

If parliament refuses its approval the government will have to vacate its place.

The right hon. gentleman must also realize that in determining what constitutes good cause you raise an issue of the utmost importance. The courts, for instance, have always had difficulty in deciding as a matter of law whether or not a given set of facts constitutes cause or not. Therefore in every case where an employer dismisses his employee before the termination of his period of employment the employer must face the responsibility of either paying damages or satisfying the court that he has done what he has done for good cause. The cause is a question of law. I can give one illustration that many hon. gentlemen may be familiar with. We had a case in the courts under which an employee of the Canadian Pacific Railway sued that road for damages for dismissal. The cause assigned was that he had appropriated to his own use fares on the railway received for the carrying of passengers. The railway company dismissed him. In accordance with the provisions of the schedule he appeared before his superior officers and he contended that he had made good his defence, but the company dismissed him. He then sued the company, and the learned judge decided that he had been dismissed without good cause, and awarded him \$10,000. Apart from the fact that the damages were improper because the measure of damage could not be that in any event, the question at issue was whether or not that was good cause. The case went to the appeal court and finally to the privy council, where the judgment of the trial judge was reversed, as it was by the court of appeal. The issue was the sufficiency of the cause. The man himself was not permitted to say whether it was good or bad. He took the risk. Now in order that we may be able to induce competent men to accept this position we say that we are not going to leave it to the caprice of any government, our government or any other, to say that a given condition constitutes good or bad cause to exercise the power of dismissal. Therefore once a decision has been arrived at to terminate the employment by dismissal we say that before final action is taken parliament must say, just as the privy council had to say, that the cause assigned is a good cause, and if this house and the Senate say that it is not good, then the government of the day must go; but if on the other hand the commons and the Senate say it is good the government is vindicated in the position it has taken.

The reason why the Senate is introduced into this, apart altogether from the fact that

[Mr. Bennett.]

the tenure of office of judges is during good behaviour subject to age and other conditions which will be before the house presently as defined by the Judges Act, is this: We want the board to be independent of the executive, just as no executive action should be capable of terminating the services of a judge. Therefore the appeal is made to parliament. In the case of the judges that is as old as the statute that provided it. It has come down through all these years, and parliament means both houses. The answer that at least one hon. gentleman would make if the commons alone were mentioned would be that the government of the day has always a majority in the commons and therefore is always sure of being sustained in that chamber. But the government has not always a majority in the other chamber, whether in this country or any other, and therefore the government of the day may not be sustained in the other house; it may not secure the joint approval of the two houses of parliament by which these men may be removed. You thus secure the possibility of men of position in the commercial world accepting at the hands of the government positions which they otherwise would not accept, and having accepted the position they know that their tenure of office is not to be subject to the caprice of any government which in its anxiety to change the personnel of the trustees may determine that a given set of facts constitutes good cause. The question must be submitted to the high court of parliament, and the government of the day having submitted its cause, not to this house alone but also to the other branch of parliament which may not conceivably support the government, and that has very often happened, if it is unable to secure the approval of that other branch of parliament, as well as the approval of the commons, it fails and the government must go.

Mr. STEWART (Edmonton): My hon. friend is not suggesting that if a government measure is defeated in the other house the government must resign.

Mr. BENNETT: It would in this case.

Mr. STEWART (Edmonton): That makes it worse than ever.

Mr. BENNETT: It is not a question of defeat. There must be joint action by both houses to make it complete. Both bodies must approve before you can deprive of his office a man who may be taken out of a great place in the commercial life of the country and induced as a high matter of public service to give years of his life—this