

Minister of Railways was appointed under the Act of 1880, authorizing the appointment of a High Commissioner in England for certain purposes. He was appointed to do the duties which appertain to that office, as stated in the Statute, without salary. That is the first feature connected with this transaction. He performed those duties, and he also received in connection with that office, as I understand it, his expenses, approximating to \$5,000—as expenses and not as salary, not as wages connected with the office, nor as profit. Now I think it has been conceded pretty freely, although it has just now been denied from the Opposition, that the spirit of the Act has not been violated in connection with this transaction. The intention of the Act was that members of Parliament should not be under the influence of the Administration of the day, by reason of offices being given to them with which a profit might be associated. Now, we have already seen, as a matter of fact, not only from the Patent which has been read to the House, but from the Public Accounts, that the hon. Minister did not receive any salary, or wage, or allowance, or profit whatever; that whatever he did receive was in the way of payment of his expenses of living in England during the period he was there. Now, that being the case, I submit, as a matter of law, that not only has the spirit of the Act not been violated, but the mischief intended to be prevented has not been committed; and we have in the very words of the Act itself a provision sufficiently clear, I think, to show that the Minister of Railways, in accepting this office, did not come within the Act at all. Now, if the Minister did not come within the words or the letter of the Act, and did not violate the spirit of the Act, then certainly his seat has not been vacated. I suppose it will not be denied by any hon. member of this House, that before this Act was passed the Minister might have accepted this office. Now, under the Act itself, did he by accepting the office of High Commissioner, in fact violate it? Now, I submit the very words of the Act show that he did not, and if the House will permit me, I will read the words of the Act of 1878:

"1. Except as hereinafter specially provided—

"(a.) 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 of Canada, nor shall he sit or vote therein;

"2. Provided, that nothing in this section shall render ineligible, as aforesaid, any person holding any of the following offices, that is to say: Presidents of the Council, Minister of Finance, &c."

"Any person:" holding office like the Minister of Railways is not ineligible—those are the words of the Statute. The Minister of Railways, the President of the Privy Council, or any other Minister is not ineligible by the words of this Statute. They come within the exception. The Minister of Railways may accept or hold any office to which the first section has reference. Those are the words of the Statute, and I particularly point out the fact that the second section comes in and especially protects all such persons. Now, I submit, that the letter of the Statute, as well as the spirit of it, have not been frustrated in this matter, have not been violated by reason of taking this office without a salary. But I should judge that the Crown prerogative would be sufficient to appoint a person to such an office to do such services, without an Act of Parliament. But there is an important feature in connection with this matter that has been strongly pressed upon the attention of the House by various hon. gentlemen, and though the hon. gentleman for North Victoria (Mr. Cameron) has alluded to it, it seems to me that sufficient attention has not been given to it; and that arises from the words of the Act of 1880, authorizing the appointment of a resident Agent, or High Commissioner. It has been contended by hon. gentlemen opposite that there is a salary attached to this office which the patent granted by the Crown cannot detach. I think that is the meaning of

Mr. BEATY.

their contention, that there is a salary attached to this office by reason of the words of the Act of 1880, which the grant from the Crown cannot take away. The fact is stated that it is "without salary," but, nevertheless, because by the Act a salary is claimed to be attached to the office, it is argued the salary must continue. Now, I submit there is no salary attached to this office, unless the Government who appoints the High Commissioner attaches it. Unless the Government in the Patent gives him the right which this Act authorizes them to give, if they withhold that salary then there is no salary attached. If they take the salary away, the salary is not there; therefore, the argument has no force. The Act expressly states that the High Commissioner shall receive a salary of not more than \$10,000. He may receive \$1; the Administration may give him \$1, \$10, \$100, \$1,000, but they cannot give him \$10,001. They may give him no salary; they can give him \$1 or they can give him \$10,000; but if they give him any sum within the limit, then the Act authorises it to be so, and then by the grant to the High Commissioner, the salary is attached, and whatever force there may be in the position of a Minister accepting the office with the salary attached under these circumstances, it would apply in such cases. But to my mind that is not the real difficulty. The difficulty as I understand it, is the payment of these expenses, the payment of that sum of nearly \$5,000. That, it seems to me, is the real gist of the matter. Now, I will read, with the consent of the House, a few passages from Todd's Parliamentary Government in England, vol. 2, page 260, London edition of 1839:

"In regard to the first of these principles, it should be observed that this Statute is invariably construed very strictly.

"Thus, the acceptance of an office from the Crown, accompanied by a formal renunciation of any salary, fee or emolument in connection therewith, does not disqualify."

Does not that exactly meet the case we have in hand?

Mr. MACKENZIE. From what book are you reading?

Mr. BEATY. From "Todd's Parliamentary Government in England," at page 260. Thus I read:

"Thus, the acceptance of an office from the Crown, accompanied by a formal renunciation of any salary, fee or emolument in connection therewith, does not disqualify."

"Acceptance" here is italicised to show the importance of the word. The party receiving and accepting office must accept it in act, formally and with the salary attached; he must accept it, not renouncing the salary which is attached to the office, but he must accept it with the salary attached; and when a person has accepted office with salary attached, there can be no doubt that the operation of the Statute shows that such person is disqualified. But it must have been accepted. In the case afterwards referred to, Mr. Pryme accepted the position of Commissioner of Bankruptcy, to which fees were attached. He was appointed, the commission was issued, he accepted the position and held it three months, but he never took any fees and never performed any service. The matter was brought before the Imperial Parliament and discussed very elaborately, and the result was that the whole House, after hearing the discussion and the opinions of the law officers of the Crown, dropped the matter and said it did not come within the Statute. That was a case precisely like this one. He accepted office without fees; the fees were not payable until the work was done; he never did any work; hence, having done no work, though he had accepted the office, and the commission had been issued, he was not entitled to any fees, and he was not disqualified because he did not receive any profit. That is the whole gist of the matter. I read the brief note of that case:

"But where the remuneration is by fees and not by salary, and the disqualifying office was relinquished before the performance of any duties, or the receipt of any fees—though held for a period of three months—it was no. considered to vacate the seat."