

conferred the duty of trying controverted elections upon the courts, he, for one, would not consent that the matter should be investigated before this House. He laid it down as a principle that when an act relating to that returning officer was complained of, the courts should take cognisance of it, and he would never consent that Parliament should have anything to do with it; but if he found that it was a matter over which the courts had no jurisdiction, then he would be willing that this House should investigate it. I have his words here. After reciting the petition and the matter of it, he says :

"But the most of the acts which the returning officer might be charged with would come before the cognisance of the courts, necessarily, and inasmuch as the principal acts here complained of in the conduct of the returning officer were such as properly came before the cognisance of the courts on the trial of an election petition, it did not appear to him that it would be acting in accordance with the spirit of the Act to invite the House to deal with the conduct of the officer in the present state of these proceedings. He would be very sorry to believe that the House had been deprived by the position of the Controverted Election Act of its power over returning officers of its power to investigate complaints made against them, and to punish them for improper conduct, but when Parliament transferred the trial of election petitions to the judges, and expressly provided that the conduct of returning officers might be complained of and they might be made respondents to petitions, Parliament thereby expressed a preference for that mode of investigation or at any rate a petitioner could adopt that course. Under these circumstances he did not think it would be proper to ask the House to enter into an investigation of the conduct of that returning officer pending the election trial. The appointment of the returning officer was a different matter."

He gave as an excuse that the sheriff was otherwise engaged. This was not the fact, because the sheriff was never offered the writ. Then it was offered to the registrar; and for the reason that it was not offered to the sheriff, thinking that no party would be appointed but the sheriff himself, he refused on that ground, and then another party was put in his place. Now, possibly hon. gentlemen may see a difference between this case and the one before us. I cannot see any difference. If the throwing out of one vote affected the result, and returned a party in the minority, I do not see any difference between that and rejecting two hundred votes, so long as the result is the same. I should be sorry indeed that the return of any person should be left in the hands of the House. I, for one, am prepared, had the motion been made, to reject it altogether, and I would have preferred voting upon the question here than to send it to a committee of the House. There is another point which I think has been referred to by hon. members, which is contained in section 63 of the Act of 1874, which is as follows :—

"All elections shall be subject to the provisions of this Act and shall not be questioned otherwise than in accordance herewith."

I think Mr. Bourinot, in his parliamentary work, lays it down that the House often refused to consider these petitions; and in fact since 1883 it is almost conclusive that in any matter that the court can investigate it is not wise for the House to interfere, and the House has invariably refused to deal with them, particularly when the time had not elapsed within which the petition must be filed. In Mr. Bourinot's work I find, on page 121, that he says :

"In any case it is always regular to receive a petition setting forth a grievance and praying for a remedy, providing that it does not question the return of a member within the meaning of the Controverted Elections Act of 1874."

I would have very much preferred that this House should not have entertained the motion at all.

Mr. PATERSON (Brant). After the remarks that have fallen from the hon. member, it is, perhaps, necessary that a layman, about to cast his vote, should give his reasons. I understood the Minister of Marine to say that he was a layman and consequently was unable to judge this question. He wanted to divest himself of any responsibility in the matter. He wanted it to go to the Committee on Privileges and Elections, and afterwards to be referred to the courts. Well, that may be the opinion of his judgment as a layman.

Mr. McDONALD (Victoria).

He sets this value upon his own opinion : that he is incompetent to judge a simple question like that, and far be it from me to say that he is competent. But I would simply point out that the hon. gentleman, being incompetent, as he said, would have manifested a more becoming modesty if he had refrained from saying anything on the subject. People should only speak upon subjects they know something about.

Sir JOHN A. MACDONALD. Then sit down.

Mr. PATERSON (Brant). I have some light upon it, and for that reason I am found speaking on this occasion, and there are some hon. members opposite who tender that advice to me who do well to retain their seats. But I fancy that it is hardly from a sense of modesty that they do so. I have thought that perhaps a feeling of shame entered into the composition of some of those gentlemen, of shame, perhaps, to defend in the House what they will vote for. Sir, I feel that I can approach this subject in a judicial spirit. We say, too, that we are sitting here as a jury to try this case. When we appeal to the people of the country at a general election, we speak of appealing to the great jury of our countrymen, and a jury of our countrymen said that George G. King should sit in this House, as the representative of Queen's county, N. B., and there is an attempt being made to carry out what has already been done, and to override the verdict of the jury, and to perpetuate what I deem to be an outrage on the rights and liberties of this Parliament. We should, therefore, approach the question in a spirit free from partisanship, though I agree with the member for Pictou (Mr. Tupper), although I cannot go his full length, when he said that he would view any man as a hypocrite who would say that he could utterly deprive himself of all party feeling in this matter. I suppose it is an impossibility to forget to which party we belong. But I feel that I am about to give, by my vote, expression to the decision arrived at in my own mind, and whether I am blinded by partisanship or not it will be for the House to judge; but I feel I have arrived at a conclusion that is honest and just, and I have no hesitation in casting my vote in the direction in which my mind is made up. The question is a plain one; it is a question for laymen as it is for the lawyers of this House. And I would say here that there is a feeling abroad in the Province from which I come—I do not know whether it prevails in other Provinces—a feeling, with which I am not in entire accord, but a feeling that prevails with many men, though I believe that legal men are necessary and many of them are ornaments to the House and are indispensable for the conduct of its business—I say there is a feeling stirring many minds that there are too many lawyers in this House, too many legal quibbles made and too many laws framed in their interest. When the speech of the Minister of Justice is read and understood by the country—the Minister of Justice he is called, and in Parliament he is supposed to carry out justice—and also the speech of the hon. member for Pictou (Mr. Tupper), abounding in technicalities, plausibilities and sophistries, endeavoring to defeat what is clearly a just demand under the circumstances of the case, the feeling of the country will be deepened and intensified. No; I think it is a question on which every man, even the Minister of Marine and Fisheries, ought to have his opinion, for I think every layman is able to form an opinion on this question, although that Minister said he was unable to do so. If the Minister of Marine is to be consistent with his own statement, what must he do? He must vote against the amendment as well as against the original motion, for he admits that he is not competent to pronounce an opinion; it is not for a pure simple layman like that hon. gentleman to do so. He says we must vote against the proposition and leave the matter to the courts. According to the speeches of the