures and precautions by which alone the very ablest men could avoid error. Cases of abuse in the administration of the law might arise, it was true—cases of such gross perversion of the law, either by intention, corruption, or by incapacity, as to make it necessary for the House of Commons to exercise the power vested in it of addressing the Crown for the removal of the judge; but in the present case his honourable and learned friend could not single out any individual judge with regard to whom his observations principally applied as having acted in his sole and single capacity in pronouncing the judgment of which he complained."

Mr. McCarthy, in concluding the debate, pointed out that no