

the Dominion government or as the imperial government undoubtedly would have. Lord Watson upheld the view of the province, and in discussing the argument to the contrary, said it was based mainly if not entirely upon the circumstance that whereas the Governor General of Canada was appointed directly by the Queen, the Lieutenant Governor of each province was appointed, not by Her Majesty, but by the Governor General, who had also the power of dismissal; and he said that if the British North America Act had not committed to the Governor General the power of appointing and removing the Lieutenant Governors, there would not have been any room for this argument. That argument, he said, if pushed to its logical conclusion, would prove that the Governor General, and not the Queen whose viceroy he is, became the sovereign authority of the province whenever the British North America Act came into operation. Then he goes on to say with regard to this argument:

But the argument ignores the fact that by section 58 the appointment of a provincial governor is made by the Governor General in Council by instrument under the Great Seal of Canada, or, in other words, by the executive government of the Dominion, which is by section 9 expressly declared to continue and be vested in the Queen. There is no constitutional anomaly in an executive officer of the Crown receiving his appointment at the hands of a governing body, who have no powers and no functions except as representatives of the Crown. The act of the Governor General and his Council in making the appointment is, within the meaning of the statute, the act of the Crown.

Now, that is the language of the Privy Council of England, speaking through its members. The Judicial Committee of its own body—the action of the Privy Council of England is the action of the King himself. The order of the court in this very cause was the order of the Queen herself in council, advised by her advisers, and issuing her own mandate. We have it therefore, upon the highest possible authority in a matter of this character, that the meaning of section 9 of the British North America Act, the meaning of the expression that the executive government and authority over Canada is vested in the Queen, is that the Act of the Governor General and his council is the Act of the Crown. That is the way in which the executive government and authority over Canada is exercised by the Crown; and my submission is that in absolutely and precisely the same way the control over our naval forces, just as over our militia, while it is vested in the King, is to be exercised by the Governor General and his council. I do not suppose any one, even though we have a King at present upon the throne, would read these words in section 15 as meaning that the King person-

Mr. AYLESWORTH.

ally was to take command of the navy any more than of his army. It is 200 years nearly since any King of Great Britain was upon a battlefield in time of actual war. In the old days, we know, the King was the leader, the commander in chief, personally at the head of his forces, issuing his orders and taking charge of the military campaign. I am not prepared to say whether or not at the present day, if we happened to have a ruler who personally had warlike ambitions, or felt that he was competent to take personal command in chief of his forces, he would be entitled to do so. I am only seeking to point out that although the command in chief is by law vested in him, the way in which it is exercised is the constitutional manner in which the executive government of the country is exercised, through his representatives and upon the advice of his council. If it were not so, how could there be the responsibility which we know rests upon the minister and upon the government of which the minister is a member? If the command in chief of the naval forces is something which the government, or the member of the government who is the minister in charge of the naval forces, cannot exercise, how is he to be responsible? If it is something which is a personal prerogative of the King, then surely the minister who is powerless in the matter cannot be held responsible for the consequence of possible mistakes. I think therefore that no difficulties exist in the provisions of the present Bill when read in company with the controlling provisions of the British North America Act. The parliament of Canada has been declared in more than one instance by the authority of the Judicial Committee of the Privy Council to have, within the scope of its own powers as defined in section 91 of the British North America Act, absolutely the same jurisdiction and to the same extent, which the imperial parliament itself possesses; and just as the imperial parliament has power to legislate with regard to the control of not only the land forces, but equally the naval forces of Great Britain, so the parliament of Canada has power, and in virtue of the provisions of section 91 of the British North America Act, to legislate in regard to the navy that we establish or the ships that we build or buy.

Mr. NORTHROP. I am very glad we have reached that stage of this discussion where we can calmly and dispassionately discuss the question before the House as a purely legal question; and while I differ from the hon. gentleman, I propose for the sake of argument to admit the first part of his argument, and see where it lands him and the government. The hon. gentleman admitted that apart from the British North America Act, the statute to which I referred, 28-29 Victoria, provided that such a colony