

as carefully as one would like to before giving an opinion upon the question, it will be found that there is no procedure by which, under these circumstances, a commission could be organized for the purpose of inquiring into these particular practices which are now in controversy.

Mr. BORDEN (Halifax). I would like to ask the hon. gentleman if he has apprehended my argument correctly, or if he has apprehended the whole of it. The first branch of it that I would bring to his attention is that if you had not a Controverted Elections Act, for example, would it be competent to issue a commission, under chapter 114, for the purpose of investigating into a controverted election?

Mr. RUSSELL. We know that there is a very long history connected with that. We know that the House of Commons would imprison anybody who would pretend to start such an inquiry, and that is quite possible that the courts would arrest and put into prison a serjeant-at-arms who would obey the behest of the House of Commons in the same connection. We know there was a very great question of doubt as to the right of any tribunal other than the House of Commons to test the propriety of any person professing to be a member of the House holding his seat, and we know that the House has claimed exclusive jurisdiction in such matters. But we are not inquiring into that question at all. I think it is admitted that we are not inquiring into the question of the tenure upon which any member of this House holds his seat, but we are inquiring into a system of fraud and of evil practices which is alleged to have been going on and into matters of that kind. This is not particularly the kind of subject that the House of Commons has exclusive jurisdiction in, but whether it has or not that is not the question that I am now considering. I was referring to a different branch of the argument. I was going on to show the reasons why I thought this chapter in respect to the inquiry into corrupt practices in the election of members of the House of Commons could not be invoked in this case because in the case of a commission of this kind it requires that certain antecedent conditions should be complied with before there can be any such commission issued. The first condition is the report of a judge on an election trial that corrupt practices have extensively prevailed, or that there is reason to believe that they have extensively prevailed, or if that condition is not present in the case, then that a petition has been presented within sixty days after the receipt of the writ by the Clerk of the Crown in Chancery. These are the only two cases in which you have the conditions laid down for the constitution of a commission under chapter 10 of the Revised Statutes for the purpose of inquiring into the prevalence

of corrupt practices at elections. There may be others, because, as I said before, I am not dogmatizing about the matter at all. If there is any general or unlimited power given by the statute it is there for the purpose of making inquiries into corrupt practices. All I say is that I doubt if these practices which we are inquiring into are corrupt practices. I would almost go further and say that I think you will find that these particular practices that we are now considering are not corrupt practices within the meaning or terms of the election law. But, whether they are or are not, there is no possibility of bringing chapter 10 into operation in this case, and we would be utterly helpless in respect to the constitution of a commission to make any inquiry into this matter unless we have the power under the statute to constitute a commission as it has been constituted by the order in council which has been laid on the Table of the House. Now, I do not think it is a pleasant conclusion to come to, that the state of our law is so entirely inefficient,—that it has been left, after thirty years of legislation, so absolutely imperfect that when glaring wrongs, such as are alleged to have been committed in 1899, and such as were proved to have been committed in 1896, are brought to the attention of the House and when it is shown by the vote and the experience of this House that the Privileges and Elections Committee is an absolutely unsatisfactory tribunal for trying such questions, we have actually to resort to legislation which may never be passed or which may only pass after considerable obstruction, to make an inquiry into these evils. It is not a pleasant conclusion to arrive at, but, it is the conclusion that has been embodied in the last paragraph of my hon. friend's resolution, that the matter is so doubtful that he is not certain if the Governor in Council has the power to constitute a commission for the purpose of inquiring into these particular matters. Now, then, suppose we carried that argument to its logical conclusion, it would seem to amount to this, that this general provision which is made in chapter 114 for the constitution of a commission to inquire into any matter affecting the good government of Canada must practically be almost inoperative, that there could hardly be any case in which you could bring it up into operation, because I am quite certain that so amply has the whole field of legislation been covered by this House that you will not find one single thing that you would desire to bring within the purview of that section which has not been covered by legislation, and for which tribunals for inquiring into such matters have not been provided. The whole field of legislation has been occupied by statutes of one sort and another, and if you are going to carry that argument to its logical conclusion you will have to cut down the broad and ample terms of the statute