

contains within itself evidence that the duties of the returning officer are sometimes both ministerial and judicial. In the first place, it is stated that the returning officer is bound to reject all votes given for a candidate not nominated; in the next place, it is stated in section twenty-five that any candidate nominated may withdraw at any time after the nomination and before the close of the poll, by filing with the returning officer a declaration in writing to that effect signed by himself, and that any votes cast for the candidate so having withdrawn shall be null and void, and it shall be the duty of the returning officer to return as duly elected the candidate so remaining. So that, under the Statute of 1874, the returning officer is bound to ignore the votes—even if they were a majority—given in favor of the candidate who has disqualified himself, precisely as, under the law of 1872, he is required to ignore the votes given for the candidate whom the law has disqualified. There is then the point as to whether the law of 1872, as well as the law of 1873 are applicable to Prince Edward Island, which was not then a portion of the Confederation. I do not think that I need refer further to that subject than to say, that the legislation under which Prince Edward Island was admitted into Confederation—Chap. 40, of the Act of 1873—was upon the terms and conditions that after it should be admitted all laws upon the following subjects then in force in the Dominion should be applicable to Prince Edward Island, namely: "Laws with reference to the Senate and the House of Commons, including procedure therein, and the vacating of the seats of members of the House of Commons, and the filling of vacancies." I think it is plain that all the laws in force in the Dominion at the time when Prince Edward Island was admitted to the Union, on the 1st July, 1873, were applicable to that Province, and in fact this was virtually conceded in the Committee by those who were advocating the case of Mr. Robertson, who admitted that the law of 1873 was in force; and their only contention was, that the law of 1872 was not in force, because it was specially repealed. But if I have established—as it seems to me this authority establishes—that the law of 1872 was in force throughout the Dominion, its application only was reserved until each of the Provinces should pass corresponding legislation, which was the conditions required by it. That corresponding legislation was passed in the case of Prince Edward Island in 1876. The Statute of that year made corresponding legislation, which prevented a member of this House from being eligible as a member of the Local House of Assembly of Prince Edward Island; and that legislation having been adopted, the effect was, in my opinion, and that of the Committee, to bring into force there the Act of 1872, in reference to dual representation, upon which the report of the Committee is based. I do not propose to take up the time of the House by any further explanation of the features of this case. I only undertook to submit the facts of it, and the bare conclusion to which the Committee arrived. The Committee, I am certain, has investigated, patiently, the facts of this case; and I believe that it arrived at an intelligent and conscientious conclusion with reference to them; and sharing in that conclusion and the responsibility of it, I have the honor, Mr. Speaker, to second the motion, that this House do concur in the Committee's report.

Mr. WELDON. Mr. Speaker, the hon. member for Sherbrooke, who has just addressed the House, has certainly put forward some of the facts connected with this case; but not all the facts, nor do I think that he has called the attention of the House to the peculiar position of Prince Edward Island, and the law affecting it, as a member of this Confederation; but still the hon. member for Sherbrooke was very anxious to refer to precedents. He called our attention to the manner in which they act in England, and stated that in England no such thing as a resignation obtains by common law, but is a creation of the Statute.

Mr. HALL.

It is so created in the several Provinces of the Dominion with regard to the Local Legislatures, and also in the Dominion with regard to Dominion Elections. Yet, while he is correct in that point, that no such resignation is allowed by the common law, but wholly by Statute, and the mode in which the Parliament of England is created; but he has ignored, and also the Committee, the principle which does exist in Great Britain, and existed there since the days of Wilkes and Luttrell, when the House of Commons seated the minority candidate under circumstances such as this; but the general principle that the majority shall rule is the principle by which members of Parliament there are now returned. That principle is only ignored under certain circumstances, when certain facts exist showing that the majority candidate may be ignored, and the minority candidate returned. The principle laid down with regard to a minority candidate's seat is clear and plain: First, that in case a candidate receives the majority of votes and his election is contested, and it is claimed that the minority candidate should be elected, two things must exist: first, that disqualification exists; and, second, that notice of it has been given to the electors; and not until it is brought home to the electors, that those votes are to be thrown away, or to use the language of Lord Eldon in the first case which came before him: "Their votes are thrown away on a dead man." That notice must be brought home to the electors, and in no case—and I challenge the hon. gentleman and any member of the legal profession to show the contrary since the time alluded to, when Luttrell was seated in the place of Wilkes—a proceeding of which the House was so ashamed afterwards, that it expunged these proceedings from the records—unless the voters have been notified, and notice has been brought home to the voters that they were voting for a minority candidate, this is the only mode in which that election of a majority candidate could be vacated and declared null and void, and the party declared incapable of taking the seat, which is then given to the minority candidate. But what is the position in which it is sought by the motion before the House to seat a man returned by a minority of votes, for the Electoral District of King's County, Prince Edward Island. This man received the minority of the votes, but not the slightest notice was given of his disqualification to any elector in his district, or that he was throwing his vote away on Mr. Robertson. The hon. member for Sherbrooke (Mr. Hall) says that the resignation was sent to the two members of the House of Assembly by their names, and not by their titles as members; but I fail to see why, if they were members duly elected, a notice such as this provided for in the Statute should not be regarded as an official notice addressed to them as members of the Assembly. I fail to see why, if this notice was sent for the purpose of being acted upon or not, any strength would be added to it by addressing it to these members as members of the House. The hon. gentleman has called attention to the law of Prince Edward Island. He has pointed out that there are three ways in which a member of the House of Assembly can resign, and he has correctly stated them. First, he can either do so by standing up in the House and announcing that he has vacated his seat; or during a Session, or during the interval between two Sessions, he can address a letter to the Speaker of the House announcing his resignation; or he may in the interval between two Sessions, or in case there is no Speaker, address his resignation to two members. The hon. gentleman says that Dr. Robertson could not do so in this case, because twenty-one days had not elapsed from the time he was gazetted as a member of the Local House. I ask the hon. gentleman to look at the law, and he will see that the twelfth and fourteenth sections apply to the two first cases of resignation; but that these sections do not apply to the case in which a member addresses