

any mistake in that direction. A mistake may have been made inadvertently, and this has often occurred where no wrongful action was intended. It is altogether a question of deliberate intention. But miscounting of ballots does not appear to be specifically provided for by the act, nor does it appear to come within any of the general provisions of the act."

Mr. Foy—The hon. gentleman will pardon me, but the report of the commissioners says that Cummings fraudulently miscounted 21 ballots. (Opposition applause.)

Mr. Gibson—I do not say that he did not. I say that mistakes frequently occur in these things. Ballots may be inadvertently miscounted. The Judges report this case as fraudulently miscounting. Perhaps the hon. gentleman is in a position to say whether that makes any difference. I would like to know where he can put his finger on a clause of the election act that provides a penalty where there is fraudulent miscounting. I am unable to find any special provision in the election law which reaches it. There is that much to be said as to the difficulties which may be incurred when it becomes necessary to prosecute these men. (Government applause.)

Wildfong's Case.

"Wildfong's case," Mr. Gibson continued, "is different. The defacing of ballots is expressly made a grave offence, but no direct evidence appears to have been given to incriminate Wildfong. A process of exclusion of others who denied having any knowledge of the alterations and defacement of the ballots seems to have led to the conclusion arrived at that Wildfong, as the deputy returning officer, must have committed the offence. My view is that further proceedings should be instituted." In this connection Mr. Gibson pointed out that he has introduced at this session legislation bringing the procuring of appointments of deputy returning officers by fraud and wilful misconduct in counting ballots within the provisions of the Ontario election act.

Destruction of Ballots.

He continued:—"As to the amendment now before the House censuring the Government for not prosecuting those who were concerned in the destruction of the ballots in the West Elgin case, no one who has read the report of the commissioners would seriously think that there was reasonable ground for adopting such a course. The three Judges, having taken all the evidence that could be found or that could possibly have any bearing in the matter, reported as follows:—"The commissioners can arrive at no other conclusion upon the evidence of all parties engaged in the destruction of the ballots, etc., than that the said box, with its contents, was inadvertently taken with the other boxes containing the general election returns from the vault to the furnace and there burnt. The evidence satisfies us that the said box, with its contents, was not destroyed with design or deliberate purpose, but it indicates an absence of that care and caution in calling over, checking and

scrutinizing the boxes and packages containing the ballots and other election papers which should be observed in transferring such important papers from the vault to the furnace for the purpose of the statute. Practically the same conclusion had been arrived at on the investigation held by the Deputy Attorney-General immediately after it had been found that the West Elgin ballots had been destroyed along with the general election ballot papers, which were destroyed according to the provisions of the act, and legislation of last session will prevent such unfortunate mistakes occurring in the future.

Col. Clarke Was Ready.

"Colonel Clarke, the Clerk of the House, had been requested to attend as a witness at one of the prosecutions and to explain what had occurred in this connection, and he would have attended but the case was not proceeded with. He attended at the election trial prepared to make a sworn statement of the facts, but was not called, the respondent

having disclaimed the seat, and it was afterwards decided that a commission should be appointed to inquire into the irregularities, and we have the report of that commission.

Mr. Macdiarmid's Claim.

"The member for West Elgin has stated that he was sent to this House as a protest against the burning of ballots. There is little doubt but that his election was the result of the misconduct of those guilty of misconduct in the West Elgin election case. The Liberal party deprecate and condemn the actions of the irresponsible parties which have given rise to all this trouble. Neither the Government nor any of those who can fairly or reasonably be considered as acting on behalf of the Government have been in any way implicated in these wrongdoings, and, on the whole, it must be admitted that the Liberal party not only of West Elgin, but the Liberal party throughout the Province, have been most severely punished for the actions of the few irresponsible individuals immediately concerned in the irregularities which occurred. No one would dream of connecting Mr. Macnish with any knowledge of, much less participation in, any of these irregularities. As a matter of fact, he was easily the elected member for the constituency, but when he became aware of the irregularities which had been committed, honorable man as he was, he disclaimed the seat.

Record of the Party.

"The Liberal party in this Province has now been in power in this Province for about 30 years, and the record in connection with the conduct of elections is clean and above suspicion. I venture to say that the same cannot be said regarding elections conducted by the Conservative party while in power at Ottawa. Numerous instances of irregularities of the gravest character have taken place, and, what is more serious still, a general and widespread system of deliberate intention to defeat and thwart the will of the people