

Mr. CAMERON (Victoria). For the reason that I stated to the House in Committee, I think the third reading had better stand until the Grand Trunk Railway Bill comes up, inasmuch as there is an important provision in this Bill, which is contingent on the House assenting to the provisions of the Grand Trunk Railway Bill, namely, the application by payment to the Grand Trunk Railway Company of money belonging *prima facie* to the Great Western Company.

Mr. BERGIN. I have no objections to let it stand until next Monday.

Motion allowed to stand.

BILL IN COMMITTEE.

The following Bill was considered in Committee and reported :—

Bill (No. 9) to amend the several Acts relating to the Toronto, Grey and Bruce Railway.—(Mr. Kilvert.)

INDEPENDENCE OF PARLIAMENT.

The House resumed the debate on Sir John A. Macdonald's motion for the second reading of Bill (No. 111) respecting the Independence of Parliament.

Mr. MILLS. An hon. member reminds me just now that the House will now proceed with the election campaign, and Sir, if we are to elect a member by Act of Parliament, of course the observation is quite correct, for we are not now engaged in discussing a question which legitimately and properly falls within the functions of Parliament, but we are actually engaged in an election campaign, and we are about to decide whether a certain gentleman shall be elected member for Cumberland or whether he shall not. I have already called the attention of the House to what I held to be a sound proposition, that the Government cannot make a bargain with any person whom it is authorized to appoint under a Statute to accept the appointment contrary to the provisions of the Statute. It is a sound rule and a very ancient rule of constitutional law, one that was laid down some centuries ago by Chief Justice Fortescue in his celebrated instructions to Edward the Fourth, that the Crown must conform to the law, that the provisions and policy of the law must be pursued, and that in the exercises of its power where the powers are statutory, the Crown is as much bound to conform to the rules of law, in the exercise of its powers as is any private individual. We know very well that, in the exercise of the power, the power itself must be strictly pursued, and if any conditions are attached to the exercise of the power contrary to those provided in the grant of the power itself, the conditions so attached are absolutely void. In order to fully apprehend this question, it is important to look at the provisions of the law itself. If Parliament has enacted a policy on this matter it is the bounden duty of the Government in this matter, where certain duties are imposed on the Crown by Statute, to see that the law itself is strictly pursued and that the Crown is not called upon to do any act contrary to the provisions of the law. If the Government are not satisfied with the law, if they think the policy indicated is a mistaken policy or one that is not in the public interest, it is open to them to propose to the high court of Parliament a measure for altering that policy and that law. But so long as the law remains intact, they must follow its provisions and conform to its policy, as must the humblest citizen in the land. When we look at the provisions of the Act, we see the preamble declares :

"It is expedient that Canada should appoint a representative for the United Kingdom, to watch over those interests which shall be duly accredited to Her Majesty's Imperial Government."

There is one condition on which the office is to be held—"during pleasure." Would any hon. member on the treasury benches seriously argue that the Government might make a condition different from that provided by Statute—that the High Commissioner shall hold office during pleasure. Could the Government provide, in the arrangement with the High Commissioner, that he should hold office for life, for five or ten years, or during good behaviour? It is perfectly obvious that such would be contrary to the provision of the Statute which says "during pleasure;" and an appointment made upon conditions contrary to this provision would render the provision void, because the law itself determines in that respect the condition on which the office shall be held. The Statute further goes on to say. It is his duty :

"To act as representative and resident agent of the Dominion in the United Kingdom, and in that capacity to execute such powers and perform such duties as may from time to time be conferred upon and assigned to him by the Governor in Council."

It is perfectly obvious, from this particular provision that, he is an officer subordinate to the Administration, not a member of the Administration—no such idea was intended to be conveyed—but that his office should be one subordinate to the Government. And in addition to those powers specially mentioned in the Statute, he should from time to time receive instructions from the Government here. He is :

"To take the charge, supervision and control of the immigration offices and agencies in the United Kingdom under the Minister of Agriculture."

He is subordinate to the Minister of Agriculture; the duties of his office are in that particular attached to the Department of Agriculture, and he is to report from time to time to the Minister and be under his control. He is :

"To carry out such instructions as he may from time to time receive from the Governor in Council, respecting the commercial, financial and general interests of the Dominion, in the United Kingdom and elsewhere."

In the third place, it is provided that the High Commissioner shall receive a salary of not more than \$10,000 a year. It is here provided that he shall receive a salary. It is true that a maximum sum is indicated; a less sum might be given, but some sum is intended to be designated; and it is not in the power of the Government to provide that he shall receive no salary in respect of a salaried office, and to dispense with this provision of the law, and in fact repeal it—it is no more in their power than to say that it was competent for the Government to make the appointment for five years, or tenable during good behaviour, when the Statute says it shall be held during pleasure. In all these particulars the appointment, if the Government choose to make it, must conform with those conditions. They cannot change the provisions of the law and alter the status of the officer, nor can they make his duties different from those which are indicated in the Statute and beyond the power there given. What is it that disqualifies? It is not the fact of receiving a sum of money. I have already pointed out that Mr. Ad-dington agreed to accept the office of Chancellor of the Exchequer. His agreement was held to have affected his seat, though he never entered on his office and though no salary accrued; the fact that he had accepted office vacated his seat, although he had never received a dollar. The same principle has been applied in other cases. The moment the office is accepted, that moment the seat is vacated, even though no salary has accrued. Suppose the salary was placed at \$100; the moment Sir Charles Tupper agreed to accept the office and the Government agreed to confer it, his seat became vacant, though no precise sum had actually accrued. It is not necessary to rest this case upon the fact that this is a disqualifying office, one which by Statute a salary is attached. We see from the papers brought down that Sir Charles Tupper has received an allowance of about \$5,000. It matters not whether it was to pay expenses or not it was in excess of the sum required to pay personal