

of the voters in the constituency for which he ran. He is a member of Parliament and no one else is, no matter whether a returning officer chooses to falsely say he is a member of Parliament or not. What we are asking the House to do is to direct the returning officer to recant the false statement he made when he represented that the gentleman who now sits for Queen's was elected member for that constituency, and to state the obvious, the patent fact which he has stated himself at the Bar, that Mr. King obtained the majority of votes, and was, therefore, elected to represent the county of Queen's, N.B. As my hon. friend from North Essex (Mr. Paterson) said, we are not discussing questions of law, we are not discussing an election, but the action of our own officer. That officer has chosen to state a lie in the return sent in to the Clerk of the Crown in Chancery, and we wish to erase that lie from the record, and to put in the truth which he has been forced to admit before the Bar of this House. Some hon. gentlemen, and my hon. friend from Jacques Cartier (Mr. Girouard) in particular, have devoted a great deal of time to proving that we have not the right to try controverted election cases in this House. Sir, no one can be more strong in that belief than myself, and I believe that opinion is unanimous on this side of the House. But the case now before the House is not one of a controverted election, and that is the point that all these gentlemen have missed when they have been spending so much time in proving that we have not the right to try controverted elections. What is a controverted election case? It is a case in which the right of a gentleman who has received a majority of the votes, and has thereby the right *prima facie* to sit as a member of this House, is questioned on some ground of technicality, or of corruption. For instance, if the returning officer had performed his duty in this case, as directed by law, and returned Mr. King, and Mr. Baird—I must use his name in this case—and his friends had petitioned against that return on the ground that Mr. King had not made his deposit properly, then you would have had a genuine case of a controverted election, then you would have had a case to take before the courts, a case in which the qualification of the man who was elected was questioned by somebody who had a right to question it, and a case which, under our law, only the courts could settle. You have had a case of a controverted election in King's county, P. E. I., when the returning officer made a double return, stating that Mr. Robertson had a majority of votes, but he believed him to be disqualified, and therefore, made an open return. That was a case of a controverted election, or a doubtful election; that was a case where, undoubtedly, the man having a majority of votes should have been returned, because the qualification should have been questioned before the courts in the statutory way. But just where the House should not have interfered, under the leadership of the right hon. gentleman, it did interfere, and assumed to decide the legal question as to Mr. Robertson's qualifications, and to say that at the time he received a majority of votes he was not qualified to be a candidate, and it pushed him aside and declared elected the candidate who had the minority of votes. This was a case where, according to the contentions of hon. gentlemen opposite, the courts alone should have decided the matter, but the House was induced by the leader of the Government to interfere and decide the question of law. Now the case before us is not a controverted election case. There is no doubt here as to who is *prima facie* entitled to the seat. Mr. King is *prima facie* entitled to the seat, and if he were returned on his *prima facie* rights, he would have a right to sit here until the courts should have declared that he had not a right to be here. But until then, the gentleman who has been sent here in his place by the lying return of the returning officer, has no more right to be here as a member of this House than—I am going to quote the language used on a former occasion by the right hon. leader of the House

himself about a gentleman who occupied the seat you now occupy—I say, “he had no more right to be here masquerading as a member of this House, than one of the pages who runs about the floor.” If the returning officer has a right to say that the minority candidate is elected, he has an equal right to say that anybody else he chooses is elected. He has as good a right to say that I was elected for Queen's county as to say that Mr. Baird was elected. He had as good a right to say that any person of the legal age was elected as to return the defeated candidate. There is a defect in our law in this particular that ought to be remedied. In England, I fancy, it is practically remedied now by the decision, quoted to this House, of a judge in a case referred to in a city in the north of England. I think hon. gentlemen will remember the decision which was quoted. The judge gave as a ruling in that case that the majority elected the member whether the returning officer stated so or not; that the returning officer's duties were purely mechanical, namely, to state who had the majority; that if the returning officer failed in his duty and did not state who had the majority, or if he made no return at all, the man who actually had the majority of votes was elected all the same, and he could take his seat as soon as it was proven on satisfactory evidence that he had the majority of votes. In fact, he said the law assumed that what the returning officer was directed to do as a mechanical duty, was done, and that whether he made a return or not, or whether he made a false return or not, as to the number of votes, the man who actually could be shown to have received the majority of votes was, *ipso facto*, the member for the constituency until his right to be considered such was disproven before a proper legal tribunal. That is now the law in England, if that decision is followed by other judges, as I have no doubt it will be. In a case like this, the lying return of the man who was appointed to count the votes would be disregarded, and the man who actually received the majority of votes would at once be considered the member. Now, in rectifying the insufficiency of the law fully to carry out its intention in directing that to be done which is intended to be done, in forcing the returning officer to do that which the statute directs him to do, in forcing our servant, for he is such, to do that which we have ordered him by statute to do, we are not trying a controverted election case, we are not entering into a question of law, we are simply seeing that the statute is obeyed by our own officer, a statute passed by this House for its own protection. Why, Sir, it is no more trying a controverted election case than if we undertook to punish a constable who had, in that election, done something contrary to the privileges of this House. We are compelling that man to do what the statute compels him to do, and vindicating our own privileges against his usurpation. But we are told there is a remedy in the courts. Sir, I do not know that there is a remedy in the courts. I am not sure, even if Mr. King were to put in a petition and to seek a remedy in the courts, that he would be recognised as having a right to do so. Who is to petition? Why should the man who had a majority, who was elected, petition against the supposed election of somebody else? I do not believe that any return which a returning officer chooses to send in here makes an election. The majority of votes makes an election, and I do not believe Mr. King was in a position to petition against Mr. Baird, because it was he who was elected and not Mr. Baird. Mr. Baird is the only party who is in a position to protest against the election, and I believe if that point were raised as a matter of constitutional law, it would be very hard for any court to decide that the mere sending here of an untruthful and lying statement by a returning officer would make a member out of a man who had no claim to the position. Such an act calls for the intervention of this House, it calls for the condign punishment of our forsworn servant, it calls for the rectification of the