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7TH FEBRUARY, 1941.

WAR CABINET.

MEMBERS OF PARLIAMENT AND OFFICES UNDER THE CROWN.

Memorandum by the Lord President of the Council.

The appointment of a Minister of the Crown (with a seat in the House of Commons) as High Commissioner in the Dominion of Canada calls for the amendment of the statutory provision whereby holders of certain offices under the Crown are disqualified from being elected to, or sitting or voting in, the House of Commons.

The choice in this matter lies between two courses. The first is that legislation should be limited to posts of High Commissioner in the Dominions. These posts are broadly analogous to posts of Ambassador. Two Members of the House of Commons have, since the war, been appointed to ambassadorial posts without vacating their seats. When Sir Samuel Hoare was appointed Ambassador in Spain, the Law Officers advised that his seat would not be affected, because he was acting as a Special Envoy. The position under the Acts in regard to an Ambassador who is not sent on a Special Mission is, however, not so clear.

The second course would be to legislate on a wider basis so as to cover the cases of Members of the House of Commons who are already employed in Government Departments in a civil capacity, and others whom it may be desired so to employ in future.

Since the war, there have been several cases in which Departments have wished to take advantage of the special experience and qualifications of Members of the House of Commons. In some cases they have been given employment in an advisory capacity which, it is thought, does not come within the mischief of the statutory disqualifications. It is understood, however, that there are some half dozen instances which are not altogether free from doubt; while in two recent cases it seems difficult to believe that the employment of the Members in question is not contrary to law. Another unsatisfactory feature of the position is that one or two Members of the House of Commons, who are also Members of one of the Fighting Services, are at present holding posts under the Service Departments which are not very clearly distinguishable from civilian posts, the holding of which would come within the mischief of the Acts.

At the request of the Prime Minister, the Lord Privy Seal, the Chancellor of the Exchequer and I considered this matter on Friday, 7th February, and decided to recommend as follows.



This question should be handled on broad lines by reference to two guiding principles:

First, that this war calls for the best efforts of the whole nation, and that the services of those who can give valuable assistance to our war effort should not be lost to the country by reason only of the fact that they are Members of the House of Commons.

Secondly, that it would be most undesirable for the House of Commons to be filled with "place men", and that so far as possible the separation between the responsibilities of M.P.'s and the responsibilities of the Executive should be maintained.

The first principle calls for a statutory provision in general terms to enable Members of the House of Commons to be appointed to posts in connection with our war effort. This provision should be limited to the period of the war, subject to such provision as may be necessary to avoid all appointments being terminated automatically, in a manner which would cause administrative inconvenience. The use of some phrase such as "posts in connection with our war effort" would exclude appointments to certain posts which should clearly involve as a consequence the vacation of the Member's seat, even in time of war: e.g., appointment to a post as Metropolitan Magistrate.

The second principle calls for examination and approval by some single authority of all appointments of Members of the House of Commons to posts in connection with our war effort. This might be done by requiring that a Treasury Minute should be issued on each such occasion, and should lie on the Table of the House of Commons. It is not intended that the Act should provide that an appointment, notified to the House by the laying of a Treasury Minute, should be annulled if an Address is presented against it within a specified period. The object of laying a Minute is that the House of Commons should be properly informed on this matter, and should be in a position to raise, as a general issue, the extent of the use made of the powers conferred by the Act.

The powers taken by the Act should be retrospective to the date of appointment in the case of Members of the House of Commons appointed to Offices before the Act was passed into law, subject, of course, to the laying of a Treasury Minute.

If statutory provision is made on these lines, some corresponding action will have to be taken in regard to Parliamentary candidates. The present rule prohibits the holder of a civil office from publicly announcing himself, or allowing himself to be publicly announced, as a prospective candidate for election to Parliament for any constituency until he has resigned from his employment. This rule, however, is laid down by Order in Council, and can be modified without legislation.

(Intld.) J.A.

Great George Street, S.W.1.,

7TH FEBRUARY, 1941.







