

March 7, 1873

an Election Committee. He had left the matter in the hands of the House and was in no way responsible for the decision.

The Minister of Justice (Hon. Sir John A. Macdonald) had already stated that the then leader of the Reform party, although no doubt most anxious for his (Hon. Sir Francis Hincks) return to the House as speedily as possible, had on that occasion voted against his party. His hon. and learned friend, however, had forgot to mention the name of another very high legal authority, Mr. H.J. Boulton, who had also voted on that occasion on the same side as Mr. Baldwin. Among the gentlemen who voted on the other side were such men as Mr. Lafontaine, but it must be remembered that in the old Province of Lower Canada there was no such thing as a trial of contested elections by a committee, and proceedings to settle a dispute were taken in the House and by the members of the House, and they hesitated not to take the matter into their own hand, in consequence, the member for Bruce South (Hon. Mr. Blake) had remarked that this discussion and these proceedings were rendered necessary by the election law which had been proposed in order to have contested elections tried by a different tribunal, and yet he stated that he had also said that if such a law had been enacted, this case would not have come before the House, which he now asked to decide the question.

Hon. Mr. BLAKE: No, no.

Hon. Sir FRANCIS HINCKS: The hon. member for Bruce South had told the House plainly that the case which he cited as a precedent was that of O'Donovan Rossa, which he (Hon. Sir Francis Hincks) deemed to be not a case in point. The hon. member for Lambton (Hon. Mr. Mackenzie) charged gentlemen on the Ministerial side of the House with carrying the practice principles opposed to those which they preferred with reference to the election law. He was surprised to hear such remarks from a gentleman who showed himself generally so acute upon all parliamentary questions, and he concluded that in this case the gentlemen who supported the Minister of Justice in his amendment were merely invoking English practice in order to show what was done in the administration of a law similar to our own; but it was not necessary that the English example should therefore be followed in reference to a law that was merely proposed. He had no desire to go into the question, but he merely meant to justify himself in agreeing with the position taken up by Sir John Macdonald. Thus the House would get the very best advice as "to whether the case was one with which they were competent to deal or not".

He was sure he spoke the sentiments of every gentleman in the legal profession, when he said it was right that the House should have the benefit of the advice of the Committee on Privilege and Elections. This would not be postponing the consideration of the question, and the importance of the advice would be all the greater. Then this Committee would be composed of the highest legal authorities on both sides of the House. One party might influence the other to agree upon the question, and an unanimous report might be obtained; but even if this were not accomplished, the House would be better able to judge in the matter when they had the reasons for and against the opinion of the Committee.

He would just make one observation in reference to his own case, which he argued was not exactly the same as the one in point. He could not reproach himself upon having caused any embarrassment to the country or to the House by the course he had taken; and at every election he had engaged in since 1848, he had invariably gone to the election with his qualification along with him. In regard to his election in Oxford, he had put in his qualification on the day of the nomination, and the only question raised was whether it was good or not. The returning officer had said it was not. In the case before the House, it was alleged that the qualification had not been put in at all, at least not in the proper time. One thing was clear. It was open to Mr. Bertram to have put it in the proper time, and thus save himself from all blame, and the House from a great deal of trouble. (*Cheers.*)

Hon. Mr. HOWE said the Canadian practice had been quoted, but hon. gentlemen opposite did not care to quote precedents from his part of the country. He thought the carrying of the motion made by Hon. Mr. Blake would be disposing of the question in too summary a way, and he therefore opposed it.

Mr. BODWELL said he was astonished at the reference made by Sir Francis Hincks to his own case. That gentleman seemed to have received new light on the subject since he became a representative of Vancouver. (*Laughter.*) He (Mr. Bodwell) had heard it broadly stated throughout the country that the Minister of Justice had aversed that he was determined that the gentleman receiving the majority of votes in Peterborough West would not sit in the House this session.

Hon. Sir JOHN A. MACDONALD rose to deny in the most explicit terms that he had ever said anything to any person to the effect referred to by Mr. Bodwell.

Mr. PRÉVOST (in French) maintained that there was no necessity for referring the matter to an Election Committee. All that had to be considered was already before the House, and appeared upon the face of the report of the returning officer. A gross injustice had been done to the electors, and to both candidates, and an infringement of the privileges of this House had been inflicted by the malfeasance of the returning officer who ought to be brought before the bar for trial. (*Hear, hear.*) He urged upon the House to do their duty to themselves and justice to the electors and the candidates in the case. (*Cheers.*)

Mr. MATHIEU (in French) quoted from the election law of the Dominion, and contended that it remained to be shown whether, under the circumstances, the returning officer had not done his duty. The matter ought to be referred to the Committee, as proposed by the Premier. (*Hear, hear.*)

Hon. Mr. CAUCHON said he would, on this occasion, maintain the position he had taken up 25 years ago. He felt himself placed in rather an awkward position on account of the arguments used by the hon. member for Cardwell (Hon. Mr. Cameron) to prove that the matter was one with which the House could not legally deal. At the same time the speech made by the hon. Premier in moving this amendment to send the matter before the Committee on Privileges