

son accepting any office to which any salary, emolument or profit of any kind is attached shall be eligible as a member of the House of Commons. The emolument to which a member is entitled, and which he receives when he accepts such office, is the basis of his disqualification. That section is one of a group of sections which are headed "Independence of Parliament," and the provision is against a member of parliament by virtue of his seat in the House procuring for himself a position to which there is an emolument attached.

Then my hon. friend the ex-Minister of Justice turned to chapter 4 of the revised statutes, which sets out the salaries of certain ministers. I do not think we need bother about that. As I understood his argument, he indicated that because a salary is provided to be paid to a minister, and because the Interpretation Act by section 31 (1) says:

Words directing or empowering a minister of the crown to do any act or thing, or otherwise applying to him by his name of office, include a minister acting for, or, if the office is vacant, in the place of such minister, under the authority of an order in council, and also his successors in such office, and his or their lawful deputy.

Therefore, he argues, a minister acting comes within the provisions of the statutes I have referred to. My hon. friend will recognize at once that the Interpretation Act and the words of the section that I have read are words directed to the jurisdiction and power of a minister, and where it says "words directing or empowering a minister of the crown to do any act or thing, or otherwise applying to him by his name of office, including a minister acting for," I point out to you, Sir, that as a matter of plain interpretation of these statutes, that does not import into the office of what I might call acting minister the position of minister. That is, the acting minister is not made the minister by that section to the extent that he is one of those who receives \$7,000 per annum under section 4 of chapter 4.

Then my hon. friend the ex-Minister of Justice went on to section 11, of chapter 10, which provides that:

Nothing in the next preceding section shall render ineligible any person holding any office, commission or employment, permanent or temporary, in the service of the government of Canada, at the nomination of the crown, or at the nomination of any of the officers of the government of Canada, as a member of the House of Commons, or shall disqualify him from sitting or voting therein, if, by his commission or other instrument of appointment, it is declared or provided that he shall hold such office, commission or employment without any salary, fees, wages, allowances, emolument or other profit of any kind, attached thereto.

And says that to make matters right these acting ministers should have been appointed with a provision in their commissions that they were not to draw any emolument. Mr. Speaker, that section has nothing to do with the case provided for in section 10, except it be a person who takes on a position that has an emolument, and as I have pointed out by the Interpretation Act and by section 4 of chapter 4, an acting minister is not one of those who gets any emolument, and so section 11 does not apply to him.

I think the ex-Minister of Justice was just taking a sighting shot with that argument. He was trying to prove that an acting minister is one who has a position of emolument, but if he will look at the concluding words of the interpretation section he will see that it obviously does not import into the word "minister" in all cases the words "acting minister." It simply gives the acting minister the jurisdiction and power of the minister himself, because by the language the jurisdiction and power is not only given to an acting minister, but also to his lawful deputy.

The ex-Solicitor General (Mr. Cannon) made the argument, which I think has been carried into the motion, first, that if there was no legal appointment there is no government; and second, if the acting ministers were legally appointed, they have no right to control the business of the government. I take it that the second point is the same point that was argued by the Minister of Justice (Mr. Lapointe), and if my argument is sound now that there is nothing in the nature of disqualification in the "Independence of Parliament" sections of the act governing the appointment of an acting minister, then I suggest that part 2 of this resolution and the second part of the argument of the Solicitor General has no justification. If they do hold their offices legally it does not follow they are ministers. And the wording of the resolution does not attempt to go that far, because it says that if these men do not hold office legally they have no right to control public business. Nowhere does the resolution say that these hon. members are ministers or that they hold office as such; that has been very carefully avoided. So that the House is asked to say that certain men who are acting in a certain position are in one of two false positions: Either they have no right to sit as ministers, not being legally appointed, or else they do hold such offices legally and therefore are disqualified. If they have any right to sit are they legally appointed or are they not? I submit they are legally in their offices as acting ministers.