

of the authority that is intended to be given. The section begins :

It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order and good government of Canada.

Subject, of course, to the powers exclusively conferred upon the Local Legislature by the following section ; but when you come to read the detailed statement of these powers you find there is legislation with regard to the public debt and property, the regulation of trade and commerce, the raising of money by any mode or system of taxation, the borrowing of money on the public credit, and a number of other ordinary legislative powers ; but there is not a syllable relating to any power or authority to alter the Constitution itself. I think that is perfectly clear. Then when you look at section 18, you have had an interpretation given to that by two very eminent law officers of the Crown, the present Chief Justice of the Queen's Bench in England, and the late Master of the Rolls, Mr. Jessel, both very eminent men, and they held that you had not power to pass an Act authorizing the taking of evidence before a committee of this House upon oath. You were compelled to go to the Imperial Parliament and to seek an amendment of that section. There was with regard to that no additional substantive authority sought ; you had power already to examine witnesses ; you had power to take evidence with regard to any matter concerning public affairs. All that you sought was an amendment to the law, as to the mode in which you were to exercise this power that you already possessed. They held with regard to that adjective law, which was not a substantive law at all, that you had not power, by an Act of this Parliament, to confer upon a committee of this House the power to take evidence on oath. That being so, how is it possible, in face of that section which says the Governor-General may from time to time, by instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and remove him and appoint another in his stead, that you propose by an Act of this Parliament to confer upon the Senate the power to appoint a party themselves, to discharge the duties of a Speaker. But supposing that you have power to do this you must have the power to go further, and say that the Governor-General shall not appoint the Speaker at all. If you say that another party shall act for an hour, you can say that he shall act for a whole session, and if for a session, he shall act for all time. And so you could obliterate a section of an Imperial Act by an Act of the Parliament of Canada. Now, I say that you have no power to amend a section of that Act except where the power is expressly conferred upon you in the Act, or in some other statute. How are you going to say that by an Act of this Parliament a man

may act as Speaker of the Senate who is not appointed under the Great Seal ? The Governor-General has the power, under the Great Seal, to appoint one member as Speaker. If he is disqualified by sickness, by imbecility, by negligence to discharge his duty he can appoint another, and the appointment is during pleasure only. But you cannot confer upon the Senate, by an Act of this House, the power to make the appointment. You are in effect undertaking to amend the British North America Act, which is an Imperial Act, when you are not authorized to amend that Act at all. There is a simple course open to the Government. If they had proposed at the beginning of this session an Address, asking for an amendment to this 34th section to enable them to appoint an alternative to the Speaker, as they do in England, or enabling the Senate to make an appointment in the absence of the Speaker, then the Act will be validly done. But what you propose to do here is as impossible as the constitution of a perpetual motion. You are undertaking to create a power by an Act of Parliament which is to supersede a power that is expressly given by the Imperial Act, and which you are not authorized by anything in the Act to alter or amend in any particular.

Mr. WELDON. I will detain the House at this very late period of the session but a short time in urging some reasons in answer to those advanced by the hon. member for Bothwell (Mr. Mills), and in support of the position I take that the Bill now before the House is well within the powers of the Parliament of Canada. The hon. member for Bothwell has suggested that we have an alternative remedy in cases where we have a well-grounded doubt of our power, and that that is to proceed by address and go to Imperial authorities and ask for such amendment to the Constitution as will place this matter beyond doubt. I quite agree with the hon. member that if, in the judgment of the House, there is strong reason for doubting that we possess legal competence to carry through such a measure as that before the House, we should take the course suggested by the hon. gentleman ; but I shall endeavour to show, and I trust I shall succeed in showing, that, under the Constitution of the Canadian Parliament, as embodied partly in Imperial statutes, and partly in what may be said to be in the nature of common law, we are competent to pass such a measure as that now before the House. I agree with several of the positions taken by my hon. friend in challenging the legality of the measure. I agree with that section 18, and the amendment, adopted in 1875, making the section more clear and definite, and enlarging the powers of the House and its privileges, has nothing to do with the question. I cannot so certainly agree with the hon. member when he argues that section 91, giving Parliament power to make laws for the maintenance of order and good gov-