

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."

In the first place, I contend that all these words—"salary, fee, wages, allowance, emolument, or profit of any kind"—must have the same meaning. All the authorities who have written on the interpretation or construction of Statutes, and among them Maxwell, lay down the rule that when two or more words susceptible of analogous meaning are coupled together the rule is *noscitur a sociis*; they are understood to be used in their cognate sense. They take, as it were, their colour from each other. If these words "salary, fee, wages, allowance, emolument, or profit of any kind" have the same meaning, it is very plain that a member of this House may be appointed by the Government to an office to which only travelling expenses or the expenses of that office are attached. If we look at the dictionaries of Somner, Johnson, Todd, Spelman and Burrill, we will find that they state that the word "fee" is derived from the Anglo-Saxon "*feoh*" which means a "stipend or reward"; it follows that the words "salary, wages, allowance, emolument or profit of any kind," which is the last word used in the Statute, convey the idea of reward or pure profit. Then certainly no one can reproach Sir Charles Tupper because he has claimed the necessary expense attached to the office of High Commissioner. But let us go a little further. Let us look at the Statute of 1830, providing for the appointment of an officer known as the High Commissioner of Canada in England. The Statute says:

"The Governor may, under the Great Seal of Canada, from time to time appoint an officer to be called the High Commissioner of Canada, who shall hold office during pleasure."

Then his powers are defined in clause 2. Clause 3 says: "The High Commissioner shall receive a salary of not more than \$10,000 per annum." I hold, Mr. Speaker, that this salary is attached to the office of High Commissioner, but as the Commission of Sir Charles Tupper, or the paper appointing him, does not provide for a salary, but on the contrary provides that there shall be no salary, I hold that this commission is not a valid one under the Statute; it is null and void under the Statute, and therefore his seat never became vacant and he is still the member for Cumberland.

Some hon. MEMBERS. Hear, hear.

Mr. GIROUARD. Hon. gentlemen say "hear, hear." Under what precedents, by what legal argument, can they pretend that this Government has a right to violate a Statute more than any one else? This Statute says the Governor in Council may appoint an officer to be called the High Commissioner for Canada, and it says the High Commissioner "shall receive a salary." Under what law has this Government the right to declare in the commission that this High Commissioner shall receive no salary? I say the moment that stipulation is made in the paper of nomination, the nomination thereby becomes null and void under the Statute, and it being no nomination under the Statute, the seat of Sir Charles Tupper therefore never became vacant. I defy hon. gentlemen to controvert that position, or to prove the fallacy of my argument. I can quote precedents which show beyond doubt that the first condition required in order to affect the seat of a member of Parliament, or in order to sue him for the penalties mentioned in the Statute, is that the validity of the appointments must be established. In the case of *Rex vs. Day Lord Tenterden* said, "The mere acting as inspector would not vacate the office of alderman unless he had been duly appointed to that office," so we may say the mere acting as High Commissioner would not vacate the seat of Sir Charles Tupper in Parliament for the same reason in the case cited. The informality consisted only in this, that the inspector

was appointed by the justices outside the session, though still by the justices, but as the Statute provided that he could not be nominated out of the Session, his nomination was set aside and it was held, under these circumstances, that he had not vacated his seat as alderman. What is the case here? The Statute says there shall be a salary attached to that office; the Government, in the commission, said there shall be no salary. Is the power of the Government stronger than the power of the Statute? I say no. The consequence is that the commission is not a valid one upon its face, and the seat never became vacant. I mentioned at the outset that the hon. gentleman who has just sat down quoted many precedents to show that a member of Parliament cannot hold an office of emolument under the Crown without vacating his seat. I am not going to deny that principle, which is elementary, but it does not apply to the case of Sir Charles Tupper. Now let us look at the Order in Council making this nomination. In a report dated 30th May, 1883, from the Right Hon. Sir John A. Macdonald, it is stated that it would be necessary to appoint a successor as High Commissioner of Canada in London, to Sir Alexander T. Galt, whose resignation was to take place on the 1st of June, 1883; and it is expressly stated that Sir Charles Tupper was to hold and had accepted the office without salary. The commission also provides that Sir Charles Tupper will hold the said office "without salary," but otherwise "with all and every the duties, powers, right, authority, privileges, and advantages, unto the said office of right and by law appertaining during pleasure." It is also stated that the expenses of the High Commissioner will be paid in the same manner as the expenses of Sir Alexander T. Galt. So by the appointment and the very acceptance of the office, no salary is attached to the office, and therefore the commission of Sir Charles Tupper, if valid at all at common law, under the general powers of the Cabinet, has no validity at all under the Statute. The hon. member for West Huron (Mr. Cameron), stated the other day that Sir Charles Tupper would have an action against the Government to-day for the amount of his salary. I would like to know under what law he can claim that salary? Could he claim it under the commission appointing him? No, he cannot. He is not nominated with a salary attached to the office, but he is expressly nominated without a salary, and that is exactly where the fallacy of the hon. member for West Huron lies. I could understand that there might be some difficulty if he had renounced the salary subsequent to the nomination. In that case it might be considered that the salary being given, not as incidental, but as essential to the position, the nominee had no right to renounce that salary. But here the salary has been detached from the office by the commission itself, and therefore it seems to me very clear that Sir Charles Tupper has no such action as was mentioned the other day by the hon. member for West Huron. The hon. gentleman seems to have been surprised at the position I laid down that the Government has no right under the Statute to appoint a High Commissioner without a salary. Let us look at some other offices in the country. Are we going to be told that the Government has a right to appoint a Lieutenant-Governor to any Province without a salary—I always mean under the Statute? Can they appoint a Judge without a salary? The nomination of a Judge without a salary would be against the Statute and would be null and void, and he could not sit in any of the courts created by Statute. It is true the Government can nominate a Commissioner, even a High Commissioner, a Judge and certain other officers under the general powers of the Administration; but these officers will not have the character mentioned in the Statute creating those officers, and therefore cannot subject the nominees to the penalties mentioned in the Statute. I have no doubt hon. gentlemen have noticed the words of the Statute respecting the salary of a High