

"Moreover, it has not been the practice to consider the casual employment of members of the House of Commons upon Royal Commissions, or on special service, etc.—which are not regular 'offices,' and to which no stated salary is attached—as coming within the disqualifying operation of the Statute; even when remuneration is received for such services."

Even when remuneration is received for such a casual service, it did not come within the disqualifying operation of the Act. But to come more particularly to the point which I said I deemed the most important issue in this question—that is the receipt of the expenses. Let me turn to this work again, and see what the writer says in regard to members of Parliament and Ministers of the Crown becoming Commissioners under the Statute, by Royal appointment or otherwise. The author says, at page 350:

"The persons appointed to serve on Royal or Statutory Commissions are selected without reference to their political opinions as supporters or opponents of the existing Administration, and generally on account of their familiarity with the subject-matter of the proposed investigation, or because they possess special qualifications for the task. Sometimes, at the discretion of Government, members of one or both branches of the Legislature are appointed upon important public commissions, not merely because of their personal fitness, but also for the purpose of obtaining a direct representation of the commission in Parliament."

If it is the case that members of Parliament may be appointed as members of Royal Commissions or Statutory Commissions in England, as is clearly stated, why cannot the Minister of Railways hold this commission, which has no salary attached to it? In a note, the writer says:

"On March 26, 1868, two members of the House of Commons declined to vote on a question before the House, because it was about to be considered by a Royal Commission, upon which they had been appointed."

"Thus, Lord Stanley and Mr. Spencer Walpole having been appointed (by the Russell Administration) members of a Royal Commission, consisting of twelve persons, to enquire into official oaths, and report whether any such could be dispensed with or altered, upon their taking office under Earl Derby, in July 1866, a new commission was forthwith issued, substituting other persons in their places on this Commission. Again, the Schools Inquiry Commission, appointed in 1864, included Lord Stanley and Sir Stafford Northcote. When these gentlemen entered Earl Derby's Ministry they remained upon the Commission, but abstained from signing the report, which was presented in December 1867, as they stated, 'partly on the ground that official duties have prevented us from attending the later meetings of the Commission, or studying with sufficient care the evidence produced; partly, also, because, as members of the Executive, we think it better to reserve our opinion on the points at issue until the time comes when action can be taken upon them.'"

We come to another illustration on the matter. The writer says:

"Thus, in 1853, General Peel, Secretary of State for War, and Lord Stanley, President of the India Board, were placed on a Commission to enquire into the organization of the Indian Army; and in the same year the President of the Council (Marquess of Salisbury) being a Colonel of Militia, was appointed on the Commission on the organization, etc., of the Militia. In 1868, Lord Chancellor Cairns was a member of the commission to consider the state of the Neutrality Laws."

"Thus, the Royal Commission appointed in 1811, and which is still in existence, to enquire into the Decoration of the new Houses of Parliament, and generally into the promotion and encouragement of the Fine Arts in the United Kingdom, has included actual as well as former Prime Ministers, with other leading statesmen."

I take it that these cases and instances show that members of Parliament may be appointed Royal Commissioners and Statutory Commissioners for various purposes, and yet be not disqualified under the English Act, even where such office with profit is accepted; and hence, in the case in hand, it does not disqualify either. But there is another point still, that in reference to the expenses. I find, on page 353 of this work:

"All the expenses attending a Royal Commission are defrayed by the Treasury, out of moneys annually voted by Parliament for such purposes. But it is not usual for Commissioners to incur any extraordinary expenditure without the previous sanction of the Home Office, by whom the application would naturally be referred to the Treasury."

Also on page 352:

"The services of persons appointed as members of a Royal Commission are generally rendered gratuitously; although compensation is occasionally allowed for their time and labour. Actual expenses incurred are, of course, defrayed out of the public funds."

These clauses indicate that in cases of this kind, members of Parliament and Ministers have their expenses paid, and the offices are not considered to be offices with profit. And that is the point which I wish to impress upon the House most particularly, as it seems to me to contain the gist of the whole matter. If, for instance, the Minister of Railways had gone to England and done this service, and returned, and had received no money from any Government source, it could hardly be contended, with any show of reason or common sense, that the acceptance of the office under those circumstances would be a disqualifying act within the Statute of 1878. The actual expenses incurred are defrayed out of the public funds. These cases show beyond any doubt that when persons are appointed on Royal Commissions, or Statutory Commissions, they receive their expenses, whether they be members of Parliament or Ministers of the Crown; and this circumstance does not disqualify them in any sense whatever, within the meaning of the English Act, which reads that the acceptance of "an office with a profit," or the Act of 1878 which practically and substantially means the same thing, because the last words of the clause clearly show that that was the object and the intent and the purpose of the Act. The only word which can have any force whatever in connection with the idea that expenses are associated with the office, is the word "allowance." Now, what does that word, placed in that particular position mean, if not the same idea which is conveyed by the words immediately preceding and immediately succeeding—the words "salary, fees, wages, and profit of any kind." Does it not mean simply that it must be in the nature of a salary or a fee; that it must, in fact, produce a profit to the person receiving it, else it does not bring the person within the disqualifying clause. I am not so familiar, except by means of books, with the history of the country for the last twenty years as to say, with certainty, how many of our Ministers of the Crown have gone on expeditions or enterprises of this character, but I believe there have been some instances. There is, for instance, the case of the Hon. Mr. Macdougall, who, if I am correctly informed, was appointed in 1865, when he was Secretary of State, a Commissioner, duly accredited with power to deal with foreign Governments, and with our own West India Islands for the purpose of aiding trade and commerce between Canada and those islands. I am told that he went there, and that his expenses were paid in connection with that service, but it was never contended by anybody that by reason of his taking that office and receiving his expenses in connection with that service, his seat as a member of the House was vacated. And, if I recollect correctly, the leader of the late Government, the hon. member for East York, went to England and France, accompanied, I believe, by the Agent-General—though on that point I am not quite sure—when he was Prime Minister, and performed services in connection with immigration and other matters, matters connected with different Departments of the Government here, and not with the Department of which he was the head. The hon. gentleman's expenses were also paid. Now, if the rule is to be applied in this way, if it is claimed that when Ministers are receiving their expenses upon expeditions of this kind, they are receiving profits or allowances, then these gentlemen should have been excluded from the House, and the interpretation which the leader of the late Government put on the Act, is not the correct interpretation. We know that our Constitution has been largely made up by precedents of this character; and it is the boast of writers and statesmen and parliamentarians of all classes that the elasticity of our Constitution has been such that it has been able to expand or contract just as the emergency may require; that it furnishes the means, not only of avoiding disruption, but of avoiding any act which would destroy the Constitution or the Government. That