

were tendered at that election, 2,002 were given in favor of Dr. Robertson, and 1,941 in favor of Mr. McDonald. Therefore, Dr. Robertson was elected as the representative of that constituency, unless some disqualification existed which prevented his filling that place, and even then he was entitled to have been returned as the representative of the constituency, and to have taken his seat in this House, unless that disqualification were of such a nature as to make his election void, *ab initio*, and to have the effect of causing the votes that were given for him to be thrown away. That disqualification the Committee believes to have existed, and they base their conclusions on the following facts: In the month of May, prior to the General Dominion Elections, a General Election had taken place throughout the Province of Prince Edward Island for the House of Assembly of that Province. At that election Dr. Robertson had presented himself as the candidate for the same constituency, had taken the oath of qualification necessary under the law of that Province, and had been elected and proclaimed as the duly elected member for that constituency in the *Official Gazette* of that Province. Two Statutes have been passed by this Parliament in reference to the subject of dual representation, one absolutely prohibiting, and another conditionally prohibiting that representation. While a doubt was entertained as to the applicability of one of these Statutes, no doubt whatever was entertained, or maintained, in the Committee, but that under one or the other of them dual representation was prohibited, and therefore that Dr. Robertson, at the time he presented himself as a candidate for election to this House, was disqualified from being a candidate, or from being elected, unless between the time of his election for the Provincial Legislature and his candidature for the Dominion Parliament he had validly effected a resignation. That resignation, it is claimed, was made by him. On the other hand, after the election had taken place, and before the summing up of the votes, a protest was submitted to the returning officer, to the effect that such disqualification still existed, and this was supported by the certificate of the Lieutenant-Governor of Prince Edward Island, that up to that time, the 26th June, six days after the election, no resignation had been tendered to him on behalf of Dr. Robertson, nor had any communication been presented to him to the effect that such resignation had been given. The returning officer for the Dominion Election had also acted as returning officer in the Provincial Election, and he therefore had personal knowledge that Dr. Robertson had been elected in that constituency, to the General Assembly of Prince Edward Island. It was not, however, upon that authority, but upon the official certificate of the Lieutenant-Governor, that no resignation had been put in, that the returning officer acted in this matter. He did not report, as the Committee believe he was justified in reporting, that Mr. McDonald was duly elected. He made a special return to this House, stating the fact that the largest number of votes was in favor of Dr. Robertson; but that by the certificate and protest which he forwarded with his return, a disqualification existed, which prevented his being entitled to the seat. Now, with reference to this resignation which is pretended to have taken place, it is necessary to state, in the first place, that by the common law, no such resignation as this is allowed. It is considered that when a person presents himself as a candidate for election for a constituency, and is selected by that constituency as its representative, a compact exists between them from which neither can withdraw. The constituency has no right to reconsider its decision, and to dis-elect the member—if I may use that expression—nor, on the other hand, has the member elected a right to resign his seat, and, thereby, to disfranchise the constituency. It is only by a special statutory enactment that such a right exists. In Great Britain no such statutory

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provision does exist, and it is very well known that whenever a member of the Imperial Parliament desires to be relieved from the trust thereby imposed upon him, he is obliged to resort to the expedient of accepting the stewardship of the Chiltern Hundreds, or some other office, real or nominal, in the gift of the Crown, and thereby become disqualified under the Act applying to such disqualification. In this Dominion, however, and also in the Provinces composing it, there are statutory provisions with reference to resignation. These enactments are very similar in their form, and it is necessary, of course, that whoever desires to avail himself of them must observe strictly the regulations they impose. In Prince Edward Island we find that there are three methods of resignation. A member may, from his place in the House, announce verbally his intention to resign; the Clerk of the House makes a minute of it in the Journals of the House, and the Speaker at once communicates this declaration to the Lieutenant-Governor, who forthwith issues his writ for a new election; or a member desiring to resign may announce that intention by a written communication addressed to the Speaker of the House, and this communication is at once conveyed by the Speaker to the Lieutenant-Governor, who forthwith issues his writ for a new election; or a member desiring so to resign may communicate his intention in writing to any two members of the House, and these members are required by law, "forthwith"—I use the terms of the Statute—to communicate this intention to the Lieutenant-Governor, who, as in the other cases, issues his writ immediately for a new election. It will be seen that the procedure is similar in all three cases. The declaration of intention must emanate, in the first instance, from the member who wishes to resign; in the second place there must be a record of it, either under his own hand, or in the Journal of the House, and the declaration must in all three cases reach the Lieutenant-Governor in order to be effective. It is clear that that must be the intention, because, as I stated before, in the case of elections, the effect is mutual, so in resignations is the effect two-fold—it not only has the effect of freeing the member from his trust, but it has also the result of disfranchising the constituency. It is, therefore, clear that the intention of all laws upon the subject, is that the Statute which gives to the member the right to resign also provides the machinery under which the constituency shall be relieved from the effect of that resignation. The Statute of Prince Edward Island is clear on this point, and says: "And a member so tendering his resignation shall be held to have vacated his seat and ceased to be a member of the House." It does not state: "A member who has so declared his intention of resigning," but "A member who has so tendered his resignation." Every one will appreciate the distinction between the two. A tender is not effective until it has reached the object of the tender; the declaration of a member of the Local Legislature that he intends to resign, is not such a resignation as he might not withdraw from at any time; and the fact that it has reached the Lieutenant-Governor is what gives effect to the resignation and releases the member from his trust and disfranchises, temporarily, the constituency. There is in the law of Prince Edward Island, a clause which is similar to that contained in the Act of the Dominion Parliament and of other Provincial Legislatures, providing that for a certain specified time after the election takes place no member has a right to avail himself of the privilege in respect to resignation; the delay, as of course hon. gentlemen will understand, is the delay during which an election may be contested. If during that delay, the member might resign, the object of the law would be frustrated, because a member who was conscious that he obtained his election by fraudulent and corrupt practices might free himself from the