

but the statement is that the time for making such application for a recount—application to whom? why, to the judge—shall be postponed until the expiration of six days after the decision of the appeal. I would like to know how it is possible for the returning officer to make a return during that period of time, while the question of appeal is undecided. It is perfectly clear that the party has six days after the appeals are decided to make this application. Now, if it were possible for the returning officer to make his return before that period of time, then it is perfectly obvious that he has not the six days to make the application,—that he would not have any time, on this ground, to make the application. He cannot make the application after the return is made; and it is clear as noon-day, that under these provisions, the returning officer is estopped from making a return until these appeals are decided. I call your attention further, Sir, to the fact that the two classes of voters under section 68 are to be kept distinct. The returning officer is to enumerate under one class those who are entitled to vote, to whom no exception is taken, and he must make a separate list for those whose cases are in appeal. Now, these two classes cannot be fused together in one enumeration, until this question of appeal is decided; and that appeal is not to be exercised in such a way as to take from the party aggrieved his right to make the application. He is not forced to make his application at once. It is not an application which after it is made is to be postponed. It is this fact which is kept clearly in view by this sub-section, that until six days elapse after these appeals are disposed of, the returning officer cannot make a return. And why should he? What right has he to do so? Suppose 400 or 500 names were improperly put on the list, and were made a subject of appeal just on the eve of an election, is it possible that it could be seriously argued that this House has discharged its duty in so incompetent a way, that it has so far failed to make provision for the proper expression of public opinion, that these votes could be counted before it should be finally determined whether the names ought to be on the voters' list or not? It is clearly the intention of the law that section 60 shall not be read by itself. It must be read in connection with what follows. It is not that sole section which decides what are the duties of the returning officer. His duties are limited and explained further by section 61; they are also limited by section 62, where, if a ballot box is missing, an adjournment is provided for, notwithstanding the clear and positive declarations of section 60; they are further limited by section 63; and they are limited by the amendment of last year, which shows that the votes cannot be counted until it is known whether those persons are really entitled to be so counted or not. In conformity with this construction of the law, you have this provision of section 64:

"If any such appeal in respect of any person whose name is entered on the poll book as having voted at such election is not decided before the expiration of the said four days allowed for the making of an application for a recount, the time for the making of such application for a recount on the ground of the result of the decision of any appeal shall be extended for and until the expiration of six days after the decision of any such appeal."

Why, Sir, if you were to put any other construction on the Act, you would leave a party in an important case without a remedy, except by the active

interference of this House to protect itself against a gross wrong. I do not think we are called upon to put such a narrow construction on the Act. We must read all parts of the Act together; we must look at its spirit and at the intention of Parliament as disclosed in the Act; and it is clear, in view of these provisions for a recount, that the returning officer cannot make a return until it is decided whether those parties who have voted, and whose names are in appeal, were or were not entitled under the law to have the elective franchise. Now, Sir, let me read some circumstances connected with the declaration. Mr. Pritchard is the returning officer in the city of London. Mr. Pritchard, when asked to delay making his declaration in accordance with the amendment of the law of last year, said:

"I have no hesitation or doubt in the matter. The question of the undecided appeals is in the hands of the Court of Appeal, and I have nothing to do with it."

Why, Sir, he had everything to do with it. Then Mr. Magee, the counsel for Mr. Hyman, said:

"I would call your attention to the words of sub-section 2 of section 62, and if for any other cause, the said returning officer cannot at the day and hour appointed by him for that purpose ascertain the exact number of votes, &c., he may thereupon adjourn to a future day."

Now, the number of votes was not ascertainable, because those parties' right to vote was a subject still pending. The returning officer opened ballot box number one and declared 73 votes polled for Mr. Carling and 90 for Mr. Hyman. Then Mr. Magee said:

"I call your attention to the fact that there are six of these ballots cast for the Hon. Mr. Carling which were deposited by persons whose right to be registered is disputed."

It seems that instead of the different classes of ballots being kept separate as provided for by section 58, they were mingled together. Mr. Pritchard, the returning officer, said:

"I may as well state here that I have nothing to do with the question of the undecided appeals. I shall simply take the votes that are recorded for Mr. Carling and for Mr. Hyman."

Now, Sir, that is the question of first importance that this House is called upon to consider: Had he nothing to do with it? Had he a right to proceed to sum up the good and the questioned votes together? I think it is clear from the provisions of the Act, that he had not to do it, that he had no power or right to make a return until that question was decided. If he made a return, it is quite clear that it could only be a special return—a return stating that there were so many votes polled for Mr. Carling and so many for Mr. Hyman about which there was no question, and that there were so many for Mr. Carling and so many for Mr. Hyman which were under appeal. But I think, looking at the provisions of the Act of last year, that it is quite clear that no return of any sort ought to be made; no return such as the law contemplates can be made until it is decided whether these votes are to be struck off the list of those entitled to vote, or whether they are to remain. Until that takes place it is not possible to say with absolute certainty who has the majority of legal votes cast at an election. I am not going to discuss this subject further. I have brought this matter to the attention of the House, and have called its attention to the important question of the necessity of insisting that all

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