

this matter has arisen has granted a rule *nisi*, showing that he was of opinion that a writ of prohibition should issue against a recount; and surely we must show some deference to the opinion of a judge, and must not come to the conclusion that there is nothing in this matter. I will trouble the House by giving them one case which fell under my notice this afternoon. It is the case of Monks and Jackson, reported in Law Reports, C. P. Div., Vol. 1, page 683, which was decided by Lord Chief Justice Coleridge and Mr. Justice Archibald. The municipal Elections Act provided that the nomination paper must be delivered to the town clerk by the candidate himself, or by his proposer or seconder, personally, and not by an agent, and the objection is one which is cognisable by the mayor, whose decision allowing it may be questioned on a petition against the return of the successful candidate. That is a very similar case to this one. The nomination paper, instead of being presented by the party himself, was presented by his agent, and Lord Chief Justice Coleridge, in giving judgment, says:

"I am of opinion that our judgment should be for the respondents. Mr. McIntyre admits that, if the decision is against him upon the fifth question, it will be useless to discuss the other points raised, because the election of the respondents cannot be questioned."

Then he goes on to state that the nomination paper shall be delivered by the candidate himself, or his proposer or seconder, and he winds up:

"The case, therefore, shows on the face of it that the petitioners were not duly nominated as candidates, and had no right to go to the poll, and that, if they had been elected, their election must have been set aside. I am clearly of opinion that the early part of 38 and 39 Vic., c. 40, sec. 1, sub-sec. 3, is imperative and not merely directory."

Mr. Justice Archibald agrees with this judgment, and goes on to say:

"The statute enacts that the nomination paper 'shall be delivered by the candidate himself, or his proposer or seconder, to the town clerk.' How the Legislature could more clearly indicate that the paper shall be delivered by the candidate himself, or by his proposer or seconder, personally, it is difficult to conceive. That part of the section is clearly obligatory, and is not complete with—by a delivery of the nomination paper to the town clerk by an agent."

When I read that case, I had grave doubts whether there might not be something in this matter, and whether the returning officer who, as we know, has acted under the advice of counsel, had not some grounds for acting as he has done. Lord Chief Justice Coleridge, the highest authority in England, has come to a similar conclusion. It seems a matter of small importance whether the nomination paper was handed in by the agent or by the candidate himself, but, because it was handed in by the agent, the Lord Chief Justice held that the nomination paper was bad, and the election was set aside; and further even than that, he held that, if the candidate had gone to the polls and had been elected, the election would have been set aside. So I think it is not clear of doubt, but that there is something to go to a court, and, that being conceded by hon. gentlemen opposite, I do not see why this case should be withdrawn from the courts any more than any other case of the kind. This House has relegated to the courts the right to try all cases arising out of elections, and I think we should not, without great hesitation, interfere with the law laid down by those hon. gentlemen themselves. That law I heartily approve of, because I think a court is the proper place where matters of this kind can be calmly and dispassionately disposed of, instead of being tried in a House where persons feel strongly on these matters. I shall, therefore, vote to sustain the report of the committee.

House divided on the amendment to the amendment of Mr. Davies (p. 683):
Mr. HUDSPETH.

YEAS :

Messieurs

Amoyt,	Edgar,	McMullen,
Armstrong,	Edwards,	Mallory,
Bain (Wentworth),	Eisenhauer,	Mills (Bothwell),
Barron,	Ellis,	Mitchell,
Beausoleil,	Fiset,	Mulock,
Bécharde,	Fisher,	Paterson (Brant),
Bernier,	Flynn,	Paterson (Essex),
Borden,	Gauthier,	Perry,
Bourassa,	Geoffrion,	Platt,
Bowman,	Gigault,	Préfontaine,
Boyle,	Gillmor,	Purcell,
Brien,	Guay,	Rinfret,
Burdett,	Hale,	Robertson (King's, P.E.I.),
Campbell (Kent),	Holton,	Robertson (Shelburne),
Cartwright (Sir Rich'd),	Innes,	St. Marie,
Casey,	Jones,	Scriven,
Casgrain,	Kirk,	Semple,
Charlton,	Landerkin,	Skinner,
Choquette,	Lang,	Somerville,
Cimon,	Langelier (Mont'ency),	Sutherland,
Clayes,	Langelier (Quebec),	Trow,
Cook,	Laurier,	Turcot,
Couture,	Lavergne,	Waldie,
Davies,	Lister,	Watson,
De St Georges,	Livingston,	Weldon (St. John),
Dessaint,	Lovitt,	Welsh,
Doyon,	Macdonald (Huron),	Wilson (Elgin),
Duchesnay,	McIntyre,	Yeo.—85.
Dupont,		

NAYS :

Messieurs

Audet,	Haggart,	Porter,
Bain (Soulanges),	Hall,	Reid,
Baker,	Hesson,	Riopel,
Bergin,	Hickey,	Robertson (Hastings),
Bowell,	Hudspeth,	Robillard,
Brown,	Ives,	Roome,
Bryson,	Jamieson,	Ross,
Cameron,	Kenny,	Royal,
Cargill,	Labelle,	Sykert,
Carling,	Landry,	Scarth,
Carpenter,	Langevin (Sir Hector),	Shakespeare,
Caron, (Sir Adolphe),	Macdonald (Sir John),	Small,
Chisholm,	MacDowall,	Smith (Sir Donald),
Cockburn,	McCarthy,	Smith (Ontario),
Colby,	McGulla,	Sproule,
Coughlin,	McDonald (Victoria),	Stevenson,
Coulombe,	McDougald (Pictou),	Taylor,
Curran,	McDougall (C. Breton),	Temple,
Daly,	McGreavy,	Thérien,
Daoust,	McKay,	Thompson,
Davin,	McKeen,	Tisdale,
Davis,	McLellan,	Tupper (Pictou),
Dawson,	McNeill,	Tyrwhitt,
Desaulniers,	Madill,	Vanasse,
Desjardins,	Mara,	Ward,
Ferguson (Leeds & Gren),	Marshall,	Weldon (Albert),
Ferguson (Welland),	Masson,	White (Cardwell),
Foster,	Mills (Annapolis),	White (Renfrew),
Freeman,	Moffat,	Wilmot,
Gaudet,	Moucreiff,	Wilson (Argenteuil),
Girouard,	Montague,	Wilson (Lennox),
Gordon,	Montplaisir,	Wood (Brockville),
Grandbois,	O'Brien,	Wood (West'm'land),
Guilbault,	Perley (Assiniboia),	Wright.—104.
Guillet,	Perley (Ottawa),	

Amendment to the amendment negatived.

On the amendment of Mr. Thompson (p. 677) :

Mr. MITCHELL. I have forborne to make any further utterances on this question than I made the other night, and although I am not going to inflict, at this hour of the night, a speech upon the House, I feel that I must rise and enter my protest against the humiliation which this Parliament has just been subjected to by the course pursued by the leader of the Government. It is too late to take up the time of the House with discussing the merits of the question upon this amendment. But, Sir, I hold the right hon. gentleman there, sitting opposite me, who leads this House, responsible for the act of humiliation to which he