

Sir FREDERICK BORDEN. I am inclined to think that it is the best way.

Mr. SAM. HUGHES. There is no need to say 'Who shall be senior in rank to the general officer commanding.' Lord Dundonald would fill the bill exactly.

Sir FREDERICK BORDEN. That is right.

Mr. SAM. HUGHES. But if you put in these last words, you rule Lord Dundonald out. If the minister would stop at the words 'regular army.' Lord Dundonald might be the officer selected by His Majesty.

Sir FREDERICK BORDEN. The point did not occur to me. I will reconsider the section.

Mr. R. L. BORDEN. What my hon. friend (Mr. Sam. Hughes) suggests is that the imperial officer might be the general officer commanding the militia—he might command both forces.

Sir FREDERICK BORDEN. There is no intention to interfere with the power of the Crown to appoint the general officer commanding the militia to command the whole force.

Mr. SAM. HUGHES. Will the minister let this stand?

Sir FREDERICK BORDEN. We are not passing this, we are simply discussing it.

Section 78 is precisely the same as section 80 of the present law. 79 is the same as 82.

Mr. R. L. BORDEN. Does section 78 refer to the permanent force?

Sir FREDERICK BORDEN. No.

Mr. R. L. BORDEN. Why?

Sir FREDERICK BORDEN. Because there is a special clause governing the permanent force.

Mr. R. L. BORDEN. I am aware there is a special clause governing the permanent force, nevertheless the permanent force is included in the word 'militia' as defined in the interpretation clause. I think it will be necessary to look carefully into this Bill all the way through to see whether, by the use of the word 'militia' you are not applying to the permanent force certain provisions which perhaps you do not intend to apply to it. For example, you have a provision in one clause here that any man can obtain his discharge from the service on giving six months' notice. Is that intended to apply to the permanent force? I do not know. Nevertheless, it seems to me that under the language of this Bill it would be held to apply to the permanent force, because you define the word militia as including the permanent force, and then you make this general provision with regard to all the militia.

Mr. HUGHES (Victoria).

Sir FREDERICK BORDEN. This was copied from the present law which has governed the whole militia including the permanent force, and never gave rise to ambiguity. But I see the point and will have that looked into.

79 is practically the same as 82 of the present law. The King's regulations are omitted and do not apply under the new law.

Mr. SAM. HUGHES. A point in connection with this clause has given rise to a good deal of speculation. There is no doubt that is the interpretation of the clause, and it is one on which I have acted myself. The officers of the Canadian militia are exempt from the Army Act while they are not on service. An attempt has been made by one general officer commanding in Canada to hold every officer of the ordinary active militia under the Army Act throughout the year, and I heard it whispered last year that the minister intended to make that specific by putting a definite clause in the Act, stating that the militia officers of this country should be under the Army Act throughout the year. I am glad to find that he has not placed that clause in the present law. I know it has been decided by one of the courts in the province of Quebec that this does not apply. The paragraph in the question reads as follows:

In any drill shed or other building or place used for militia purposes, and also during any drill or parade of his corps when he is present in the ranks or as a spectator in uniform, and also when going to or from the place of drill or parade—

I suppose that also means in uniform.

—and at any other time while in the uniform of his corps.

In the Montreal case it was held that the words 'as a spectator' did not bind the officer because he was not in uniform. Now the interpretation usually placed upon this is that he is there as a spectator in uniform, or he is on the drill ground and should be held under the law. I draw the minister's attention to the ambiguity in the wording of that section. In my own case I have no doubt as to where I stood in the matter, but I want it made clear for others; it cannot be made too emphatic that the individual liberty of the officers of the Canadian militia when they are not on service must not in any case be interfered with.

Sir FREDERICK BORDEN. I call the hon. gentleman's attention again to clause 71 of the new Bill which I omitted to refer to. The last four lines of section 71 I presume my hon. friend will object to, and I propose to strike them out. They refer to the subject to which he has just alluded. They are unnecessary. If the part of section 79 to which he has just referred remains, then the last four lines of 71 are unnecessary, and I propose to amend the Bill