

and physical condition of his honour are incorrect and that he is only suffering at present from the physical disabilities which require the appointment of an administrator.

Mr. MONK. I have just heard my right hon. friend (Rt. Hon. Sir Wilfrid Laurier) say that my hon. friend from East York (Mr. Maclean) is playing a part in the representations he has thought fit to make to the House and the government. Well, I have listened to my hon. friend from East York each time he has referred to this matter, and I am not aware of any remark he has made that would justify the right hon. leader of the House in claiming that in the language used by my hon. friend (Mr. Maclean) there was the slightest tinge of disrespect to the Lieutenant Governor of Ontario. He took occasion to call attention to the inability of the Lieutenant Governor to fulfil the functions of his office at the present moment. On the last occasion, the Prime Minister contended that there was no such inability. But, as a matter of fact, all the remarks of my hon. friend from East York have been fully justified by the Order in Council which appeared in the Canada 'Gazette' last Saturday. What the hon. gentleman stated was absolutely true; it is impossible for the Lieutenant Governor of Ontario, at this moment to fulfil some of the functions assigned to him, as shown by the fact that it has been found necessary to assign those functions to somebody else. Thus the stand taken by my hon. friend from East York is amply justified. What I wished particularly to point out, is this—that there seems to be, in my humble estimation, a mistake in this Order in Council. The government, if it had any authority for its action, must find that authority in section 67 of the Confederation Act, which says:

The Governor General in Council may from time to time appoint an administrator to execute the office and functions as lieutenant governor during his absence, illness, or other inability.

Now, what I submit to you, Sir, is this—that under that section, which must be construed strictly, the only thing which the Governor General of the Dominion can do is to appoint some one to fulfil the office of lieutenant governor. This gives pertinence to the remarks of my hon. friend from East York. It is within the power of this government to appoint somebody to fulfil the office of lieutenant governor entirely, and I question very much if, having complied with that section, the lieutenant governor himself can proceed in the execution of any of the duties assigned to him. Once the government of the Dominion has judged that there is in the case of a lieutenant governor, illness, absence, or other inability, this government may appoint somebody to fulfil the office; but nobody, I think, will contend that it was possible for this government to appoint somebody under

Hon. Mr. HAGGART.

this section 67, which is the only one that applies, somebody, for instance, with power to dissolve the local legislature, or or somebody with power merely to give assent to Bills or to prorogue the legislature. Now, in this Order in Council, as I read it, there is an appointment made, not of somebody to fulfil the office of lieutenant governor in conformity of the terms of section 67, on account of the illness of the lieutenant governor, but there is only the appointment of somebody for the purpose of giving assent to Bills during the present session, of giving assent to Bills at the close of the session, and of proroguing of the present session. So that, really, the act of this government amounts to this—that the office of lieutenant governor is divided. There is a fragmentary authority left in the hands of the lieutenant governor and power is given to the chief justice to fulfil some of the functions of the lieutenant governor. I have not given the matter very careful consideration, but I submit to you, Mr. Speaker, and to this House that this action is, *ultra vires* of the government of the Dominion. The only power they have is, in three specified cases mentioned in section 67, to vest, so to speak the office of lieutenant governor in some other person. But they cannot give to another person a portion of the authority of the lieutenant governor and leave him with his other attributes. I think ample authority can be found for that; and I think it is clear, at first sight, that this government has exercised a power which it has not.

The PRIME MINISTER. If I may be permitted, the point taken by my hon. friend from Jacques Cartier (Mr. Monk) is one in which, I am bound to say there is some reason. But we were guided by the precedent created by Sir John Abbott in the case of Sir Alexander Campbell, who was incapacitated from performing certain duties. After communications between Sir John Abbott and Sir Oliver Mowat, then Prime Minister of Ontario, certain powers were given to administrators for certain limited purposes. We followed that precedent.

Mr. MONK. With the indulgence of the House, I would say that I think my right hon. friend (Rt. Hon. Sir Wilfrid Laurier) is mistaken with regard to the case of Sir Alexander Campbell. In that case a very singular thing occurred; a deputy was appointed by the provincial government. If the House will allow me, I will quote from Clement's Canadian Constitution, which says:

During the last illness of the late Lieutenant Governor Campbell, an Order in Council was passed appointing a deputy Lieutenant Governor, and this action on the part of the provincial government gave rise to considerable discussion. It is understood that the Attorney General of Ontario prepared a 'state paper' in support of this action of his government, but this we have not seen. A lieutenant governor standing, as he does in the same relation