

and to the passage of the annual Army Act.' That is the situation in Great Britain. Parliament can modify that situation, and we can modify that situation in this country, but only within limits, and so far as we purport to qualify the limits set upon our power our action would be inoperative.

Mr. HUGHES. Is the Prime Minister going to pass section 4 after hearing read the statement of Sir Charles Fitzpatrick?

Sir WILFRID LAURIER. I think I can satisfy my hon. friend very easily upon that question. The British North America Act gave a new entity to this country and provided that the executive power was vested in the Queen, the sovereign of the day, and the legislative power was vested in the Queen, in the Senate and in the House of Commons. That Act was passed, it came into effect, and we have had the advantage of having had parliamentary interpretation of the powers vested in parliament upon this very question, that is to say, in whom should be vested the command of the naval forces and military forces. I shall have to quote once more section 15 of the 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.' I have not apprehended exactly what was the meaning of my hon. friend from Hastings (Mr. Northrup), but I think he stated that the command, as far as the navy was concerned, was vested in the King, and under the conditions of things prevailing in Great Britain, under the constitution, could not be delegated to anybody, not even to the Governor in Council.

Mr. NORTHROP. No, no.

Sir WILFRID LAURIER. Perhaps not. At any rate, that is the way I interpreted it. Perhaps I may quote the constitution of Australia upon this point. Section 51 is analogous to ours and vests in the Australian parliament the naval and military defence of the Commonwealth and of the several states and the control of the forces. Section 68 is in these words: 'The command in chief of the naval and military forces of the Commonwealth is vested in the Governor General as the Queen's representative.' The Act is clearer in this respect than ours, because it says in so many words that the command is vested in the Governor General. But though clearer on this point, it is not more effective than ours. Now, from the early days of confederation we have had the interpretation of parliament upon this clause, and the first interpretation is to be found in the Act which has been quoted by several of my friends on the other side, and later by my hon. friend from St. Anne's (Mr. Doherty). These words are to be found in the very

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first Act on this subject, which was drafted by Sir George Cartier:

The command in chief of the militia is declared to continue and be vested in the King, and shall be exercised and administered by His Majesty or by the Governor General as his personal representative.

Now, it is to be noticed here that the word 'personal' was introduced in the section, though it pretended to follow and to keep close within the language of the British North America Act. The word 'personal' was interpolated for reasons as to which I have not been able to satisfy myself in any study I have been called upon to give to that question. But it is not of very great consequence. In later legislation on the same subject, the word 'personal' was eliminated. The Act, the Militia Act of 1867 came to be revised, not in the general codification of 1896, but by this parliament in 1904, and there the section was interpreted again, and interpreted in these words: 'The command in chief of the militia is declared to continue and be vested in the King and shall be exercised and administered by His Majesty or by the Governor in Council.' My hon. friend (Mr. Borden) has just quoted a discussion which took place on this question in this House. He quoted the observation made at the time by the Minister of Justice (Sir Charles Fitzpatrick), that the section was unnecessary, because the matter was provided for in the British North America Act, and that they could not depart from the terms of the British North America Act. So far as I know that is the only opinion which he quoted, and as I understood him, the matter was allowed to rest there. But though the Minister of Justice of the day stated, in the opinion which was read by my hon. friend (Mr. Borden), that the clause was not necessary and should be eliminated, the clause was allowed to remain in the Bill.

Mr. HUGHES. It is changed, though.

Sir WILFRID LAURIER. In what respect?

Mr. HUGHES. The words 'declared to continue and be' were inserted.

Sir WILFRID LAURIER. I do not know that that changed the condition at all. In the clause which is adopted in this Bill, and which is in these words: 'The command in chief of the naval forces is vested in the King and shall be exercised and administered by His Majesty,' this parliament does not pretend to go back upon anything which is declared in the British North America Act. The only words which are eliminated are these: 'the command in chief is declared to continue and be vested.'