

this case the returning officer did none of these things. He did not pretend that he had examined anybody. He says, upon enquiry he found that such and such things had happened, and under these circumstances he was unable to make any return. He (Hon. Mr. Blake) said the enquiry was not a proper one; the case did not call for enquiry, and if it did, it should have been an enquiry under oath, an enquiry which would have enabled either this House or a Committee to deal with it; but, as he had said in reference to Morrison, take away the votes of Parry Sound altogether, and there would still be a majority for Mr. Cockburn.

He held, therefore, that this case was relieved from any of the difficulties and sophistries which might have surrounded the other case. It was relieved from all questions as to whether the returning officer was right or wrong on the point of qualification. It was a plain question of fact, and the question of fact was plainly in favour of Mr. Cockburn—that under the least favourable circumstances he had a majority of votes as appeared from the poll books.

The plain question of law which the House had to determine was this: these being the facts, and it having been the duty of the returning officer to return Mr. Cockburn, and he having failed to do so, alleging his incapacity to return anybody, was not this House entitled—was it not, in point of act, bound according to precedent—to amend that return so as to make it what it should have been, by inserting the name of Mr. Cockburn? As the return is subject to the right of all parties to petition under the law, he felt that this case was relieved from all difficulty, and he was glad to know that that was the view entertained by some of the members who thought there were some difficulties in the other case. He was glad to know that upon this occasion there would be found no difficulty in asserting the privileges of this House, and doing what he asked, which was simply justice towards the constituency and towards the country. (*Cheers.*)

He concluded by moving—That it appears by the poll books and other papers transmitted by Richard James Bell, officer appointed to conduct the last election in Muskoka, that two candidates, Alexander Peter Cockburn and D'Arcy Boulton, were nominated; that a poll was demanded, granted, and taken; that at the close of the polling the said Alexander Peter Cockburn had the largest number of votes, having received 652, while the said D'Arcy Boulton received only 530, leaving a majority for the said Cockburn of 122 votes; that in the township of Morrison 37 votes were polled, whereof 34 were for Cockburn and three for Boulton, so that, omitting these there would have been still left a majority for Cockburn of 96 votes; that in the district of Parry Sound 103 votes were polled, whereof 84 were for Cockburn, and nineteen for Boulton, so that if the votes polled in Morrison and Parry Sound were omitted there would still be left a majority for Cockburn of 26 votes; that the returning officer had made a return which was in the following words:—

Return, by virtue of writ of election for the electoral district of the county of Muskoka in the Province of Ontario and Dominion of Canada; dated the 15th day of July, 1872. I hereby declare that I duly proceeded to hold the said election, and, a poll having been demanded on behalf of Alex. P. Cockburn and of D'Arcy Boulton,

the only two candidates at such election who did not withdraw from the contest before the polling day, a poll was accordingly taken at the several polling places named in the proclamation issued in that behalf. I further declare that since the said polling, which was taken on the 23rd day of August, I have received returns which appear to have been regularly made according to the requirements of the law in that behalf, for the following polling places, that is to say: the township of Macaulay, the united townships of Draper, Ryde, and Oakley, the township of Muskoka, the township of Monck, the townships of Watt and Cardwell, Rosseau Junction, the polling place half way between Rousseau Junction and the Magnetewan, the polling place at Magnetewan, the polling place at Parry Sound Village, the polling place at McKellar's Falls, the polling place at Uttoson, the polling place at Huntsville, the polling place at Port Carling, and the polling place at Byng Inlet.

I further declare the return for the township of Morrison, being also one of the polling places or divisions mentioned in the said proclamation, has not been duly made to me; that I have examined Henry N. Anderson, the deputy returning officer for that polling division, upon oath, and that his statement in writing signed by him and sworn before me is hereto annexed; and I declare that the poll book for Morrison, aforesaid, has been lost and cannot be found, and that the said Henry N. Anderson was instructed to appoint a poll clerk duly, and if he appointed a clerk the person so appointed did not officiate at the said polling place or division, and I am therefore unable to comply with the provision of the consolidated statutes of Canada, chapter six, sec 68, and of sub-section two of the same section, which requires that in case of loss or a poll book the deputy returning officer shall examine under oath the clerk at the place; but the said clerk was found to be incompetent to discharge his duties, and the deputy returning officer forthwith called upon one Foley to act as poll clerk in lieu of the said Wilson, and that Foley did so act without being sworn as required by law, and that, notwithstanding these facts the said poll book was returned to me with the oath of the said Wilson and without the oath of the said Foley, who kept the said poll book through the said polling, with the exception of the time occupied in recording the first two votes; and I further declare that upon the state of facts above set forth I am unable to make a return of the said election in compliance with the provision of the law in that behalf. As witness my hand and seal, the 14th day of September 1872. (Signed) Richard James Bell, Returning Officer.

That the said Mr. Cockburn ought to have been returned as member for Muskoka for this Parliament; and that he has a right to take his seat in this House, saying, however, to all candidates and other their rights to contest the said election if they think proper, in such manner as may be appointed by law and justice, and in accordance with the usage of Parliament.

Hon. Mr. CAMERON (Cardwell) said there were circumstances which the House ought to consider beyond the statements that had been made by his friend. With regard to the precedents his hon. friend had alluded to, the first one did not bear upon this case, namely, the Beauharnois case of 1848. The law of the old Province of Canada was the law which in that day affected