

eral's proclamation bound them to such dates as brought their return on, we will say, the 3rd June.

Mr. MILLS (Bothwell). When were the writs issued to them?

Mr. DICKEY. I am not in a position to give the hon. gentleman the dates.

Mr. MILLS (Bothwell). The whole point turns on that.

Mr. DICKEY. So that independent of the proclamation ordering the issue of the writs, there is no doubt the action of the returning officer in Algoma was perfectly regular and legal. Now comes the question whether the prerogative of the Crown, referred to in section 3, with regard to the fixing of the return day of the writs, is or is not a limit with regard to certain named writs in those constituencies in which the time allowed for returning may be longer than the return day of ordinary writs. The hon. gentleman said that if the returning officer could hold back a writ for a month, he could hold it back for a year. But I do not think that that contention can be successfully made because the time within which the Algoma returning officer can hold back the return of his writ is strictly fixed by the terms of section 14, which gives him certain rights. The whole question has arisen from the fact that the Algoma returning officer accepted the statutory instruction instead of the instruction under the proclamation. Now, the hon. gentleman suggests that if another instruction than that fixing the expiry of this Parliament on the 25th April were adopted it would render nugatory a large portion of the Acts which we have passed, including Mr. Speaker, your own election. It is argued, on the other hand, that that is not a necessary conclusion. The question whether Parliament can act before all the writs are in, is one which must be decided separately and according to Parliamentary law. The decision of that question would settle whether or not Parliament met legally when it met the 29th April, 1891. But the decision as to what is the day from which the five years begins to run against Parliament is another question. Supposing the British North America Act said that Parliament should continue for five years from the last date of the year in which it is elected, namely, from the 31st December of the year in which it is elected, Parliament would then last more than five years and would be capable of doing business more than five years.

Mr. EDGAR. It says five years and no longer.

Mr. DICKEY. Quite so; but it would sit no longer than five years from the end of the calendar year. If the British North America Act said that Parliament shall continue for five years from the day it is elected and no longer, you would have a Parliament which would endure more than five years,

but which would be subject to the limited statutory existence to be fixed on the proper construction of the statute. That Parliament may legally have met and transacted business before the day of the return of the last writ; but that when you come to determine the period for which the British North America Act is enacted, you must take the day of the return of the last writ, and calculate from that, five years, the legality of the Parliament before that date being settled by other considerations altogether. As I said, I do not propose, at present, to express an opinion on either branch of the case which the hon. gentleman has read. A great many in this country look upon this as a purely legal matter; they look upon it as a question which they would like to see withdrawn from party considerations, the question they would like to see discussed somewhere upon absolutely straight legal principles, and settled upon that basis. It is for that reason that a great deal may be said in favour of referring the question for the opinion of an entirely independent court. It is quite true that the opinion of the Supreme Court would not be final, nor would it necessarily, as, of course, every hon. gentleman knows, in a case like this, be a decision which would be acted upon as a matter of course. But the question that would arise on this case, by referring to the Supreme Court, would be whether the House which is a political body should, in this case, take from its cognizance a matter which is a pure matter of law, and leave it to the courts to deal with. That would be a question that would come up if this proposition were made to the House. I do not know that, in the present aspect of the case, it is necessary for me to say any more than this: That, however strong any hon. gentleman may feel himself upon this question—and however positive he may feel that there is but one view of the law, and that the one he takes, I can assure hon. gentlemen, from my own knowledge in my own department, there are grave differences of opinion among gentlemen very high up in the legal profession throughout the Dominion.

Mr. MILLS (Bothwell). The hon. gentleman says this question should be considered entirely apart from party. I agree with that view. This is a legal question, but it is, in my opinion, purely a question of parliamentary law, and, because it is a question of parliamentary law, it is not a proper question to refer to the courts. The courts do not pretend to undertake to construe parliamentary law; they take the construction of the law of Parliament from Parliament itself. Now, the hon. gentleman has also referred to the provisions of the statute relating to the Algoma election, and says that it is upon the construction of that statute that the returning officer acted, and not upon the proclamation. Now, Mr. Speaker, I would say this with regard to