

pay, and is not this action on his behalf inconsistent with his application?

(Sgd.) L. F. PINAULT, Colonel,
Deputy Minister of Militia and Defence.

Then comes a communication from Colonel Worthington, in which he again reiterates his request that the question should be submitted to the Deputy Minister of Justice. And finally, on February 10th, Colonel Pinault does submit to the Department of Justice the question which has been under debate since the previous November. Then, on March 2nd, Colonel Worthington writes a letter on the subject, asking that the matter should be expedited. On March 15th the Deputy Minister of Justice, in a letter addressed to the Deputy Minister of Militia and Defence, gives his opinion as follows:

Ottawa, 15th March, 1905.

Sir,—I have the honour to acknowledge receipt of your letter of the 6th instant—303-8—and of the letter of the 10th ultimo to which you refer, submitting for opinion the question whether Lieutenant Colonel Worthington, M.P., who is principal medical officer of military district No. 6, would be disqualified from sitting in parliament if he should draw the allowance of \$300 which is provided for principal medical officers in the regulations.

In reply I beg to state that the Minister of Justice is of opinion that the \$300 a year provided for by the regulations is an 'allowance' within the meaning of section 17 of chapter 11 of the Revised Statutes, and that the receipt of it by Colonel Worthington would, therefore, not disqualify or render him ineligible to sit and vote as a member of the House of Commons. The minister, however, does not think that the point is entirely free from doubt, and, as it is not incumbent upon you to advise Colonel Worthington in the matter, he thinks that you should not undertake to advise him officially.

He had undertaken to advise him already, and had informed him that he could not sit in parliament and receive this allowance.

The courts might take a different view as to the effect of the statute and Colonel Worthington in that event should not have any recourse to the government or parliament to indemnify him.

Subject to the above the minister thinks that Colonel Worthington may be left to his own advice as to the course he should adopt.

I am, sir, your obedient servant,
(Sgd.) E. L. NEWCOMBE,
Deputy Minister of Justice.

The Deputy Minister of Militia and Defence,
Ottawa, Ontario.

This allowance is not intended, as I believe, to be a salary, but an indemnity for certain expenses which the principal medical officer must undergo in performing the duties which are incumbent upon him. There is no good reason why he should not receive that allowance as well as any other, if it is intended for the purpose I have just referred to. The statute to which reference has been made, the Independence of Parliament Act, section 17, says:

Nothing contained in this Act shall apply or extend to render ineligible or disqualify as a member of the House of Commons:

(c) Any officer of the militia, or militiaman, not receiving any salary or emolument out of the public money of Canada, except his daily pay when called out for drill or on active service, or allowances, or sums paid for enrolment, and any pay or remuneration allowed him for the care of arms or for drill instruction.

The word 'allowance' is used in the section as well as in the regulation. Therefore, I should be inclined to concur in the opinion of the Department of Justice as given, though the deputy minister says that the point is not free from doubt. But I would suggest that it is important to make such a point free from doubt. The position taken by the Deputy Minister of Militia and Defence, and, following his lead, to a certain extent, by the Deputy Minister of Justice, would put upon Colonel Worthington, or any other gentleman holding the position of principal medical officer, the burden and risk of settling such a question. That is, he is to sit and vote in parliament and run the risk of having a suit brought against him by some irresponsible individual to test the question of the construction of this statute. I submit to the Minister of Militia that the matter should be made absolutely plain. If he desires to have gentlemen in parliament who are prominent in militia affairs, and who have filled positions such as that which has been worthily filled by the hon. member for Sherbrooke (Mr. Worthington), a few words added to the statute would set the matter at rest. And, in doing so, we should not be going as far as we have gone in many cases where we have passed Bills to indemnify members who though they have remained within the letter of the statute, have not been within the spirit of it. I mention the matter at this time, because it has been brought up more than once during the session, and because it seems to me that the attitude adopted with regard to it by the Deputy Minister of Militia and Defence is not one which, on the whole, has been satisfactory.

Sir FREDERICK BORDEN. I think it is only fair to the deputy minister to say that I feel absolutely certain that there was no intention on his part to do anything adverse to the interest of Colonel Worthington. I think that hon. gentleman himself will bear me out in that view. I happen to have learned a moment ago that the whole question arose through the desire of Colonel Fiset the Director General of Medical Services, who is a warm personal friend and admirer of the hon. member for Sherbrooke (Mr. Worthington), to protect that hon. gentleman. And it was through Dr. Fiset that the deputy minister was brought into the matter. There was no intention whatever to do anything adverse to the hon. gentleman's (Mr. Worthington's) interest. I am