

any time thereafter pending in any court against such witness in respect of any corrupt practices committed by him previously to the time of his giving his evidence at any election concerning which he has been so examined, the court shall, on production and proof of such certificate, stay such proceedings, and may, in its discretion, award to him any costs to which he has been put; provided, that no statement made by any person in answer to any question put by the commissioners shall, except the case of an indictment for perjury, be admissible in evidence in any legal proceeding.

Now, any lawyer, or any layman for that matter, will see the difference between that clause, which empowers the court to grant a pardon on the spot as against criminal proceedings and the clause that stops short with prohibiting the evidence tending to incriminate being used against him, and leaves the man to be indicted and confronted with other evidence. And the start of the prosecution, the initiative, the detective work, may be the very evidence extracted from him on the stand. Consequently, as Mr. Blake says, if you are going to ferret into corrupt practices, you must go as far as the English Act has gone, and you must go a little farther in order to use the criminal whose evidence is so important. In 1876, Mr. Blake said :

We can see very clearly what the consequence of this may be. In the first place, it adds strength and vigour to his testimony, supposing he was guilty; in the second place, it proves the fact, morally, at any rate, that he is guilty, and is consequently some argument in favour of a more extensive indemnity clause. But whatever the argument may be, it is absolutely essential for this part of the investigation that there should be a clause to indemnify witnesses who attend and give evidence.

But not for witnesses who refuse to speak or who cannot claim a certificate of indemnity on other grounds. The case is one not of indemnity, but of privilege for the use of his evidence.

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So, it is clear that the Minister of Railways and Canals, who has spoken so positively, has never compared the legislation referred to by the leader of the opposition and has simply followed the very superficial—I say it with all respect,—opinion of the Minister of Justice on that point. Even in the case of the Clerk of the Crown in Chancery, which was not referred to by the Minister of Railways, but by the Prime Minister, I think, and also by the Minister of Justice. I have a word to say. There were very able lawyers in parliament when the Elections Act was put through this House, and the Prime Minister, I am sure, will remember, that, while there were no very positive opinions expressed as to what power a court would have over the Clerk of the Crown in Chancery and over the parliamentary records and documents in his charge and custody, it was stated by eminent counsel, and it is the opinion of eminent

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counsel to-day, that it might well be that an ordinary tribunal with the fullest power in connection with the trial causes would hesitate before dealing with a parliamentary officer and parliamentary documents; and, therefore to remove all doubts, to make it absolutely clear, there is, in a similar case, the trial of election petitions, express statutory provisions under which subpoenas run to the Clerk of the Crown in Chancery; and by this legislation, all doubt is removed as to the power of the court to see that he obeys the subpoenas and produces these documents. So that, as was stated by the leader of the opposition, not that it was clear beyond all doubt that this commission would not have power to subpoena the Clerk of the Crown in Chancery, but that it would be well, remembering the course that had been taken in the case of election petitions, to follow the precedent there set, and to pass an Act in this connection so as to remove all doubt and prevent these proceedings being wholly abortive. The suggestion put forward by the Minister of Railways and Canals to-day that, whether these suggestions of the leader of the opposition were good or bad, he, for one, as a member of the government, was afraid to adopt them, lest it should be said that he had been forced to do so by the leader of the opposition. A more humiliating statement never was made by a Minister of the Crown. I thought I could see a blush mantling the cheeks of his colleagues when such a reason was put forward. There is no other reason for not adopting these suggestions, for not following the former practice in these cases, for not removing all doubts and making the matter clear and certain. After parliament has been prorogued, if these doubts are well founded, the business of this commission may come to a very sudden end, and delay be caused for which, I am sure, the public will hold the government accountable.

Then, in connection with the pay of witnesses,—there is no other reason against it except the ridiculous reason given by the Minister of Railways and Canals. It is true that you may make provisions by an Act of Supply for the payment of any one, including witnesses; but what happened in the Ogilvie case? They had money galore; when money was wanted for any purpose whatever, in connection with the Yukon it was forthcoming one way or the other. But witnesses appealed to the commission, appealed to the legal officer representing the government sitting with him for their expenses and their fees, putting before them the great loss of money and time they were put to. Many witnesses could not be got because of the lack of money. And months and months elapsed after the commission had closed before a dollar was paid to any of the witnesses, and then it was only paid to those who had run the risk and attended. This is a point of the legislation that the government has overlooked, and the Minister