

the statutes of England, we find quite a number of Acts applicable to Canada, and no concern is taken whether they be repugnant or not to the wording of our Canadian statutes. Let me quote, for example, the Colonial Prison Act, the Colonial Offenders' Act, the Colonial Marriage Act, the Colonial Fortification Act, the Colonial Courts Act, the Colonial Clergy Act, the Colonial Attorney' Act, the Colonial Laws Act, the Naturalization Act, the Merchant Shipping Act, the Bills of Exchange Act, and last but not least, the Colonial Laws Validity Act, 1865, 28-29 Victoria, chapter 63, which declares that any law passed by any legislature which is repugnant to the interests of the United Kingdom of Great Britain and Ireland is *ipso facto*, null and void. It is to comply with the requirements of that Act, that clause 18 of the Bill before the House has been inserted. Our fleet must remain at the disposal of England in case of emergency or otherwise this Bill will be *ultra vires* and null and void. Let me quote from the Act of 1865:

The term 'colony' shall in this Act include all of Her Majesty's possessions abroad in which there shall exist a legislature. The term 'legislature' and 'colonial legislature' shall severally signify the authority other than the Imperial parliament on His Majesty in Council, competent to make laws for any colony. Any colonial law which is or shall be in any respect repugnant to the provisions of any Act of parliament extending to the colony to which such law may relate, or repugnant to any law, order or regulation made under the authority of such Act of parliament, or having in the colony the force and effect of such Act, shall be read subject to such Act, order or regulation, and shall to the extent of such repugnancy, but not otherwise, be null and remain absolutely null and void.

Let me quote section 15 of the British North America Act:

The command in chief of the land and naval militia and of all naval and military forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

The fleet of a State forms part of its public domain, like its rivers, its roads and its forts. Such domain, contrary to its private domain, is always inalienable.

After reading this Bill and the Acts of 1867 and 1861, every one must admit that this extends rather than restricts the autonomy of Canada. The famous question about the meaning 'shall' or 'may' in this legislative enactment, is reduced to naught.

Let me quote also clause 18 of Bill (No. 95) in which the interpretation of the word 'may' has given rise to such debate:

18. In case of an emergency the Governor in Council may place at the disposal of His Majesty, for general service in the Royal navy, the naval service or any part thereof, any ships or vessels of the naval service, and

the officers and seamen serving in such ships or vessels, or any officers or seamen belonging to the naval service.

Should this Bill now before us be passed without clause 18 it would be repugnant to section 15 of that imperial statute, the British North America Act, 1867, conforming to chapter 6, statute 1, Ch. II, 1861, intitled, 'An Act declaring the sole right of the militia to be in the King and for the present ordering and disposing the same,' and also to the regulations made thereunder, and for that very reason our Bill would be null and void. It is not also the proper time to remind this House that nobody but a pirate, and with all the due consequences thereof, can run a warship unless her commander is the bearer of a state patent since the declaration of Paris in 1856. Bill (No. 95) without its clause 18 would be enacted in violation of international law.

At six o'clock the House took recess.

After Recess.

House resumed at eight o'clock.

Mr. GERVAIS. Mr. Speaker, in continuing my remarks before recess, I may say that many other facts and Acts of parliament could be quoted to show that Canada, after all, and in spite of the Act of 1867, is still, in the eyes of England, one of its 80 provinces. I say this, although Canada has a responsible government, having the right to spend the money of its citizens for their benefit generally without too much interference on behalf of the sovereign authority. I say this although Canada is a British colony of the first class, and is not in consequence a Crown colony, which later is ruled by a governor and a council appointed by England. I say this, although Canada is not a privileged chartered colony, that is, a colony governed by a commercial company. I say all this, Sir, though I am ready to applaud our distinguished leader when he proclaims that Canada is a nation.

While helping England, I prefer to see Canada doing so as a British dominion, realizing thoroughly her present status, than to see Canada rendering such service as a so-called member of an empire, composed of one state and a great number of conquered but statuteless provinces having no representatives in the imperial parliament. It is only by knowing what his present condition is that one may think of reaching a higher condition. I like the idea of Canada entering into a maritime league with England, such as would be in process of creation through this Bill, and which would tend to bring to Canada a larger amount of true autonomy, which would redound to the benefit of England and of Canada.