

to his old office of Postmaster-General—Held, that this was authorized by the 20 Vict. c. 22. The penalties imposed by that Act apply to members of the Assembly retaining their seats without re-election after acceptance of office, and not only to persons absolutely ineligible. The exemption contained in the seventh clause is not confined to one resignation and acceptance of office, but allows the change to be repeated, and the person may thus go back to the same office which he first resigned. It was stated in the pleadings that the Ministry, of which defendant as Postmaster-General, was a member, all resigned office on the 29th July, and on the 2nd August were succeeded by the opposition, who resigned on the following day; that on the 6th, the old Ministry were re-appointed, but took different offices from those which they before held, and on the 7th resigned again and were re-appointed to their old places; and it was alleged that the appointment to a different office in the first instance was colorable, and made only to enable defendant to resume his original appointment without going back for re-election:—Held, that although such a proceeding was probably not contemplated by the Act, it was allowed by it; that the court could not look at defendant's motives, or strain the construction of the statute so as to impose a penalty; and that whether the course taken was or was not consistent with the system of political government established in this Province, was a question which they could not take into consideration. *McDowell v. Smith*, 17 Q. B. 310. See also *Macdonell v. Macdonald*, 8 C.P., 479.

See 31 Vict. c. 25, secs. 5, 6, D.

II. PRIVILEGE OF PARLIAMENT.

1. *In Actions Against Members.*

A member of parliament had formerly the privilege of being sued by bill and summons, not by the ordinary process. This was abolished by 12 Vict. c. 66, now contained in the C.L.P. Acts, s. 2. For decisions under the old practice, See *McKoane v. Fothergill*, Tay. 350; *Phelps v. McKenzie*, 5 O.S. 80; *Mahon v. Ermatinger*; 1 Q.B. 334; *Hincks v. Crooks, et al.*, E.T. 2 Vict., R. & H. Dig. 333, *Lyster v. Boulton*, 5 Q.B. 632.