

Here you have a conditional refusal of the salary. I apply, said Mr. Harvey, for my salary if I am entitled to it, but Sir Charles Tupper says from the very inception to today, I am willing to perform the duties of the office, and at the very beginning I want it to be understood that I desire to receive no salary, and I want my commission so to state. Now let us see what the Attorney General said on this Mr. Harvey's case; and I presume his words will have more weight than the words of Mr. Wynn, who moved against Mr. Harvey. The Attorney General said:

"The next question to be considered is whether the case is altered by the fact of no salary having been assigned, and in my opinion it is not; because the party holding the office might go to a Minister of the Crown and say (assign me a salary), and if the Minister refused he could go to the court of Queen's Bench and procure a *mandamus* to compel an assignment of salary, which salary would commence from the date of the appointment. If Mr. Harvey's renunciation of the salary had been absolute and unconditional, a question might perhaps arise as to how far that renunciation was binding, but it was only conditional, it could have no legal operation."

If Sir Charles Tupper had been appointed High Commissioner without saying a word as to the salary, and without having written a paper to the effect that he wanted no salary, and if he never received any portion of that salary, perhaps there would be something in the argument of the hon. gentleman in saying that Sir Charles Tupper might go to a court of justice and ask for a *mandamus* granting him the salary attached to his office by Statute. But this is not such a case. You have a refusal of the salary from the beginning. When the question was before the Council, in fact before the commission was issued under the Great Seal of Canada, Sir Charles Tupper said, I want no salary, and the commission under the Great Seal says that he shall receive no salary. Now this is what I understand to be the law at present. We have before us a Bill which the hon. gentleman who spoke before me said was at Act to elect a member to represent the county of Cumberland in this House. I do not look upon that Bill in that light. This is only a declaratory statute. It is not a Bill declaring a new law, but declaring what the law always has been. It is a Bill to remove doubts, and have we not reason to ask that doubts should be removed? We all know that lawyers do not always agree. They do not agree before they reach the Bench, and they do not any more agree upon the Bench. Has the spirit of the Independence of Parliament Act been violated in this case? Not at all. Now can it be supposed for one moment that a Minister of the Crown was appointed to that office for the purpose of being influenced by the Crown? It is not possible to make a supposition of that kind. Then the evil which was intended to be prevented by the Independence of Parliament Act does not exist in this case. That is a sufficient reason why Parliament may say: As there may be doubts whether a member of Parliament can hold any office under the Crown without salary or profit of any kind, without exposing himself to become subject to severe penalties for the violation of the law, which he never intended to violate, and as there is no reason why there should be penalties for anything of the kind, we shall say that for the future Sir Charles Tupper shall continue to hold the office of High Commissioner, which he has done for the last twelve months to his own credit and to the advantage of the country. I had occasion to be on the continent of Europe last fall, and I was very much pleased to hear there that at the Cable Convention, held in Paris in September or October, where twenty or thirty Powers were represented, Sir Charles Tupper was present, not as the servant or representative of the British Ambassador, but as the representative of Canada. For all these reasons, I am in favour of this Bill, and especially because it tends to enact more expressly what I have always considered to be the law of this country.

Mr. LISTER. I shall ask the indulgence of the House for a few moments while I make such remarks as I think

pertinent to the question under discussion. The hon. gentleman who has just preceded me says that he was in Europe during the last season and had the pleasure of seeing Sir Charles Tupper there as the representative of the Dominion of Canada; yet he took a good deal of trouble to argue that Sir Charles Tupper was not High Commissioner in England at all during that time. Sir, I do not propose to enter into the history of Parliament in England so far as this question is concerned. I think that has been fully dealt with by hon. gentlemen who have preceded me on this side of the House. The question before the House is one of a very simple nature. It is a question of the 'proper construction to be put upon what is known as the Independence of Parliament Act. Before considering that, let us review for a moment the position Sir Charles Tupper has occupied since the time he received his appointment. We know, Sir, as a fact, that he was appointed to the High Commissionership; we know as a fact that he accepted that position; and we know as a fact, by the papers which have been laid on the Table of this House, that during the time he held that position he received from the Dominion Government some \$4,000 in one payment, and some \$1,500 in another payment, making \$5,500 that he received from this Dominion for services or something else during the time he occupied that position. Now, Sir, there is a very great distinction between the law of England and our law on this subject. Hon. gentlemen who have preceded me have pointed out, though hon. gentlemen who have argued the question on the other side of the House have ignored the fact, that in England, there is no Statute similar to the Statute existing in this country; and it is upon that Statute and that alone that the status of Sir Charles Tupper in this House must be decided. It gave me a great deal of pleasure to hear the hon. member for Jacques Cartier (Mr. Girouard) assure the House that he would approach this case in a judicial spirit—that he would look upon it as if he was deciding the case as a judge. I am sure that that expression must have given great satisfaction to hon. members on both sides of the House, and I am sure that if the hon. gentleman was sincere in the statement he then made, he will be found voting against the motion proposed by the hon. leader of the Government. Now, Sir, if we look at the Independence of Parliament Act, we find that it says:

"No person accepting or 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, to which any salary, fee, wages, allowance or emolument, or profit of any kind, is attached, shall be eligible as a member of the House of Commons, nor shall he sit or vote therein."

It is contended that Sir Charles Tupper did not vacate his seat because by the commission appointing him no salary was attached to his office; and upon that ground the hon. gentleman who has just preceded me urges that Sir Charles Tupper's appointment as High Commissioner was void. I would say to the hon. gentleman that this being a statutory appointment, and the Statute Statute authorizing the appointment, fixing the salary, and stating imperatively that that salary shall be paid, the moment a man receives that appointment, the salary attaches, and he is entitled to draw it; and I believe that the law laid down by hon. gentlemen on this side of the House is correct, that if Sir Charles Tupper brought an action against the Government, he could undoubtedly recover the amount of his salary. But in looking at this Statute, we should ask what induced Parliament to pass it. We know that members of Parliament were sitting in this House while receiving a salary from the Government, and so great had the scandal become that this legislation was forced upon the Government to prevent that sort of thing; and the words of the Statute are so comprehensive that it would be impossible to find words in the English language to cover more than they do. Salary, emolument,