

as Canada could only pass such a Bill as this if it were in accordance with orders made by the King and council; but the hon. gentleman said that apart from that, the wording of the British North America Act gives Canada a power which withdraws it from the control of the Colonial Defence Act. He has referred to the words of the statute. Now let us look at the words of the statute and see the practical working out of it. Section 91 of the British North America Act says:—

It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons to make the laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the legislatures of the provinces.

Therefore, he said, power having been given by the British North America Act to Canada to legislate on these four subjects, militia, military, naval service and defence, therefore we have power to legislate without regard to the motherland. I admit that for the sake of argument while I dispute it as a matter of law. Reading down the list of subjects, dealt with by section 91, we find that No. 23 is copyrights. Exactly the same argument applies to copyrights; this country has an exclusive right to legislate with regard to copyrights without regard to the motherland, but who does not know that we tried to do so and failed because we have no such power. I go to No. 25 in the list of subjects and I find that just as we have power to legislate, with regard to the militia, military, naval service, and defence, so we have a power to legislate with regard to the naturalization of aliens. This House has a power to legislate with regard to naturalization, but will the Prime Minister pretend for a moment to say that we have any such power under the sun. It is provided by an imperial Act of 1879, but all we have a right to do is to give a limited apologetic form of naturalization to those only within the borders of Canada. Yet the words of this section 91, are so complete that if the argument of the hon. gentleman is sound with regard to naval matters it is equally sound with regard to each of the three, and being certainly and demonstratively wrong, with regard to the latter two, I submit it falls also to the ground in regard to subsection 7. Now, another point. He referred to the judgment of the Privy Council to show that under section 9 of the British North America Act precisely the same powers had been held by the Privy Council to belong to the Governor General as are given to him by this clause. I do not think the right hon. gentleman appreciated the force of his own argument. In section 9 it is declared:

The executive government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Without another word being said, and the courts held that that authority might properly be exercised by the Governor General on the advice of his responsible ministers. Take clause 15 of the British North America Act:

The command in chief of the land and naval militia, and of all naval and military forces of and in Canada, is hereby declared to continue and be vested in the Queen.

The same argument would apply there, and why would it not apply to clause 4 in this Bill before the House. If we read:

The command in chief of the land and naval forces is vested in the King.

—and stop there, what is the object of inserting those other words? I am not going to insult the intelligence of this government by suggesting that they are cumbering the statute-book with words that are utterly meaningless, and yet it is quite clear that the Privy Council has admitted that without these words the clause would allow the Governor in Council to administer the law. Why then put these words in? They are either superfluous, being already provided for, or they are void, having no power.

An hon. MEMBER. Ultra vires.

Mr. NORTHRUP. Why, therefore, cumber the statute-book with words that are either superfluous or void. There is only one reason that I can understand why they are there. It would be impossible to read clause 18 in this Bill if we had not those additional words added in clause 4. If we left the command of the fleet vested in the King it would be rather absurd for the Governor in Council to place it at his own disposal if he liked. But we are to have two distinct bodies, the King on the one hand, and the government to control the navy on the other; and then we begin to see why these words which are either superfluous, or void, are introduced.

Mr. J. A. CURRIE. As an ordinary layman it is a little rash perhaps for me to project myself into a legal argument of this kind, but having had some connection with the military side of life, perhaps I can take a cooler view of a question of this kind, than the legal gentlemen who have discussed it. Now the only way to get at the root of a question of this kind is to get right down to the foundation and find out whether in the beginning of things or at any stage of the procedure the command of the army and navy was vested either in the King, or in the parliament of Great Britain and Ireland. In the year 1661 Charles was restored to his throne,