

able to discharge his duties of cashier of a bank, and the evidence given by the medical men is shown to be entirely mistaken.

Mr. DAVIES. I beg the hon. gentleman's pardon. I hope the dogmatic statement he has made may be true.

Sir CHARLES TUPPER. It is admitted to be true. The medical men themselves admit that they were mistaken, and I am afraid the hon. gentleman is not promoting the interests of his client.

Mr. DAVIES. Whether I am or not I am simply stating what the facts are, and I think the hon. gentleman should not have stated that the evidence of the medical men was not true.

Sir CHARLES TUPPER. I did not.

Mr. DAVIES. The hon. gentleman has made the statement which I cannot allow to pass unchallenged. He says that the evidence given by the medical men was untrue.

Sir CHARLES TUPPER. I said nothing of the kind, and the hon. gentleman is stating what is untrue in saying that I did. I said that they were mistaken in their evidence.

Mr. DAVIES. I am not going to allow myself to be worked up into a state of excitement. The hon. gentleman made the statement that the doctors had now stated that they were mistaken in their statement that the man would not likely live more than three or four years.

Sir CHARLES TUPPER. They admitted that.

Mr. DAVIES. I challenge the hon. gentleman to bring forward any evidence to show that they made that admission.

Sir CHARLES TUPPER. The facts show it. They cannot help but admit it.

Mr. DAVIES. The facts show nothing of the kind.

Sir CHARLES TUPPER. There is not one of them but will be compelled to admit it.

Mr. DAVIES. That is another thing. But I understood the hon. gentleman to say to the Committee, that these doctors now admitted that they were mistaken.

Sir CHARLES TUPPER. So they did.

Mr. DAVIES. It would be improper on my part to make a statement which would prejudice my client, but, at the same time, I think it but right that I should place the House in possession of the facts. I say that the doctors swore that from their examination of Mr. McLeod, it was doubtful whether his life would be prolonged more than four or five years. He went home to consult some of the first doctors in England.

Sir CHARLES TUPPER. After the trial?

Mr. DAVIES. Yes. He went home by the advice of his medical men, and Dr. Ericsson, one of the most prominent authorities on spinal disease in the world, told him that as he had survived so long he might hope that his life might be spared. I know myself that Mr. McLeod dare not raise his arm to engage in any exercise whatever. I have known him as one of the best athletes in Charlottetown, a cricketer and one accustomed to horseback exercise. Now he goes around a weak, helpless man, shambling from his office to his house. Two years have elapsed since the accident occurred, and I trust that that may prove a sign that his life will be spared longer, but he can never be more than a sad miserable wreck. I had hoped that I would not get into a controversy with the hon. Minister of Railways, but I trust that he will not allow his mind to be carried away by the *ex parte* statements made by the man then in charge of the Prince Edward Island Railway. I frankly acknowledge that when I heard these statements first made by him, and supposing they were addressed to a jury, I thought the hon. Minister of Railways was not jus-

tified in saying that the case of Mr. McLeod should go to trial instead of arbitration. But when the trial came on, and I read these statements, I admit that I justified the decision of the hon. Minister of Railways, because it appeared to be a pure accident not resulting from negligence. But now it stands on a different footing. A Judge of the Exchequer Court has heard forty or fifty witnesses, and they thought that the *ex parte* report first made with regard to the case was untrue. But what occurs to me is the fact that when they came to argue it before the Court of Appeal, they unanimously determined that the verdict found by the Judge, that this accident was caused by the culpable negligence of the employés of the road, was true. Under these circumstances I think that the hon. gentleman should not hesitate a moment as to what he should bring down to the House. I am aware that those Judges have held that, technically, an action would not lie against the Queen in this case, and, of course, at present we are bound to bow to that decision. But when the hon. gentleman says that he will deem it to be his duty to propose some sum as compensation, I ask him what better basis could he take than the judgment rendered by a single Judge, and afterwards ratified by the unanimous judgment of the court above. I hope that the hon. gentleman will not allow the Session to go by without bringing down a vote to meet this claim. I hope that the hon. gentleman will see that the fairest and best mode of dealing with it, and of doing justice to the public and the parties, is to accept the damages as they have been assessed by the Judges of the land. Nobody can impute to them partiality. Even if the hon. gentleman was prepared to argue that one Judge had taken a wrong view of the evidence, it cannot be held that the whole Supreme Court of Canada took the wrong view. You cannot appoint any board of arbitration that possesses better qualifications than they possess. They are not a jury carried away by their passions; they read the evidence carefully together, and came to a unanimous conclusion; and I hope and trust that, upon all the facts of this case, the hon. Minister will see it to be his duty to bring down a vote covering the damages they assessed.

Sir CHARLES TUPPER. I do not intend to prolong this discussion further than to say that Mr. McLeod may very well say, "Save me from my friends." The hon. gentleman has put himself in the witness-box, and has undertaken to offer his testimony; and I have no hesitation in saying that that testimony will be regarded as worthless by any intelligent man who knows anything of railways. The hon. gentleman has given his evidence that the sleepers were perfectly rotten, in the condition of pulp, and yet he knows that around that sharp curve trains were running every day at a considerable rate of speed.

Mr. DAVIES. The accident did not occur at the sharp curve, but after the train went around the sharp curve, and it was beyond the curve where I said the sleepers were in a state of pulp.

Sir CHARLES TUPPER. Everybody knows that the accident occurred on account of the train going round the curve, and the hon. gentleman must not suppose that he can escape by a suggestion of that kind. The statement of the hon. gentleman can only result from his having been the paid advocate of the gentleman whose case is under examination; and this has blinded his judgment and destroyed his discretion, that he does not hesitate to commit himself to a statement so extravagant that no person could believe it if he desired, and as to render every statement he makes utterly valueless and worthless. When the hon. gentleman got up, he took the position that the amount assessed by the Judge would be the proper amount to pay; but he had not gone very far until he proved to the House that the Judge had been entirely misled by the medical testimony given on that occasion. He says that four or five skilful medical men