

ority on any constitutional question. The Acts speak for themselves and I would suggest that the right hon. gentleman read that Act. When he illuminates this House on constitutional questions of this kind, he should know the constitutional law, and not acquire his knowledge from some hazy authority who is very ill read and not to be judged as a constitutional authority.

Sir WILFRID LAURIER. I never professed to be an authority on military matters, and I am quite willing to defer to my hon. friend on that point. But on parliamentary matters he will pardon me if I do not accept his views. As a soldier I would be quite willing to defer to him on any military affairs second, of course, to my hon. friend the member for Victoria and Haliburton (Mr. Hughes). I am quite willing to accept the views of my hon. friend on military matters, but in parliamentary matters he will excuse me if I do not accept his authority. The very fact he refers to, this statute of 1661—I am not familiar with the statute—but I must say the very fact that there was a statute passed upon the army and navy and militia in England is conclusive evidence that there is a prerogative subject to the control of parliament. Anything that becomes subject to a parliamentary statute, is not a prerogative of the Crown, and further parliament has exerted its authority. I say positively that in 1867 at the time of the union, the authority of the sovereign and his prerogative over the army and navy had become very ancient history. Wherein did the power to command the army and navy rest previous to that? Before parliament, it rested with the King. It rested with the King when parliament declared that it should rest with the King. But what I say is that everything that is concerned with the navy has ceased in England to be the prerogative of the King, and has become a matter over which parliament has the supreme authority.

Mr. J. A. CURRIE. The right hon. gentleman seemed to be pretty hazy on the matter, but I agree with what he says as I understand it. As a matter of fact, the control was with the lieutenants of counties until the Act of 1662. The Act of 1852 reinvested authority and control over both the army and navy in the Crown. The right hon. gentleman can easily find that, if he will take the trouble to look it up.

Mr. NORTHRUP. Without entering into the question of the comparative authority of Todd's utterances, I beg to quote a few words from Todd which the right hon. Prime Minister did not go on to read. Speaking of responsibility for the operations of the army and navy, he says, at page 528:

As the command of the army and navy is the peculiar privilege and strength of the executive power, and cannot be surrendered to parliament without a virtual overthrow of the monarchy, it is essential that the scrutiny of parliament into military affairs should be cautiously and sparingly exercised.

Nothing could be clearer than these words 'cannot be surrendered to parliament without a virtual overthrow of the monarchy.' I agree with every word that the Prime Minister has said as to the exercise of the prerogative. We have an illustration quite familiar to us in the prerogative of pardon. Everybody knows that parliament has nothing to do with the pardoning of criminals; that is a matter for His Excellency the Governor General. But in this matter the Governor General acts upon the advice of his ministers. If the prerogative of pardon be improperly exercised, the recourse of parliament is to punish the minister. That we can do—we can turn him out of office. But we have no control over his right to advise His Excellency. The same is true with regard to the navy. No doubt, the sovereign has the power, but some minister must take the responsibility for his act. As in the case of pardon, the sovereign has the right to act without parliament interfering, but if he acts contrary to the wish of the people, parliament can only punish the adviser who has improperly advised the sovereign.

Mr. R. L. BORDEN. I do not entirely agree with the view that the Prime Minister (Sir Wilfrid Laurier) has expressed with regard to the prerogative. The prerogative of the Crown to-day is different from what it was five hundred years ago. In those cases in which the prerogative has disappeared, it has been lost in one or two ways; first, by the custom and practice of the constitution developed from time to time and, second, by direct parliamentary enactment. I do not think it is accurate to say that the Crown has no prerogative in respect of a matter, because that matter has been dealt with by parliament. The Crown can consent to an Act of Parliament which infringes upon its prerogatives, and it gives up its prerogative by that very consent. But an entirely different question arises here from that which must be met in Great Britain. Great Britain is not limited as we are limited by a written constitution. Parliament in Great Britain, passing an Act which obtains the consent of the King, can do anything it may see fit to do with respect either to the army or the navy,—no man who has the slightest acquaintance with constitutional principles will deny that. But that is not the case with us. We are limited by a direct specific enactment. One part of that enactment—the British North America Act—section 15, provides as follows: