

tion of the British empire, propose to remove that authority and that power of command?

Now, Sir, this question assumes a very grave aspect, because I think the enactment here proposed does not show that respect for the dignity of the Crown which we, as a parliament, and as good British subjects ought to show. The question of the right of command should not have been raised in connection with this navy? I asked the Minister of Justice to quote the words of the statute of 1886. And the House has waited for his reply. This is the clause:

The command in chief of the land and naval militia, and of all naval forces of and in Canada is vested in the Queen and shall be exercised and administered by her personally, or by the Governor General as her representative.

I wish hon. members to note the words 'as her personal representative,' because that expresses exactly the idea that was contained and is well recognized by the English law. In Great Britain, for instance, the pay of the army and navy is by royal warrant, and not by vote of supply as is done here.

The other question brought up by the minister is the right of the Crown in civil matters. This is not a civil matter. It is the armed power, not the civil power we are dealing with. Even in the matter of the civil power the King is supreme. His prerogatives have, however, been limited by statutes and the interpretations of the courts. His prerogative, however, exists. It is the same as his right in real property. We all know that all real property is vested in the Crown, and that we as citizens have only the use of real property. But the command of the army and navy is on an altogether different basis. The old statutes of 1661 never having been repealed by England, whereby the parliament of England declares the control of the marine and naval forces of the empire and all its dominions to be vested in the Crown is to be challenged at this late day. For that reason, in my opinion, it would be better to modify this section and not try to set up a new principle of constitutional right.

Mr. CONGDON. The hon. member for North Simcoe (Mr. J. A. Currie) is endeavouring to revive a doctrine that cost one King of England his head and another his throne. There is nothing clearer in the British constitutional system than that these prerogatives of the Crown were usurpations, brought about by the arguments of lawyers—such arguments as we have listened to to-day. These lawyers were trained in the unmitigated tyranny of the latter Roman empire. Their doctrines were written on the statute books of many European kingdoms, and, if carried into

effect, would have made the British empire worse than any oriental despotism that ever existed. Because you find that, as a result of these refinements, the King is represented as perfect, as immortal, as legally ubiquitous, the fountain of honour, the vicegerent of God, and responsible to Him above, owning all the land in the country, and as even invisible. In conflict with this, you have the corrections introduced into the British constitution by actual practice. The Roman lawyers might indite their doctrines as strongly as they liked, but the barbarous Germans, amongst whom they endeavoured to propagate these ideas, refused to recognize the arguments and corrected the proposals in practice. It is the old confusion of the King as an actual person with the King as a body politic. As a corporation sole, of course, the King has all these powers. In that sense, it is true, as said by Louis XIV, 'L'etat c'est moi.' For the King in that sense is the state. He does not exercise these rights in his own person, but, since the Bill of Rights, since the Act of Settlement, by the advice of his ministers responsible to parliament. The real question here is whether His Majesty shall exercise command and control of the Canadian navy solely and wholly upon the advice of British ministers responsible to the British parliament which in turn is responsible to the British people, or shall exercise these powers on the advice of his Canadian ministers responsible to the parliament of Canada in its turn responsible to the people who pay the expense of the navy both in its original construction and subsequent operations. It seems to me that to contend in this late day that the colonies are to do nothing in the shape of defence without handing over the control to imperial ministers, is to discourage all parts of the empire, except Great Britain and Ireland from doing anything in the way of contribution to Imperial defence.

Mr. LANCASTER. The hon. member for Yukon (Mr. Congdon) is to be congratulated on his frankness in stating the issue. I agree that the issue is as he has stated. I do not agree that we have the right to practically amend the British North America Act. I have said what I thought about this matter on the second reading of the Bill, and I am confirmed in my opinion and strengthened in it since, and have discussed it with gentlemen more learned than I am, and I have no doubt the latter part of section 4 is ultra vires of this government, and the British government would have a perfect right, and it would be their duty to the empire, to disallow that section. We have a constitution in this country which gives us full