

the violent step of striking out a gentleman who had been returned as member and putting in another in his place.

They were here dealing with a case in which the returning officer had alleged it impossible in consequence of the undisputed facts before him, to determine what he ought to do, and in which he had not complied with the exigency of the writ, which called upon him to return a member to Parliament; and the question before the House was, whether upon these facts, which for the purposes of the case were assured to be indisputable, the House would act in the manner in which any Committee would act, namely, by determining that the returning officer, if he had done his duty, would have returned Mr. Cockburn, and that Mr. Cockburn ought to be returned as a member to Parliament.

Before pointing out what he regarded as a most material point, namely the law, as he understood it to apply to election and policy divisions in question, he desired once more to press upon the House that if they were pleased to take the course of striking out the votes polled in these divisions altogether they would still arrive at the plain undisputed result that there was a majority of votes for Mr. Cockburn. He desired also to point out how closely many of the precedents which were adverted to the other day fitted to the present case.

The Beauharnois case was one in which the returning officer had been unable to obtain some of the poll books at all. They had not been returned to him up to the period at which by law he was obliged to make his returns. His partial return showed a considerable majority for De Witt, one of the candidates. The returning officer made a special return, that in consequence of his not receiving some of the poll books he was unable to return either candidate as elected. The House entertained the question and unanimously determined that he ought to have returned De Witt as elected, and he was declared returned. If the name of Baldwin was to be invoked as an authority, he invoked that authority. Mr. Baldwin was one of the leaders of the House at the time.

He would next refer to the Lennox and Addington case: that also was a case of an unanimous vote. On 24th March 1862, a resolution was placed to the effect that it appeared by the return that Mr. Hooper, one of the candidates, had a majority of votes but notwithstanding this the returning officer did not declare him returned; and it was determined that he ought to have been returned and had a right to take his seat. In that case the House was dealing with a special return, which stated that Hooper had a total of 1,744 votes, and Roblin 1,360. The hon. gentleman who was leading the House now was leading it then, and the motion was made by Mr. Walbridge, a member of the Opposition, and unanimously agreed to.

Turning to the Essex case, he said he was quite prepared to stand by the decision which the leader of the Government spoke so highly of. The House had not forgotten that the leader of the Government appealed to the authority of Mr. Walbridge. He had stated that his decision was of the highest authority, as it was a judicial one, and was entitled to the greatest weight. He (Hon. Mr. Blake) pointed out to the hon. gentleman that Mr. Speaker Walbridge, placed in that

responsible position, had taken the line which was consistent with his (Hon. Mr. Blake's) line, that he had established the view that the House had the right to deal with those questions which are apparent upon the papers, with reference to which a conclusion of law was to be drawn, but ought not to deal with those questions which involved disputed fact. He proceeded to read from the journals of the second session of 1863 the decision of the Speaker in the Essex case. The Speaker gave his vote for the negative, for the reason that when matters of fact are to be enquired into the question should go before the Election Committee.

He was of opinion that the vote marked "refused to swear" was a bad vote. That was not a matter of fact but a matter of law, which the House according to the statute, might properly look into. This left a tie between the two candidates, and he could not therefore say that Rankin had the majority of votes, but the question as to the alleged rescue and transfer of another vote was a question of fact to be decided by evidence taken before a committee.

This decision divided itself into two parts. There was one question depending upon a conclusion of the law upon the facts before the House. Upon that question this authority which the leader of the Government spoke so highly of, determined that the House had a right to decide. When he came to the second question the same authority said he could not enter into an investigation of disputed facts. That precedent was one for the interference of the House in a case where a conclusion of law was to be drawn from undisputed facts before the House, and that precedent was strengthened by the adoption of it by the leader of the Government the other day and his recommendation to follow it.

Having quoted that, he (Hon. Mr. Blake) thought he had relieved this case of all difficulty. The observations he had made would relieve the minds of hon. members from what was no doubt innocently and mistakenly suggested by some of the speakers on the other side of the late debate, namely, that there was any proposal on the part of those who took the view of the law which was taken by those who supported his motion, to make the House the theatre for the investigation of disputed facts. The line they took was clear, intelligible, and decisive and laid down in the clearest and sharpest manner by Mr. Speaker Walbridge. In this authoritative decision he gave the rule and the example of the rule, and he decided upon one question one way, and upon the other another way, just because one fell within and the other without the rule. The apprehension, then, that the House might be delayed by the calling of witnesses and the carrying on of an investigation was entirely removed by the establishment of the proposition that where no disputed matters of fact were brought forward, and where the House was called upon to conclude the law upon admitted facts, the House might properly interfere.

It had been said also that there would be some danger of a partisan decision. He trusted that the House would not, from a distrust of itself, from an apprehension that its members would not give a fair and honest vote, transfer the liberties of the people to the custody of a partisan returning officer. At present the Government appointed the returning officers. They determined upon the course