

and in that year an Act was passed by the parliament of Great Britain which has never yet been repealed. That Act rules the country to-day, and rules this country. It is still on the statute-book. I will read what the preamble of the Act which deals with this very question says. The right hon. gentleman has drawn the inference that at some time or other the command, that is the right to order, or the right to give commands to the army was vested in the parliament of Great Britain. It has never been vested in the parliament of Great Britain. The statute of 1661, which is the law of England to-day, says:

For as much as within all His Majesty's realms and dominions the sole supreme government command and disposition of the militia and of all forces by sea and land and of all ports and places of strength is and by the laws of England ever was, the undoubted right of His Majesty and his royal predecessors, kings and queens of England, and that both or either of the houses of parliament cannot or ought to pretend to the same, nor can nor lawfully may raise or levy any war, offensive or defensive, against His Majesty, his heirs or lawful successors.

Now, that, Mr. Chairman, is the law to-day in England. The parliament of England of that date laid down a rule that as far as the command of the army and navy and the forces were concerned, that command should be always vested in the sovereign, and that command was never claimed by either House of parliament. I think that when we start at the beginning we will begin to realize where we are getting to. Now what does the command consist of? It does not consist in commanding an army or navy as a matter of chattels or as a piece of real estate as my learned friend, the Minister of Justice has quoted authorities to show. The command of the army is a living occupation, a real command. It is a right over life and death, and that command is so great that in case of conquest and in cases of insurrection it has been able to carry on the quasi civil government of countries under what is known as military law. The army acts for the King. Now so true is this that to-day in Great Britain the pay of the navy and the pay of the army is by royal warrant. In 1662, the parliament of England doubting the wisdom of the King, to exercise the sole right of command of the army and navy, fearing that they might have a continuation of the troubles they had with Charles I, took the command of the militia forces or trained bands away from the King. They said the King will issue a commission to the Lord Lieutenants of countries, giving the Lord Lieutenants of countries the right to issue commissions to captains and colonels, and so forth of the trained bands.

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By this means they establish a constitutional check on the Crown or on what is known as the prerogative of the Crown. Now, that right was given up by the parliament of England by the Acts of 1852, 1858 and 1876. And the sole right to command the militia and the whole army to-day rests with the King. We never had the right, nor had the parliament of England, to declare that the King had not the sole command. But what does this command consist of? It consists of issuing commissions and orders and moving the forces. It is quite true—I acknowledge that it is perfectly right—that this parliament has the authority to establish a navy, to arm it, equip it, man it. But when it comes to ordering that navy, or moving it, or saying what it should do, that is within the prerogative of the King. There are various prerogatives of the King. There is, for instance, the prerogative relative to real estate, water-powers, and that sort of thing. But this is an arm of the King—the army and navy is an arm of the King. It is true, and has always been true, as the learned gentleman has quoted, that we could establish a navy. He states that the British government, or naval department of the government, should have the right to accept ships from the colonies. Quite true. But the King has had the right to accept ships from his subjects from time immemorial, and letters of marque have been issued to privateers, as everybody knows. As I said there is nothing to prevent this parliament from establishing a navy, arming, equipping and manning it; but when it comes to the question of appointment, of moving and ordering that navy, that rests with the King as I have shown by the clause I have read from the Act of 1661 which has never been repealed, and certainly could not be repealed by Act of this parliament. But what does this Naval Bill propose? It proposes by order in council to assume to pass a law, to issue commissions and order and move this navy, to compel this navy to act and fight or retreat as it wishes. To my mind knowing a little about military law, as it was necessary for me to know, it seems absurd for this parliament to assume that such a power exists, for there is no ground for such assumption. While it is quite true that the army and the navy may be moved by the Crown without respect to either the English parliament or this parliament, there has never been any question that this would be done on the advice of the minister, and, in this case, the minister whose advice would be sought would be the Minister of the Marine here. But, in case of necessity arising there is no doubt that the absolute command to this navy is in the King, this having been declared by the highest authority of the realm, parliament itself over four hundred years ago. Can we, a small por-