

March, it was held by the lawyers, at all events, in the Territories, that he was disqualified. Suppose he had got a majority of the votes, what would have been the duty of the returning officer? I may think, as a lawyer, that the duty of the returning officer would be to have returned him as the candidate elected, and allowed me to go into the court, prove that he was not qualified, and demand the seat. According to my view, that would be the proper course. But suppose the returning officer had taken a different view, and said: This man is not qualified; he has been a member of the North-West Council while running and cannot be elected, and I declare his opponent elected, although having the minority of the votes. I, for my part, would be very sorry to have the question decided by this House, and I should never come before this House to have it settled. I should have gone before the proper tribunal appointed by statute, established my case and demanded the seat; and I think it would be a very unwise and improper thing for us to try to mend the mistake that the opponent of Mr. Baird has made in not taking that course. Now, if the House will permit me, I would call the attention of hon. members to the Act, and I will do so very rapidly, because the hon. member for Kent (Mr. Landry) has with great force and cogency dealt with it. In clause 118 it is laid down in the most emphatic manner:

"No advance, loan or deposit, shall be made by or on behalf of any candidate at any election, before or during or after such election, on account of such election, otherwise than through an agent or agents, whose name or names, address or addresses, have been declared in writing to the returning officer, on or before the nomination day, or through an agent or agents to be appointed in his or their place, as herein provided; and any person who makes any such payment, advance, loan or deposit otherwise than through such agent or agents, is guilty of a misdemeanor."

If we turn to section 101, we read again:

"If any returning officer wilfully delays, neglects, or refuses duly to return any person who ought to be returned to serve in House of Commons for any electoral district, such person may, if it has been determined on the hearing of an election petition respecting the election for such electoral district, that such person was entitled to have been returned, sue the returning officer who has so wilfully delayed, neglected or refused duly to make such return of his election, in any court of record in the province in which such electoral is situate, and recover from him a sum of \$500."

Now, Sir, if the returning officer did not think he was acting in strict accordance with the first section I have read, could we for one minute believe that he would wilfully lay himself open to this serious penalty? There can be no doubt whatever that he has been acting *bonâ fide*, in accordance with the best interpretation of the law he could make. The hon. member for West Ontario (Mr. Edgar) said that he thought the only thing we could do was to proceed to vote upon the case. But this House, it seems to me, has its own dignity to guard, it has the justice of the case to guard, and—the hon. gentleman who preceded me spoke of the rights of the majority—it has the rights of the majority to guard. It cannot guard its own dignity, it cannot guard the interests of justice and the rights of the majority. It cannot guard the rights of the people unless it proceeds in strict accordance with the law. I have the Act of Parliament that declares the course, by its own solemn act, for any candidate for parliamentary election who feels himself aggrieved, to follow. For this House to set aside that Act, would be to betray its dignity, to betray justice and the rights of the people. It is quite a different matter to refer this subject to the committee. The committee will be able to look carefully into the precedents. It will be prepared to look carefully into the question of principle, on the very ground on which it should be discussed, and it will be able to report to this House the decision it shall come to.

Mr. MILLS. Why should we go to this trouble if the House has denuded itself of its authority, and the matter belongs to the courts? The hon. gentleman has made up his mind. Why refer the matter to a committee?

Mr. DAVIN. The hon. gentleman thinks I have made up my mind. I can assure him my mind is in a perfect state of balance, and I am perfectly ready to go into this question in a thoroughly judicial spirit, and if I could convince myself that the proper course was that this House should proceed to decide upon the question, and vote upon the question, and that it had the authority to do so, that it had not stripped itself of the power of doing so, then I should probably be inclined to vote with them.

Mr. MILLS. You would be loaded up the other way.

Mr. DAVIN. My hon. friend is mistaken. One David said that all men were liars, and, of course, that means that another David may be mistaken. The legal aspect of this case has been very fully gone into by the learned Minister of Justice and by my hon. friend the member for Pictou (Mr. Tupper), and it has been to some extent gone into by the hon. member for West Ontario (Mr. Edgar), and I will trouble the House no further on this question. But I will certainly vote for the amendment, at the same time strongly expressing my conviction that the proper thing for the aggrieved member, the aggrieved candidate in this case, is to go before the proper tribunal appointed by this House, and if he establishes his claim there, if claim he has, he will get the seat; but if the facts are as reported to us here, if he did not comply with that section which declared that the candidate who makes a deposit in the way this gentleman has, is really not a candidate, the decision of that tribunal would be that Mr. Baird is entitled to his place.

Mr. BARRON. I am well aware of the fact that it is not often wise for a young member to address the House, but as hon. gentlemen know youth is sometimes the season of enthusiasm and advanced age that of wisdom and discretion. This enthusiasm is always ready, as well to applaud a righteous act as to resent injustice, and justifies me tonight in rising on this question, because I think a gross injustice has been perpetrated on the public and on a constituency in not having the gentleman sitting here to represent it who had the majority of votes. It has been stated by several hon. members, and I think that is the general opinion, that there has been too much law on this question. I agree with the opinion that by applying too much law to this case the public mind will seize the idea that it is a question of law altogether and not of justice. I think the public is anxious that the candidate who has the largest number of votes should sit in this House. Although I believe there has been too much law given to us, this House will pardon me if I take up a little of its time in answering some of the views advanced by hon. gentlemen opposite. The hon. member for Kent (Mr. Landry), whether knowingly or not, I am not prepared to say, tried to create the opinion that the \$200 deposited in some instances became election expenses. Now I controvert that statement. In no case does the \$100 ever become the election expenses of the candidate. It does become part of the election expenses, not of the candidate but of the returning officer. This is the section, and I think the hon. member for Kent, if he had dealt fairly with this House, would have read the whole of it:

"The sum so paid and not returned"—

That is in the event of a defeated candidate not getting the moiety of votes,

—"as herein provided, shall be applied by the returning officer towards the payment of election expenses,"—

The hon. member for Kent went so far but not farther. He should have read through to the end:

—"and an account thereof shall be rendered by him to the Auditor-General of Canada."

Showing, I think, that the \$200 in the event of the candidate not getting the moiety of votes, does not go into the election of the candidate, but into the election expenses of