

Supply—Privy Council

An hon. Member: He attaches no importance to any principle.

Mr. Diefenbaker: Then we begin to realize exactly what is his position. He attaches no importance to that—

Mr. Pickersgill: My position is that a statute is a statute.

Mr. Diefenbaker: He attaches no importance to anything in respect of which he finds himself in the position of having been a major offender, if indeed there is any wrongdoing involved.

Some hon. Members: Hear, hear.

Mr. Diefenbaker: Item 308 reads:

To provide hereby, notwithstanding the Financial Administration Act or the provisions of the Senate and House of Commons Act respecting the independence of parliament, for the payment out of the consolidated revenue fund to each member of the Queen's privy council for Canada who is a minister for whom no salary or allowance in addition to the allowances under section 33 and section 44 of the Senate and House of Commons Act is provided (the acceptance of which shall not render such member ineligible or disqualify him as a member of the House of Commons) of a salary of \$7,500 per annum and pro rata for any period less than a year.

He says that is wrong, and to do it that way is unconstitutional, but when he was a member of the former government that is exactly what they did. As a matter of fact I ask hon. members to look at item 199 in the estimates of 1956, which apparently the hon. member overlooked—

Mr. Pickersgill: Is that for the year 1956 or 1957?

Mr. Diefenbaker: The year 1956.

Mr. Pickersgill: I would point out that the fiscal year is either for 1955-56 or 1956-57.

Mr. Diefenbaker: The estimates for the fiscal year ending March 31, 1956.

Mr. Pickersgill: That is 1955-56.

Mr. Diefenbaker: Yes. I am glad my hon. friend is becoming more careful about these finer details. Item 199 reads:

To provide, notwithstanding anything in the Senate and House of Commons Act, the Financial Administration Act or any other act, for payment of indemnity during the present and subsequent fiscal years, on the recommendation of the board of internal economy and in such amount as the treasury board may direct, to or in respect of a member of the House of Commons for each day on which that member did not attend a sitting of the House of Commons because of public or official business—

And so on. Then it goes on to say that the person concerned shall now receive his payment, and the total amount of the estimate was \$2,120,000. So when the hon. member complains about this item in its present form

[Mr. Diefenbaker.]

—and I followed his constitutional argument with interest—I have but to turn to the item in question for 1955-56 to find that exactly the same course was followed as that which we are now following.

Mr. Pickersgill: Not at all.

Mr. Diefenbaker: Let us pass on to the next point. I listened with interest when the hon. member spoke with real feeling about the maintaining of parliamentary traditions. He says we must not depart from parliamentary traditions, but if ever a member belonged to a government which did much in that direction, that member is the hon. member for Bonaville-Twillington. As he spoke I thought of Mary I, who said that when she passed away, Calais would be written on her heart. Parliament and the derogation of the rights of parliament will certainly be written on the heart of the hon. member, because with his constitutional knowledge he knew better, when over and over again he allowed the traducement of parliament.

In what we have done we have followed the accepted practice, and if there is any question as to regularity then there is a simple way in which to determine the answer, and that is through the courts of the land. No one can finally determine, without recourse to the courts, the meaning of these expressions in the Senate and House of Commons Act. I have in my hand the provision in question which was read into the record by the hon. member today, namely section 14, which reads as follows:

Nothing in this act renders ineligible, as aforesaid, any person, member of the Queen's privy council, holding the recognized position of first minister, president of the Queen's privy council for Canada, minister of finance, minister of justice—

And so on.

—or solicitor general, or any office that is hereafter created—

Mr. Chairman, it has never been defined that one who holds the position of minister without portfolio, under circumstances similar to the case under discussion, does not come within the meaning of those words. The courts of the land can determine the answer finally and absolutely, and I therefore say that in connection with the provision of salaries for ministers without portfolio the payments under this item in the estimates represent the course which was previously followed and, to a large extent, the wording used in the case of parliamentary assistants, whose legal position is somewhat analogous to that of ministers. The practice of providing for such officers of the state was initiated, as I recall, by Right Hon. Mr. King by means of an item in the estimates.