

an endless verbosity of words, and I do not think that on either side they have shed much light upon the subject—certainly they have not changed my mind. I think that the conduct of the returning officer for the county of Queens, N.B., was the greatest outrage in connection with elections in Canada that has come to public knowledge for thirty years, and I think this House would only be consulting its own dignity if it summoned that man to the bar of the House and compelled him to correct his return, and to seat the gentleman who received the majority of votes. I am not going into any lengthy legal argument, but I say it is palpable to any man of common sense—and there is a common sense, and a sense of natural justice that will override all these legal quibbles in the minds of the people of this country—it is a matter of common sense that when the returning officer accepted that \$200 and allowed that election to go on until the day of declaration and summed up the vote, he should have ignored any petty technicality, if any such existed, and have seated the candidate who received the majority of votes. In our Act of 1874 for the trial of controverted elections it is provided that :

“ All elections held after the passing of this Act shall be subject to the provisions thereof, and shall not be questioned otherwise than in accordance therewith.”

The returning officer was only an executive officer on the day of declaration. He was not acting in a judicial capacity, and when this petty technical objection occurred, if it was an objection, he was out of his function in acting in a judicial capacity on the day of declaration, and the Controverted Elections Act provided how that should have been dealt with. For my part, I do not think this House ought to refer this to a committee. I intend to vote against referring it to a committee.

Some hon. MEMBERS. Hear, hear.

Mr. POPE. I congratulate you on the cheers of your Grit friends.

Mr. PATTERSON (Essex). I do not want the cheers of anybody, I want to do what is right. I wish to give you, as I have told you before, a fair and honorable support, and you will get no other from me. I think that it is a disgraceful thing if a minority candidate, by trick or quibble by any lawyers playing upon the mind of a credulous and ignorant returning officer, can obtain and hold a seat in this House, against the will of the majority of his constituents. It is upon this common sense ground, which I shall be able to justify to my constituents, to the people who sent me here, that I intend to vote. I was elected as an independent candidate, not to be dictated to by any man in this House, and I resent any impertinent allusion to my course or my action in this House. It is because I am in accordance with the wishes of my constituents in voting against any conduct of that kind, or any countenance in this House of such conduct on the part of the returning officer, that I shall give the vote I intend to give to-night.

Mr. CHOQUETTE. (Translation.) Mr. Speaker, I did not intend to take part in this debate, but owing to certain remarks from the hon. member for Kent (Mr. Landry) and from the hon. member sitting before me (Mr. Davin), I feel it my duty to say a few words in answer to their arguments, which to a certain extent contradict what has been said by the hon. the Minister of Justice and by the hon. member for Pictou (Mr. Tupper). It does seem to me, Mr. Speaker, that the question now before us is simple enough to make it unnecessary for us to seek precedents in England or elsewhere, in order to form an opinion on the course followed by the returning officer, and to pronounce with a knowledge of the facts on the duties which this returning officer was bound to perform, and that is the first question which we have to consider. In the first place, how is the nomination of candidates to take place? We have a very positive law on that point, and if we only refer to its provisions we will

see that it leaves no room for doubt. In referring to the Revised Statutes, chapter 8, sections 22 and 23, it will be seen that the nomination of a candidate is made by means of a certificate signed by 25 electors, that a deposit in money must be made, and that the returning officer may require from the man who puts in the certificate an oath to the effect that he knows the candidate and the parties who signed the nomination, and that the person so nominated has consented to it, &c. Section 23 does not state that it will be the agent of the candidate who will file the certificate and deposit the money, but in order that a man may be legally nominated it will be sufficient for him to have a certificate signed by 25 electors, and that the sum of \$200 will be deposited in the hands of the returning officer, and the receipt given by him will be a sufficient proof of the nomination and of the deposit. Well, Mr. Speaker, in the present case it is just what has been done; therefore, the nomination was perfectly legal. No objection was made, when Mr. King, the candidate, was nominated, the proclamations were posted, a poll was granted, the votation took place regularly, and the votation having taken place, what was the duty of the returning officer? Again we have the statute, which says very clearly, and it seems to me that to any man who sees this thing in the light of justice and not in the light of party spirit, there are no two ways of judging this question. The only thing the returning officer has to do, when the summing up of the votes takes place, is to take the boxes, to open them, to take the returns, to add them up, and to ascertain which candidate has the majority of the votes. He has not even the right to open the envelopes to see the ballot papers, he has no right to refer to what has been done in the past, he is a passive subject and must carry out the letter of the law. He has no judiciary power, and all the law allows him to do is to sum up the votes, and when the votes are added, the sole and only duty he has to perform is to declare elected the candidate who has received the majority of votes. Sub-section 2 of section 60 says, that when the summing up of the votes takes place, the candidate who shall have the majority of the votes, will be proclaimed as elected. The returning officer has no right to say who will be declared as elected, he has no right to choose the candidate; the law is imperative, and all that he has to do, when the votes are added, is to proclaim as elected the one who has the majority of votes; the law says that such a candidate and no one else shall be proclaimed as elected. And to answer at once to an argument and to a precedent which has been quoted, I will say this: Even if, after the summing up of the votes, it should be pretended that the candidate who has the majority of votes is not of age, or is a felon, or an alien, I say that according to the Statutes the returning officer has no discretion to use, and that he must even in that case declare as elected the candidate who had the majority of votes, even if he is a minor, or an alien, or a felon, because the section says that the candidate who has the majority of votes, when the summing up is made by the returning officer, will be the candidate elected and no other. This is the way I look at it, and I believe that the law should not be construed otherwise, because if the power of putting aside one candidate or another is left with the returning officer, I say there will be cases—as it unfortunately happens too often—where a not over-scrupulous returning officer, in order to please his political leaders, will put aside a man who will have been elected, and, as in the present case, will give the seat to a man whom the majority of the electors of the county will have rejected. Therefore I say, Mr. Speaker, that when a man has been regularly nominated, when the proceedings have been made legally, when no objection has been made at the nomination, when a poll has been granted, when the votes have been cast, the returning officer has no other alternative but to declare elected the candidate who has the