

fortunately, ignorantly, but honestly, they so dealt with the ballots as that except for the Act of 1879 these votes must necessarily have been rejected, while neither the petitioner nor the respondent is responsible for that."

What was said by Vice-Chancellor Blake is important, as much reliance was placed by the petitioner's counsel upon what was said by that learned Judge in the Monck case (January, 1876), H. E. C. 725, particularly at pp. 728 and 731; but the view expressed in the latter case shews that what was said by him in the earlier one was not directed to such a writing or mark on the ballot paper as the numbering of it by a deputy returning officer as had taken place in the Russell Case (2).

The Russell Case No. 2 is important also, because the numbers which had been placed on the ballot papers were not numbers corresponding with those set opposite the voters' names in the voters' list of the municipality (i.e., the numbers on the assessment rolls), but the numbers which by sec. 6 of the Act of 1874 the deputy returning officer was required to place opposite to every name in his voters' list, which, as the section provides, need not be consecutive numbers, but might be chosen arbitrarily by the deputy returning officer.

In the Bothwell Case (1884), 8 S. C. R. 676, although it was not necessary for the Court to decide, and it did not decide, that the ballot papers which the deputy returning officer had numbered, as the ballot papers in this case were numbered, were bad and ought not to have been counted, Henry and Gwynne, JJ., expressed strong opinions that such ballot papers were illegal and bad: pp. 714, 720, et seq. Fournier, J., also (p. 710) referring to the numbering by the deputy returning officer, at polling subdivision number 1, Sombra, and the erasure by him of the numbers, spoke of the numbering as an error which, if it had not been then repaired, might have had serious consequences (une erreur qui, si elle n'eut pas été réparée alors, auraient pu avoir de graves conséquences). The judgment of the Chief Justice (Ritchie) also indicates, I think, that but for the erasing of the numbers he would have held the numbered ballots to be bad.

Strong, J., however, expressly guarded himself from being taken, by assenting to the judgment of the Court, to preclude himself from the right to consider, in any future case in which the question might arise, whether any mark put on a ballot by mistake and in good faith by a deputy