

your attention to the language of the Act which says that no member shall hold a double seat :

"If any member of a Provincial Legislature shall, notwithstanding his disqualification, as in the preceding section mentioned, receive a majority of votes at any such election, such majority of votes shall be thrown away, and it shall be the duty of the returning officer to return the person having the next highest number of votes, provided he be otherwise eligible."

That is just what we contend.

Mr. MILLS (Bothwell). Who decided that ?

Mr. MONCRIEFF. I will hand the book to the hon. gentleman in a few minutes. That case was one of disqualification, pure and simple. Then the hon. member for Queen's, P. E. I. (Mr. Davies) says that the Victoria, N.S., case applies. Why, Sir, that was a case not of changing a return, but of finding fault with the returning officer, because the case was then before the courts in another way. All the cases in England cited, that have any bearing upon this question, which were decided since the English Act was passed, were cases of disqualification, pure and simple. In the cases of John Mitchel, when he was declared elected first by acclamation, and afterwards, when he was returned against an opponent, the House simply declared the seat vacant, and you cannot find a case in which they unseated a member for disqualification and put another member in his place. They did not do it in the Mitchel case ; and if you read the case carefully you will find that the person contesting the constituency pasted hand bills all over the county notifying the electors that if they voted for Mitchel their votes would be thrown away, because he was a disqualified candidate. Under these circumstances, when the case came before the courts as a matter of law, for the purpose of having him unseated, the courts seated the other candidate, because it held that the voters had thrown away their votes. I feel then, as I said, that we should move cautiously in encroaching upon the powers that we have delegated to the courts. I think there is no doubt that this case comes within the letter of that Statute and that we have delegated to the courts of law the power of deciding it, for the simple reason, which is a good reason, that we ourselves are liable as human beings to act under partisan feelings, and that, in delegating the matter to the courts, who are not partisan at all, we are confident of a fair, just and proper decision from a proper tribunal. Under these circumstances I intend to support the amendment of the hon. Minister of Justice confirming the report of the Committee on Privileges and Elections.

Mr. LISTER. I will ask the indulgence of the House for a few moments to answer the hon. gentleman who has just spoken. I must, in the first place, express my amazement at the speech he has made and at the result of his investigation which he announced to the House, and I would ask that hon. gentleman whether the public expression he has given of his views in this case is the private opinion he has heretofore held and expressed to numerous members of this House. It appears to me that the hon. gentleman, although he seems to have taken much pains to have mastered the law and facts of this case, is exceedingly mixed. He does not appear to me to apprehend the case at all. It is not a question as to a controverted election ; it is not a question as to whether Mr. King or Mr. Baird was elected ; but it is a question whether this House has a right to correct a return of one of its own officers, which is manifestly incorrect. The logical conclusion of the argument of the hon. gentleman is, that the man who has received the minority of the votes in the county of King's is to sit in this House for the rest of the term ; because we have heard him confess to-day that, as soon as there is another list prepared, he will be in a position to resign the seat he holds here ; and the Minister of Justice the other day introduced a Bill

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whereby that gentleman will have the right to hold the seat, to which he has been wrongfully, illegally and fraudulently returned, for at least another Session of this Parliament. To decide in accordance with the argument of the hon. gentleman on that side means that we are adding insult to injury, that we are wronging the constituency of Queen's, and the man elected to represent that constituency, by allowing a person who has no right by law or justice to a seat in this House. No man could have witnessed that examination the other day, without entertaining a feeling of disappointment at the conduct of hon. gentlemen in this House. A man who has confessedly done the most grievous wrong that one man can do to another, a man who occupies a position of self-degradation, comes to this House and confesses it boldly and unblushingly at the Bar of this House, and he is cheered on by hon. gentlemen on the Government benches. I say that a more disgraceful scene was never witnessed in this or any other House claiming to have representative institutions ; and the hon. gentleman who has just sat down was one of the loudest in applauding the man in his disgraceful attitude. And we have today seen a man get up in this House and deliberately admit that he has wronged another man out of his seat, and he is cheered on by hon. gentlemen opposite. To his everlasting credit the hon. member for North Essex (Mr. Patterson) has taken a position which, as he said, will be approved of by people hereafter, if not in this House. I, for one, know that the Government have no stronger supporter in this House than that hon. member, and I say it is to his everlasting credit that he had the manliness to get up to-day and take the position he has done, not the ground of a pettyfogging lawyer who tries to minify the case with technical quibbles, but on the ground that will bear investigation that a wrong has been done and that it is the duty of this House to try to rectify it. What are the facts ? Is there anything for a court to decide here ? Is not the return of the returning officer on the Table, and does it not show that Mr. King has a majority of 61, and that he ought to be returned ? Does not the law command him to return the man who has the majority of votes ? He has been examined here, and he has admitted that Mr. King had the majority of the votes. Then it was his duty, in obedience to the statute law of this country, to return Mr. King as the member for the county of Queen's. He has not done that, although the evidence is that he ought to have done it. There are no witnesses to be examined ; there is nothing to be investigated, and all this House has to do is to say we will make right what he has omitted or neglected to do. The hon. gentleman says we should go to the courts. Go to the courts for what ? He knows that the time for going to the courts is past. He knows that Mr. King depended on the honor, the honesty, the spirit of fair play that ought to pervade this House to do what was right in the case before it ; but I am sorry to say he misapprehended the spirit of this House, as I believe the vote is going to show. My hon. friend talks about Mr. Robertson's case. This House undertook to investigate Mr. Robertson's case. It undertook to decide a question of law as to his disqualification, and it seated the man who had the minority of votes. If this House had no right to investigate that case, why did it do so ? But although it might be claimed that the House had no right to deal with it, in this case no such question can arise, because it is not a question of a controverted election, or a question of disqualification, but it is a question whether the return made by the returning officer is a true return and in accordance with the facts. According to his own evidence Mr. King ought to be the member of this House, and it is the duty of this House to correct that return and to say, the majority of the votes having been for Mr. King that gentleman's name should be inserted in place of that of Mr. Baird. I regret exceedingly that there should be any doubt at all on this question. I regret ex-