

power in domestic matters, but we have no constitution that allows us to butt in, so to speak, upon imperial matters. We have been politely told by the imperial government, when we undertook to suggest what they should do in respect to the government of Ireland, that we had better mind our own business, and we were told so correctly. We are now here to-day undertaking to say that the British North America Act should practically have words in it that it does not contain. The British North America Act is similar to clause 4 of this Bill, if you stop at the word 'King,' but we undertake to add that the command in chief of the naval forces shall be invested in and exercised by His Majesty, or by the Governor in Council, as his representative. We have no right to say that as loyal citizens of the empire—and I make no insinuation against the loyalty of any one who thinks we have such a right. But, speaking for myself, I dare not do it; we dare not do it, because we have no authority to put into the hands of the government of this country a right to do something which the British North America Act never said they should have a right to do as loyal citizens of that great empire. I cannot agree with the conclusion of the hon. member for Yukon (Mr. Congdon) who frankly says what he believes, and says that this is the issue before the country to-day. I agree with him that it is the issue but I take strong grounds that we have no legal right under the British North America Act, outside of any question of loyalty to the United Kingdom, to say that that Act puts a prerogative in the Governor General of this country as distinguished from the imperial government.

At one o'clock, committee took recess.

Committee resumed at three o'clock.

Mr. DOHERTY. I do not wish to detain the committee very long with any observations of mine. In so far as my position towards this legislation is concerned, I have already endeavoured to make it clear that such objections as I have to it do not rest upon the particular wording of any section; they are very much broader than that. Personally, I would be disposed to leave to the government the entire responsibility of the form in which they express their intention with regard to the establishment of this navy. In connection with this section, however, it seems to me that we are wasting our time in discussing what is the proper meaning of section 15 of the British North America Act, and defining where the command lies, unless it is contended that the general provisions of section 91, which give to this parliament power to legislate with regard to militia and defence, confer

Mr. LANCASTER.

power on us to place the command of the forces somewhere else than where section 15 places it. I propose to ask my hon. friend the Minister of Justice (Mr. Aylesworth) a question. What I would like to ask the Minister of Justice is whether I should understand him to argue that the effect of the provision of section 91 of the British North America Act conferring legislative power with regard to militia and defence was to confer on this parliament any power to place the command of any force, either naval or military, elsewhere than where section 15 places it?

Mr. AYLESWORTH. I think there is nothing inconsistent in the two sections and that full effect can be given to both.

Mr. DOHERTY. I believe certainly that full effect can be given to both, but what I would like to understand is whether the Minister of Justice takes the position that under section 91 this parliament can, if it so determines, legislate to place the command of the force elsewhere, than in His Majesty, whatever meaning is to be attached to the words 'His Majesty'.

Mr. AYLESWORTH. The phrase 'command of the forces' is perhaps confusing. If the hon. gentleman means to ask, whether, in my opinion, parliament can authorize the appointment of a general or admiral who would have command of the forces then I would say certainly, I think so.

Mr. DOHERTY. Of course, but that does not answer my question. I presume it is because I do not make myself understood. What I would like to get quite clear is whether in the opinion of the hon. minister section 15 is not legislation of the imperial parliament determining where, for all time, at all events, as far as the subsequent action of this parliament is concerned, the command of the forces shall be; I do not mean to say the actual command in the sense of naming a general, but the control of the naval force of this country, and possibly the appointment of a general.

Mr. AYLESWORTH. I think that certainly section 15 is an absolute determination of the matters there dealt with, but the hon. gentleman, I am sure, is not losing sight of the view expressed by the Judicial Committee to which I referred in the case of the Maritime Bank that the command or control was to be exercised by the government of the country.

Mr. DOHERTY. I take it then to be agreed that whatever may be the meaning to be attached to the phrase 'declared to continue and be vested in the Queen' as found in the British North America Act, it is settled that this parliament cannot step