

from him and conferred on Mr. Baird, by the vote of this House, if they are not willing to elect a man who is not now a member of this House, then they will vote for the simple statements of facts contained in the resolution of the hon. member for Queen's, P. E. I. (Mr. Davies)—facts no doubt in which they all believe—and in so doing they will save themselves and this House from a great degradation. The Minister of Justice made one other point which I shall notice, and that was with reference to the Committee on Privileges and Elections. He said that that committee stood in the same relation to this House that a man's counsel stood to himself, and that that committee was always consulted in matters of this kind. Well, it is not always consulted in matters of privilege, because as we know very well, such questions are frequently decided without reference to the committee at all. Nine years ago the hon. Minister of Customs moved that Mr. Anglin's seat should be disposed of, that his seat should be declared vacant, without any reference to the committee, without any reference to this alleged counsel of the House, and it was on my own motion that the matter was referred to the Committee on Privileges and Elections, instead of being decided summarily by this House at the demand of the Minister of Customs, backed up in very violent language by the present leader of the Government, in the Session of 1878. If the Minister of Justice had been here, or if somebody had told him of that case, he could not have assured the House that it was the universal custom to refer these matters to the Committee on Privileges and Elections, because his own leader and one of the deputy leaders of his party on that occasion did their best to induce us to decide a question affecting a member's seat without sending it to the committee at all. It does not follow that the decision of the committee shall rule with this House. They are only a committee of this House, composed of part of the members of this House; they are not a counsel, and if they have taken cognisance of this matter so also has the House taken cognisance of it. The argument of the Minister of Justice that he was consistent in referring this matter to the Committee on Privileges and Elections, after arguing that we had no jurisdiction, is done away with by the fact that the committee is part of the House. That committee has taken cognisance of the case, they have given an opinion upon it, and, therefore, on the motion of the Minister of Justice, it has been decided that we have power to decide the matter, and on that ground, I think, the question of jurisdiction is settled. I can only hope, in conclusion, that the simple statement of facts to this House will prevail, and that, however heated or excited we may be in discussing the matter, when it comes to a vote hon. members will remember that they are voting on their honor as members of this House, not upon a legal or technical question, but upon a vital matter which involves the whole question of our constitution as a representative body, and the whole question of our rights and dignity as the Parliament of Canada:

Mr. O'BRIEN. If the question before the House were simply a question of whether or not the returning officer for Queen's county, N.B., was to be censured for the part he took in that election, then I for one would vote heartily in favor of a resolution declaring that his conduct was contrary to law, contrary to common sense, and contrary to all that should have guided him in the duties of his office. Now, I do not admit that the returning officer has no judicial functions, as stated by the last speaker, because I think it is impossible for a gentleman to occupy the position of returning officer, and to perform the multifarious and various duties of that position as a mere machine. I think he must *ex necessitate* have more or less of judicial functions; but I think that, in this particular case, there can be no doubt—I have no doubt myself, at any rate—that the returning officer was entirely wrong in the course he took. I

think, in the first place, that having accepted the nomination papers of both candidates, having accepted the deposit from Mr. King, it did not lie in his mouth at any rate to become a party to any such proposition as that he had done wrong in so doing, and that the deposit ought to have been made by an election agent. More than that, I cannot see, from a careful consideration of the statute, that that deposit, made on behalf of the candidate or by the candidate at the time of his election, is to be considered at all in the same light as election expenses; there is nothing whatever in that statute that I can find to justify the contention that the deposit ought to be made by the agent for the candidate. If you look at the marginal note it clearly indicates what was the intention of the Legislature in passing that clause, for it is stated there that it distinctly refers to the payment as to be made by the candidate himself, and it seems contrary to common sense to suppose that the deposit made for the purpose of covering election expenses, in case the candidate should fail to comply with certain conditions, should be regarded in the same light as election expenses, incurred during the progress of an election, by the candidate himself. I think they stand upon entirely different grounds; I think it is contrary to common sense, as well as to the meaning of the statute, to suppose that the two stand on the same footing, or that the returning officer has any right to consider the deposit made at the time of the election in the same light as the election expenses incurred by the candidate during the period of the contest, which he is required by law to make solely and entirely through the election agent. So far as that is concerned, I have no doubt in my mind that the returning officer was entirely wrong; and after having, in the first place, accepted the nomination paper, after having accepted the deposit, after having given a receipt for it, after declaring that a poll was to be held, I think, whatever his motive may have been, whatever advice he may have acted upon, he was estopped from listening to a proposition such as that which apparently actuated him in the last instance, in declaring that the nomination was illegally made, and that, therefore, he was justified in returning the member who now sits for the county. I think the view that the candidate, or any one in his behalf, has a right to make the deposit has been acted upon by many of the members now sitting in this House. So far as that is concerned, I think there is no justification for the course taken by the returning officer. Judging by his evidence given the other day, I am not prepared to say that he acted from any other than conscientious motives, or a conscientious desire to do his duty, but at the same time I think he was mistaken. I must confess, however, that I was surprised—although, perhaps, such a course would not be in accordance with parliamentary precedent—that hon. gentlemen opposite who had brought him here, who had loaded him with epithets of opprobrium, who had charged him with criminality, who had exhausted upon him the language of vituperation, should not have censured him in any way after they had brought him to the Bar of the House. The motion of the hon. member for St. John (Mr. Weldon) is of a two-fold character. In the first place it proposes to set aside the recommendation of the Committee on Privileges and Elections, and, in the second place, it pronounces a censure upon the returning officer for the county. As regards the second part of the proposition I have already expressed my opinion, and I think there is no doubt that the view I take of that is correct. But with regard to the first part of the proposition, I am just as much at variance with the hon. member for St. John as I am in accord with him on the second part. I think the Committee on Privileges and Elections was justified in adhering steadfastly to the proposition that all matters connected with controverted elections, all disputes as to elections, and all questions as to who shall and who