

mittee, and, if that were allowed, the petition being against two members, the Committee would contain one too many—would consist of eight instead of seven—and if the spirit of the law was carried out, that each party petitioned against should have two left to serve on the Committee when the list was struck, this would bring the number up to ten. That difficulty seemed incapable of solution, and I thought it better that the House should be informed of it, and should, if possible, devise a means of solving the difficulty.

3. *Mr. Johnston.*] I understand you have certain duties imposed on you by the Act, and that you did not see your way to carry out those duties: that it is your duty to see about the appointment of the Committee, next the proceedings, and so on?—I have to cause a list of all members available to serve on the Committee to be made out, and a copy delivered to each party. I then, in the House, call on each party to name a Committeeman; I then nominate the Chairman. I do not consider that it is part of my duty to see that the Committee is struck, although I was present when the Christchurch Committee was struck, and allowed the use of my room for the purpose. The duties devolve upon the Chairman and the two members representing the parties to see that the Committee is properly struck.

4. *The Chairman.*] You did not consider it part of your duty to rule whether this petition was in order or not?—No, I did not.

5. *Mr. Johnston.*] I think you said you could see no solution of the difficulty, as you pointed out to the House?—Yes; I could see no way out of it. If the two members petitioned against had agreed to nominate one man to represent them both, they would have got over the difficulty; also, if the two parties thought proper to apply for, or the House to appoint, a separate Committee for each person, they would have solved it. It will be in the recollection of the Committee that that course was proposed by the Premier, Mr. Hall, but the House thought it better to appoint this Committee to investigate the matter.

6. *The Chairman.*] The Act says, "Each party shall then name one member whose name shall be on the list, and the two members so named shall be two members of the Committee." Suppose each party named the same member in any case. Suppose the petitioner named one person, and the member petitioned against named the same man?—I do not think we could contemplate that in such a case as the Christchurch election Sir George Grey and the Hon. Mr. Richardson would nominate the same man. Each would nominate some person to represent his interests; but it is not probable they would both nominate the same member. The petitioner has a right to strike off the first name in striking the Committee.

7. Do you think, if the two persons joined in naming one member, the Act would be complied with?—I think so, although it would be, perhaps, a straining of the law.

8. But you could not force them to do it?—I did mention the matter to one of the members petitioned against, and he said he would be no party to any such arrangement.

9. Did you see your way, if each of the persons petitioned against chose to exercise the right given them by the law in naming two different parties, by which a Committee could be constituted to try the merits of this petition?—I could see no way if each person insisted on the rights they had of being represented on the Committee; I could see no way out of the difficulty.

10. Did you see your way, in conformity with the requirements of the Act, that two Committees should try one question?—I do not think two Committees could have been appointed, unless the House interposed its authority, and said that two Committees must be appointed.

11. Could the House alter the law, in your opinion, by such resolution? Do you consider it to be a case in which the House, by resolution, could require such a thing to be done as the appointment of two Committees under the provisions of this Act?—I believe that the House is ultimately supreme in a matter of this kind. There is a recent case at Home, in 1868, where a member was petitioned against. It is quoted in "*May*." He was petitioned against as being a Government contractor, and it was a case that might have been tried by the Judges of the Supreme Court; but, instead of this being done, as the Statute authorized, the House itself tried the matter, and pronounced the member disqualified. "*May*" remarks that this was a singular case, inasmuch as the House adjudged a matter which might have been determined by law. The point has been endeavoured to be established that all matters affecting seats should be decided by the Supreme Court Judges; but that rule was not held in the cases of O'Donovan Rossa and John Mitchell, and the House still has an undoubted and inherent right to judge of the right of a member to sit in their own House.

11A. I can understand the House saying, We are not going to try this under the Election Petitions Act; we will try it under our own inherent constitutional power, and decide on the validity of the seat: but can this House have this case tried under the Election Petitions Act, submitted by resolution of the House, where the Election Petitions Act seems distinctive? Did it strike you that the resolution of the House declaring there should be two Committees would not be supplementing the Election Petitions Act—would not be taking election petitions out of the purview of trying it under the Election Petitions Act, and supplementing it by resolution of the House?—I do not think so. The case of Waterlow, in "*May*," was a somewhat analogous one, though his seat was not claimed by another person on the ground of his bribing or treating, but on the ground of his being a Government contractor; and the seat was declared vacant, though the petition was withdrawn.

12. But if the House had declared that this case should be tried by the Judges, and given some supplementary power by resolution of its own?—I doubt whether the House of Commons would have the right to supplement the law of the land except by Act.

13. *Mr. Rees* (through the Chairman).] I should like to ask whether it is not necessary that the petition should be clear and distinct; not that there should be a mere statement that the persons petitioned against were guilty of bribing and treating, and other corrupt practices, which would give the person petitioned against no information of the specific grounds and absolute facts, but that he should have a clear indication of what he is required to meet?—I do not think it would be necessary to set forth specific acts of treating: the grounds would be, to my mind, sufficiently set forth by describing them either as intimidation, bribery, treating, or otherwise, leaving the facts and acts to be established by evidence adduced before the Committee.