

there is a certain qualification to that introduced in section 4 of this Bill, which undertakes to say how that command shall be exercised. There is no such qualification in section 15 of the British North America Act.

Sir WILFRID LAURIER. I think the objection is not at all well taken. This Act is exactly the same as the Militia Act in regard to the power vested in the government of Canada. Here is the clause in the Militia Act:

The command in chief of the militia is declared to continue and be vested in the King, and shall be exercised and administered by His Majesty, or by the Governor General as His representative.

The clause might perhaps have been improved and made clearer than it is; but since it has received the interpretation of parliament from the earliest days of confederation, we did not think it advisable for us to depart in any way from what has been the settled and well-understood principle of the constitution. Moreover, my hon. friend will find in section 9 of the British North America Act the same language repeated almost identically. I think my hon. friend from Hastings some time ago expressed the opinion that the interpretation of section 15 of the British North America Act was that the command of the forces should be exercised by the Queen and could not be delegated by her to the Governor General. At all events, if he did not exactly express that view, the press has done so. I would simply ask my hon. friend to look at section 9 of the British North America Act, which reads as follows:

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

If the correct interpretation of section 15 is that the command of the forces is vested in the Queen and cannot be delegated by her to her representative in this country, it would follow that the executive government of the country, which is also declared by the constitution to be vested in the Queen, could not be delegated to her representative. That interpretation is simply absurd. From the very first day of confederation the executive power over Canada has been conferred by the Queen upon her representative in this country, and we cannot conceive that it would be possible to carry on the government otherwise. We cannot expect that under the constitution of Canada or the constitution of any of the self-governing colonies, the young daughter nations of the empire, the Sovereign himself would exercise authority directly in these countries. He can only do so indirectly by a representative. It has been done, and the action has never been questioned. That is the answer I have to give in regard to the language of this section, which follows identically what has been the custom of the country since confederation.

Mr. W. F. MACLEAN. Is it not, in other words, a guarantee of responsible government that these clauses appear in various places in the constitution?

Mr. NORTHRUP. The right hon. gentleman has evidently misunderstood my contention. I never contended that the King was unable to delegate authority. I quite recognize that he can, but that is a quite different proposition from this section, which undertakes to withdraw his authority from him. The view I advanced to the House was this, that the royal prerogative extended to the navy, whereas under the system in England the royal prerogative had been so whittled down by parliamentary Acts with regard to the army that it was not by virtue of the prerogative that the Crown controlled the army. Parliament in the old country has continually dealt with the army and the Sovereign has been a party to every Act of parliament so dealing with it. He stands in a different position with regard to the navy, and my whole argument was that inasmuch as the authority of the Sovereign over the navy is a matter of prerogative precisely the same power as his power to make treaties, and is not derived from parliament at all, therefore, this House could no more interfere with the Crown's prerogative with regard to the navy than it could interfere with its prerogative touching the treaty-making power.

Sir WILFRID LAURIER. Do I understand my hon. friend to mean that at the present time the navy is still under the prerogative of the Crown in England?

Mr. NORTHRUP. Yes, I contend that the authority over the navy is vested in the Crown by mere prerogative, just the same as the treaty-making power.

Sir WILFRID LAURIER. I do not think, Mr. Chairman, that the hon. member's contention can be substantiated at all by authority. At the present time, the prerogative of the Crown in England whether it concerns the army or whether it concerns the navy, is no longer in existence. The navy and the army of course are under the control of parliament. Up to the early part of the 19th century the Crown made good the right with the Commons and parliament to preserve its prerogative over the army and navy, but I can only recall to my hon. friend that from the last 60 or 80 years, I should say for the last 100 years, the prerogative of the Crown, both with regard to the army and navy, has not existed for the will of the Crown, has been subject to the will of parliament in these matters above all others. George III, I agree with my hon. friend, tried to preserve his authority, but as democratic ideas advanced, he had to give away on this point, and the authorities are that in 1806, under the administration of Lord Grenville, the point was settled for ever. I have only to refer my hon. friend to Todd, who makes the point very clear.