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The Sunday nearest to the 24th May will be observed by the S. O. S. Society by an Annual Parade and Special Service in one of the churches.

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# THE DAILY EXAMINER

MAY 14, 1900

## THE SPEAKER AND MR. WISE'S RESIGNATION.

The action of the Hon. James H. Cummiskey, Speaker of the Legislative Assembly of this Province, in ordering the Sergeant-at-Arms, without resolution of the House, to remove Mr. Wise, one of the members elected for the Second Electoral District of Queen's County, from his seat in the House, has attracted much attention not only in the Province, but throughout the whole Dominion. Mr. Wise was a member of the House for many years, and was well known to the Speaker as such. The present session is the third of 1895 and 1899 Mr. Wise sat and voted as a member. He was, therefore, well known to the Speaker as one of the persons who was elected to represent the Second District of Queen's County.

At the opening of the present session the Speaker announced that he had the resignation of Mr. Wise as a member. Mr. Wise, however, shortly after entered and took his seat, and upon a division of the House being demanded, on a question before it, Mr. Wise rose to vote. The Clerk neglected to count the vote and the Speaker's attention, having been called to the Clerk's omission, that gentleman stated that Mr. Wise was no longer a member and could not vote. The Speaker was then informed that the alleged resignation that he had in his possession was not legally there,—that it was never intended to be handed to him except upon the performance of certain conditions which had not been performed. But Mr. Speaker Cummiskey ruled that having received a document purporting to be a resignation, purporting to be signed by Mr. Wise and purporting to be witnessed by two witnesses, his resignation was complete and his seat vacated irrespective and without reference to the way or manner that document reached his possession; and he denied that the House had any right or power to challenge the genuineness or correctness of that document, and ruled further that it was not competent for or within the power of the House to inquire into the circumstances under which he received it. He also held that if Mr. Wise came before the House and took his seat therein, and desired to challenge the correctness or regularity of the resignation, the Speaker had the power and authority, without order or resolution of the House, to direct the Sergeant-at-Arms to forcibly remove Mr. Wise from his seat and eject him from the precincts of the House.

In pursuance of these views, and on the order of the Speaker, Mr. Wise was on the following day forcibly removed from his seat by the Sergeant-at-Arms and confined in the Speaker's room. The correctness of this decision and order of the Speaker have been challenged and are being criticized throughout the land.

The Speaker probably does not know that, by the Common Law of the land, a member cannot, after being elected, voluntarily resign his seat. The right to do so has been created in this Province by statute and that right is regulated by a statute passed in the year 1893. No power exists in England enabling a member of the House of Commons to resign his seat. We refer to this for the Speaker's benefit, inasmuch as he is continually referring to May on Parliament, which although a most eminent authority on the practice of the House of Commons of England, is liable to mislead, and in fact often does mislead Mr. Cummiskey, who appears to be

unaware of the fact that the Legislative Assembly of Prince Edward Island does not possess the power of the House of Commons of England, as well as of the fact that the Speaker of our Legislature does not possess the same power that the Speaker of the British Parliament possesses.

By the provisions of the Island statute of 1893,—a member may vacate his seat in several ways. He "may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two subscribing witnesses." This in effect means that a member desiring to resign must (1) sign and seal his resignation addressed to the Speaker before two witnesses, and (2) then cause it to be delivered to the Speaker.

It is claimed by the Government, and by Mr. Cummiskey, that Mr. Wise did this. On the other hand it is denied by Mr. Wise that he did so. He admits having signed a resignation conditionally; he denies that he authorized it to be delivered to the Speaker. The resignation, however, appears to have reached the Speaker's hands, as Mr. Wise claims, in violation of the conditions under which he signed it and in breach of trust and confidence; and the question has arisen whether, under these circumstances, Mr. Wise has vacated his seat and whether the mere fact that the Speaker had received the alleged resignation was conclusive against him. The Speaker has held that Mr. Wise's seat was vacated, and the fact that he had possession of the alleged resignation was conclusive.

By the express terms of the law, the signing and sealing of a resignation does not vacate a seat. Something more must be done. The member must cause the declaration to be delivered to the Speaker. Whether Mr. Wise caused his so-called resignation to be delivered to the Speaker is a question of fact. He denies that he did so. It is not alleged that he personally delivered it; in fact he did not personally deliver it; and there is no evidence that he caused it to be delivered. He does not appear to have authorized any one to act on it, except on a well-defined condition which has not been performed. The fact that the Speaker now has possession of the document does not prove anything. It certainly does not prove that Mr. Wise caused it to be delivered to him. And it is just here that the Speaker has made one of his many blunders. A member's resignation is inoperative, so matter in whose custody or possession it may be, unless and until the member causes it to be delivered to the Speaker.

To illustrate a case! Supposing a member had an intention to resign his seat and accordingly prepared and signed a resignation and then placed it in the drawer of his desk without any intention of forwarding it to the Speaker until he further considered the matter, but, on the same day that he signed the resignation and before he had definitely made up his mind whether to resign the document, was stolen and transmitted by the thief to the Speaker and by that means reached the Speaker's hands. Could a resignation received under such circumstances be held to be a valid and binding resignation? Speaker Cummiskey says "yes, it would;" but common sense, and we are glad to say both the Statute and Parliamentary law, say that it would not. Yet the illustration given does not differ in principle from Mr. Wise's case. According to the uncontradicted statements given to the public, Mr. Wise's alleged resignation was not unconditionally given by him to be transmitted to the Speaker. Indeed the only evidence before the public is to the effect that it was surreptitiously, if not by fraud, obtained and handed to the

Speaker, and that being so, it became and was the duty of the Speaker when his attention was drawn to the fact that the validity of the so-called resignation was challenged to have referred the whole matter to the House to be dealt with by that body who could by virtue of its inherent power and jurisdiction have examined into all the facts and circumstances, and decided accordingly.

Instead of so doing, however, Mr. Speaker Cummiskey arrogated to himself an authority that he did not possess, and in a most summary and unconstitutional manner, ordered the Sergeant-at-Arms to remove the member. In doing so he violated all parliamentary rules of procedure, and acted without precedent. His action, besides being contrary to parliamentary precedent, was in direct opposition to the principles of Magna Charta, which declares that no man shall be deprived of the liberty of his person or of his property without a fair trial. In the present instance, Mr. Wise has, without trial, been forcibly ejected from his seat in the House,—a seat to which the electors of an intelligent district time and again elected him.

The action of Speaker Cummiskey has attracted much attention, and caused much unfavorable comment on the part of all right thinking people throughout the length and breadth of this Dominion.

The question has been asked whether the British laws govern this Island. Of course, but one answer can be given, viz., that the British laws should govern; but that unfortunately they have been violated, ruthlessly violated; and the wishes of the majority of the people of this province, who have, within the last twelve months, at the bye-elections signified their want of confidence in the Liberal party, have for a time been thwarted.

It is said by an Upper Province paper that the actions of the Local Government in this and other matters, have been prompted by and directed from the Laurier Government at Ottawa, who are anxious that the Farquharson Government should hold on to power until after the Dominion elections in order to assist Sir Louis Davies to hold on to his seat. This is an alarming state of affairs, and the situation demands that every elector of this fair and heretofore untarnished Province should do everything in his power to condemn the outrageous violations of the constitution and laws of this Province which, during the last few days, have been so prominently brought before the people of this Dominion and been the means of bringing the people of this Province before the rest of the Dominion in such an unfavorable and unsavory light.

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