

his resignation to two members of the House of Assembly. Any time between the Sessions of the House, when no Speaker, a member can resign in that way without limitation. On the 12th of June, 1882, Dr. Robertson sent his resignation to two members of the Local Legislature, and he complied with the requirements of the law as stated in the fifteenth section of the Act. What beyond that had he to do? Nothing. His duty was simply to place that resignation in the hands of these gentlemen, and their duty was to forward it to the Lieutenant-Governor. The duty of forwarding it did not devolve upon him. The object of the Act was to prevent disfranchisement, and therefore the law imposed on these two members the duty of forwarding the resignation forthwith to the Lieutenant-Governor. The hon. gentleman has put forward the insinuation that in this case these gentlemen may have acted as they did for a sinister object; but if that hon. gentleman or his friends thought they could prove that why did they not examine and cross-examine Mr. Robertson on that subject when he was in the hands of such able examiners as the hon. member for North Simcoe (Mr. McCarthy), and the hon. member for North Victoria (Mr. Cameron). If they had any doubt as to the *bona fides* of this question why did they refrain from such an examination instead of coming here behind his back and insinuating that it was for sinister purposes. The evidence before the House shows most conclusively that so far as Dr. Robertson is concerned he acted in good faith. It is quite evident that the seven men who signed the papers knew the facts just as well before the 13th of June as afterwards, but they waited to see the result of the Election, and when Dr. Robertson was returned they then made their declaration. How did Dr. Robertson act under the circumstances? Did he not act as any man would who discovered that a trap had been laid for him. On the 29th of June he wrote a letter to the Lieutenant-Governor stating that he had been made aware that a protest was filed against him, and adding the following words:—

"I deem it due to myself to inform your Honor, that I did, the day before nomination day for the Dominion Election, duly resign my seat in the Local Legislature, by delivering my written resignation, in proper form, to Malcolm McFadyen, Esq., and Dr. Peter McLaren, members of the House of Assembly, for the 4th and 3rd Districts of King's County, respectively.

"I presume the reason your Honor has not received notice from them of my resignation has been owing to the almost continuous absence from the Island since then of Mr. McFadyen."

If the hon. member for Sherbrooke (Mr. Hall) doubted whether or not that letter was true, why did he not seek to prove it by evidence in the Committee, for since no evidence has been given to weaken that letter, it must stand in support of the good faith of Dr. Robertson. I think, in arguing an important case like this, it is unworthy of any hon. gentleman to put forward such insinuations when the evidence proves it to be utterly unfounded. Another point which has been ignored in the report of the Committee, as well as by the hon. member for Sherbrooke, is the proceedings that were taken by men who were more conversant with the law than we are—I mean the officers of the Crown in Prince Edward Island. On the 12th of June Dr. Robertson performed an act, which, if it had any force at all, was a tender of his resignation as a member of the House. The Statute says that the person so tendering his resignation vacates his seat. I do not want any astute lawyer to construe these words to mean that he must wait until certain acts are done. Is he to remain a member until the two members send the notice to the Lieutenant Governor? The hon. member for Sherbrooke says that must be done. But why not carry the argument further, and say that the Clerk of the Crown in Chancery must issue the writ, and the Sheriff must make his return? The law declares plainly that when a man places his resignation in the hands of two members, he tenders his resignation. I am fortified in that position by the opinion given by the law officers of the Crown

on the Island on the subject; and I cite their opinion the more confidently, because they are not in political accord with Dr. Robertson, but with hon. gentlemen opposite. What does Attorney General Sullivan say? On the 3rd of July, on receipt of Dr. Robertson's letter, he writes to Messrs. Malcolm McFadyen, and Peter McLaren, as follows:—

"His Honor the Lieut.-Governor has placed in my hands a communication, dated 29th ultimo, from Mr. James E. Robertson, calling the attention of His Honor to the circumstance that Mr. Robertson 'duly resigned' his 'seat in the Local Legislature' on the 12th of June last 'by delivering' his 'written resignation in proper form to Malcolm McFadyen, Esq., and Dr. Peter McLaren, members of the House of Assembly for the 4th and 3rd Districts of King's County respectively.'"

"The law authorizing a member to deliver to two members a declaration of his intention to resign his seat requires that 'such two members upon receiving such declaration shall forthwith notify the Lieutenant-Governor thereof under their hands and seals.'"

"His Honor the Lieutenant-Governor has to-day informed me that he has not yet received from you the notification required by law, and I write you to direct your attention to the matter by pointing out to you that it is your duty to comply with the law, otherwise you shall be liable to punishment for its breach."

The breach of duty was not on the part of James Edwin Robertson, but on the part of Messrs. McFadyen and McLaren. Dr. Robertson's duty was done on the 12th of June. So we have this peculiar anomaly—that in Prince Edward Island the law officers of the Crown have declared the seat vacant and have filled it up, and here a majority of men of the same political opinions declare the contrary—in one case, filling up Dr. Robertson's place by a new election, and in the other case giving the seat to the minority candidate of King's County. Now, the hon. member says that by the law of 1872—and the report takes the same position—the returning officer was bound to throw away the votes. It would seem to me, considering the number of returning officers in this country, and the position they occupy, that it would be a terrible thing if our laws were so weak that in a case so complicated as this, in which the members of the legal profession in this House have widely differed, the returning officers should be allowed to decide the law, as the returning officer has done in this case, and thereby disfranchise the people of the district in question. If the candidate has been duly nominated, if the electors have been duly notified and cautioned that if they vote for that candidate, and he is disqualified, their votes are thrown away, then the case can be adjudicated upon in the courts. But with this exception, I can find no case since the days of Wilkes and Luttrell in which the minority candidate has sat in Parliament. The position of the returning officer is, after all, the most important question affecting the House and its members which this case brings up. What I contend is, that by the Act of 1874, the exercise of discretion was entirely taken away from the returning officer, and his duty is simply ministerial—to return the candidate who has received the majority of votes. I think it might be well, however, first to call attention to the relation of Prince Edward Island to this Union. As hon. members are aware, Prince Edward Island was not one of the original members of this Confederation, but provision was made in the British North America Act for the admission of the Island on certain terms. Nearly six years had elapsed after the time of the Union before any attempts were made to carry out the terms upon which that Province should become a part of Confederation. On the 20th of May, 1873, the House of Commons and the Senate of this Dominion passed resolutions as a basis of Union for Prince Edward Island and the Dominion; and on the 28th of May, the two Houses in Prince Edward Island passed an Address to the Crown, praying Her Majesty to consummate the Union on the terms mentioned in those resolutions. Accordingly, on the 26th of June, 1873, the Order in Council was passed making Prince Edward Island part of Canada. Now, great stress has been laid by the hon. member for Sherbrooke