

Mr. BORDEN (Halifax). Of course, I accept the hon. gentleman's statement. But I think my hon. colleague from Halifax (Mr. Russell) did entertain a very strong view in opposition to mine, and I think the mere fact that my hon. colleague from Halifax entertained a strong view on a question of that kind is sufficient justification—

The MINISTER OF MARINE AND FISHERIES. He says that he accepted my views.

Mr. BORDEN (Halifax). I think that even to the last, before the Committee on Privileges and Elections, my hon. friend adhered to his view, and said that although he had deferred to the views of the Minister of Marine and Fisheries in respect to that, nevertheless he had a pretty strong idea that he was right on that subject, and it is for the reason that he held that opinion up to the last that I suggest that this matter be made clear.

The MINISTER OF MARINE AND FISHERIES. I think it is fair to call my hon. friend's attention to the fact that when the matter was brought up in the Committee on Privileges and Elections it was argued, and I think, at my own request, it stood over until next day, that we might look into the authorities, and next day several of us expressed the opinion very strongly, and that opinion was put before the committee and carried without a dissenting voice; the hon. member (Mr. Borden) voting for it. The expediency of it was another thing.

Mr. BORDEN (Halifax). It is quite clear that upon that investigation my hon. friend and colleague (Mr. Russell), adhered to the opinion which had been expressed by two judges of the Supreme Court of Canada, that a voter not only should not be compelled, but should not be permitted, to testify as to how he marked his ballot in any proceeding questioning an election or a return. And, further, he thought that the policy of the Act created a similar state of things in any proceedings. As to the policy of this, it is another question. The reasons which have been given by the hon. Minister of Justice do not seem to be adequate reasons. What are these reasons? He says, in the first place, that the policy of the Act is, that you shall not disclose or permit to be disclosed, how any one voted. You cannot prevent it being disclosed how any one voted. Every one of the voters in any polling district can go out and state how he voted. Every one of these voters may make a solemn declaration stating how he voted. How then can you say that there is anything in the policy of the Act to prevent it being disclosed, except in one proceeding referred to, that any witness voted in any particular way? If the Act was intended to prevent anything of that kind, all I can

say is that the Act is most inadequately framed, because it is perfectly within the competence of every voter to make a statement, or a solemn declaration, stating precisely for whom he has voted. A solemn declaration so made has all the sanction of an oath. The hon. Minister of Justice has made another suggestion. He says that it would be a great temptation to perjury because, he says, you have no check upon the witness. It seems to me that this objection is also a very fanciful one. Years ago when a witness was not allowed to testify if he had the slightest interest in the result, one hundred years before we permitted criminals to testify in their own behalf, some importance might have been attached to a suggestion of that kind. But, will you say that a person giving evidence as to how he marked his ballot is any more interested or biased or is more likely to commit perjury than a criminal who goes upon the stand and testifies in his own behalf, over whom there is no check? Take the case of a man who is accused of murder, a case where no one was present when the crime was committed, except the man murdered and the man charged with the murder. That man can go upon the stand and testify. There is no more check upon him than upon any one of these persons who is giving evidence respecting how he marked his ballot, and the interest to commit perjury is infinitely greater. When you permit evidence of that kind to be given, surely you will not say that there is anything in this fanciful suggestion made by the hon. Minister of Justice, that because you have no check upon the witness you will not permit him to testify. Dozens of cases will occur to every practising lawyer in this House where witnesses give evidence in court in respect to which there is no possible check except that of cross-examination.

Another matter which was dealt with by the hon. Minister of Justice, was the propriety of permitting the commission to use the evidence taken in the West Huron investigation. I would suggest that the principle which the right hon. leader of the government laid down respecting the employment of counsel would be a very good principle in respect to this. My right hon. friend said that it would be best to leave matters of that kind, as certain other matters in connection with this commission, to the judgment and discretion of the commission. I would suggest that the use of the evidence taken in the West Huron election investigation might very well be left to the judgment and discretion of the commissioners. The hon. Minister of Justice seems to attach importance to the fact that the commissioners will not have seen the witnesses. That is a matter for the judges themselves and not for the hon. Minister of Justice. But, as a matter of fact, it is an every-day practice for judges