

turn of the writs, and the day of the return of the writs is fixed definitely on a particular day, and the elections are held pursuant to that, and Parliament meets on the 29th of April afterwards, where does the possibility of doubt come in? I have never been able to see it. But some hon. gentlemen say: Oh, well, one of the gentlemen to whom a writ was issued did not hold the election. What then? The election is void, is it not? What authorizes him to hold the election, and what gives the returning officer any power at all? Nothing more nor less than the writ under the great seal which he receives from the Governor General.

Mr. HAZEN. The statute.

Mr. DAVIES (P.E.I.) The statute does not give him any power.

Mr. HAZEN. It gives him authority.

Mr. DAVIES (P.E.I.) The statute does not give him a single particle of power. Mr. A. or Mr. B. the returning officer, is unknown to the statute. The statute authorizes the Governor General to issue the writ, and the writ confers the authority, and the only authority on the returning officer. And, when the writ expires, the authority ceases, and the returning officer has no more power to act a day after the expiration of his authority, than I have. If he holds the election after the time mentioned in the writ has expired, the election is clearly void.

Mr. HAZEN. There is no time mentioned in the writ at all.

Mr. DAVIES (P.E.I.) The hon. gentleman says there is no time mentioned in the writ. But the hon. gentleman has not followed my argument at all, because I have pointed out that the proclamation issued by the Governor General under the statute fixed the date when the writs must be returned, and the date for the return of the writ for Algoma was the 25th day of April. Of course, that is not repeated on the face of the writ as the return day, because that was mentioned as the day Parliament was to be summoned. Now, Parliament could not be summoned until after that day.

Sir CHARLES HIBBERT TUPPER. You are assuming that the day of the return is the return day.

Mr. DAVIES (P.E.I.) I say that the Governor General fixed the 25th of April as the day when the writs should be returnable, and after the 25th of April it was not competent for any returning officer to hold an election. If any returning officer did not hold an election until after that date, that could not prevent Parliament meeting and doing business. If twenty members were returned, under the British North America Act, it was competent for the Governor General to call them together, and they would have full power to perform all the functions of the House of

Commons, and the absence of one member did not affect the power of the House of Commons to exercise its functions as such. His election, I hold, is void, if held after the 25th day of April. That is a question for him alone; it does not affect the power of this House. Then the hon. gentleman refers to the return of the elections for the three constituencies of Algoma, Gaspé and Cariboo. I would suggest, in answer, that the discretion vested in the returning officer must be exercised within the time the writ is returnable. That time limits the exercise of his discretion. In discussing this question with my learned friends on this side, I have never had any doubt on that point. Of course, some ingenious counsel may suggest a doubt in some way or other. So far, I am pleased to see that the Minister of Justice has not committed himself in any way to the existence of a doubt.

Mr. HAZEN. It seems to me that the hon. gentleman does not attach enough weight to sections 14 and 16 of the Act respecting elections of members of the House of Commons. These sections, taken together, seem to me to make it clear that in the districts of Cariboo, Algoma and Gaspé, the returning officer can hold the election at any time he pleases, provided he holds it within eighty days of the time he receives the writ; and it makes no difference when the other writs are returned.

Mr. DAVIES (P.E.I.) My argument simply is that the discretion exercised by the returning officer there must be limited by the time fixed for the return of the writs.

Mr. HAZEN. I understand the hon. gentleman's argument; but it seems to me that this statutory power overrides any discretion that may be vested in the Governor General. The statute clearly means that the returning officer may extend the time for the holding of the election after he receives the writ, in those districts, provided he does not extend it beyond eighty days. In the case of Algoma, the returning officer did exercise his discretion, and did not hold the election before the 25th of April, but held it on a much later date. That being the case, and taking the language of section 50 of the British North America Act, which says that "every House of Commons shall continue for five years from the day of the return of the writs." I think it is open to argument to say that that means the return of the last writ. It is not the return day of the writ, but the actual day on which the writ is returned. I do not want to give this as an opinion to the House, but it seems to me that the matter is very fairly open to legal argument. This being a question of law, it seems to me that this House is not a very satisfactory tribunal to decide it. If we can get a decision on the question from the Supreme Court, that would be much more satisfactory, because it would be a decision absolutely free from any party