

as argued by the hon. member for West Durham, the other night; and we have proof here in the papers which have been laid on the Table, that allowances were given to and received by Sir Charles Tupper. If those allowances were received by him, there can be no doubt that, under the Statute, that seat has become vacated. If it is vacant, why should hon. gentlemen, why should this House by an Act of Parliament say that he is still a member of it? Why should the independence of Parliament be violated or attempted to be violated in the way proposed here? If he is still a member of this House, as it is urged, why should we pass this Act? If he is not then, I say that the Parliament of this country has no right to make him a member of Parliament by an Act of Parliament. If it is felt that the late member for Cumberland has unwittingly violated the statute, it is within the province of this House, should it believe that statement that he did unwittingly violate it, to indemnify him against the penalties under the Statute; but by no possible argument or process of reasoning can the House go so far as to say, because they do say it under this Act, that because that seat is vacated, Sir Charles Tupper shall be replaced in it. If the seat is not vacated, this legislation is entirely unnecessary, as far as this portion of it is concerned. If the seat is vacated, there is no precedent in England or in Canada or in any other country which has a constitutional Government, for such legislation as this—a legislation to take away from the people of Cumberland county the right to say who shall be member for that county, and by an Act of Parliament say that Sir Charles Tupper shall be a member of this House for that county. Sir, I say that you are doing a grievous wrong to the people of Cumberland county, you are violating a principle of constitutional Government, you are violating a plain Act of Parliament upon our Statute Book, merely for the purpose of putting him there. I say it is better for a thousand Sir Charles Tupper to lose their seats than for our constitutional law to be violated in a single jot. No ground of expediency can justify the hon. member in introducing legislation of this kind. You are destroying the foundations of our constitutional law and of the liberties of this country. No motives of expediency should have induced the leader of the Government to introduce such a measure as this into the House, even for the purpose of saving Sir Charles Tupper from the consequences of his act. I stated, when I commenced, that I did not intend to detain the House for any great length of time, and I will only briefly review the points I take in this matter. I say that, under this Act, Sir Charles Tupper was disqualified. I say that by no possible construction of that Act can it be said that he did not receive allowances from the Government of Canada while he was acting as High Commissioner. That being the case, he became disqualified. I say then that, while the Government may have a right or may have some colour of justification for introducing an Act to indemnify him against the penalties for the violation of that Act, it can have no justification whatever, for declaring that he has a seat in this House, in view of the fact that the hon. the leader of the Government, the hon. the Secretary of State, every hon. gentleman who has spoken upon this subject, has declared that Sir Charles Tupper's seat was not vacated. If it has not been vacated, there is no necessity whatever for that clause in the Act, and if the House believes he unwittingly violated the law, it is competent for the House to indemnify him against the penalties. But to go further, and by their own act to say that his seat is vacated—because the declaration of the fact, in the Act before the House, that it is not vacated, is an admission that it has been vacated—is to make a dangerous thrust at constitutional Government in this country. I repeat, if a thousand Sir Charles Tupper were to lose their seats, it is better than that the constitution and the laws of our country should be violated.

Mr. MILLS. I wish to make a few observations on this subject which I think is one of very great moment. The hon. gentleman who has introduced this Bill has informed the House, in the first place, that the measure is altogether unnecessary; that it is perfectly clear that Sir Charles Tupper has not vacated his seat as member for Cumberland, that he has not in any way violated the independence of Parliament; and yet the hon. gentleman proposes to proceed upon the assumption that his colleague has done both, that he has violated the independence of Parliament in accepting an office of emolument under the Crown, and that he has thereby vacated his seat. Now, this is a matter of very great moment. In England and in Canada, we have sometimes had cases of parties unwittingly violating the law, and of Parliament undertaking to indemnify them against the consequences; but I think this is the first instance of a case of a clear violation of the law done deliberately, done notwithstanding the fact that public opinion was called to this particular violation, as Mr. Todd's letter shows, and that it was expected that parliamentary action might be taken upon the subject—I say, notwithstanding these facts, we find that Sir Charles Tupper was appointed to this office of emolument under the Crown, and the hon. gentleman now proposes that he shall still retain his seat in Parliament—I say this is the first instance where the seat has been given to a party who has vacated it. We, on two or three occasions since Confederation, have dealt with the subject of cases of members unwittingly violating the Independence of Parliament Act, but, in those cases, while we have protected them against the consequences of that violation, so far as the fine is concerned, we have never undertaken to retain them in their seats. The hon. gentleman knows right well, in the case of Mr. Norris, and in the case of Mr. Currier, and in the case of my hon. friend from Digby (Mr. Vail), and in the case of Mr. Jones from Halifax, in all those cases, the hon. gentlemen who had violated the law were compelled to go to their constituents for re-election; but the hon. gentleman proposes, in this case, that, although his colleague has violated the law and although his seat has become vacant, he shall be protected against the consequences of that violation, and shall, by the provisions of this Act be reinstated in the seat he has lost by his appointment.

Sir JOHN A. MACDONALD. Will the hon. gentleman allow me to interrupt him for one moment? In 1874 a Bill was introduced by the Government, of which the hon. gentleman was a member, indemnifying Stanislaus Francis Perry for having sat and voted as a member of the House of Commons, and the first clause is this. The hon. gentleman said just now they merely indemnified these members for the unwitting mistake, but did not give the seat. Here is the first clause:

“The said Stanislaus Francis Perry is hereby declared to have been and to be, capable of being elected, and of sitting and voting in the House of Commons,” etc.

Mr. MILLS. The hon. gentleman will see, from reading the preamble of the Act, that it is not at all a case similar to the one now before the House.

Sir JOHN A. MACDONALD. Then the Act was unnecessary.

Mr. MILLS. In that case, Mr. Perry had tendered his resignation as a member of the Local Legislature. He had done it in the only way open to him. He had taken every possible precaution to divest himself of the seat in the Local Legislature—

Sir JOHN A. MACDONALD. But he forfeited his seat, all the same.

Mr. MILLS—in order to be qualified for election to the House of Commons. He was elected by his constituents with a perfect knowledge of all these facts. He was elected