

gestion will meet with the approval of the Government.

Mr. COPP: Has this Bill reference to the incorporation of companies under provincial charters?

Mr. A. K. MACLEAN: No, it is purely a Federal Act.

Hon. C. J. DOHERTY: I have glanced through the Bill, but I am not in position to discuss its terms or provisions at this moment. I think it may be freely admitted that there is great room for improvement in our present Dominion companies' legislation. A Bill was prepared in the last session of the last Parliament, if my memory serves me right, and was sent to the Banking and Commerce Committee.

At all events, it did not become law. Since then it has been given consideration at different times, but this has never resulted in the production of a Bill. The source from which this Bill emanates, not only as coming from the hon. gentleman, but also as being the result of discussion of the Bar Association, would give us assurance that its provisions had been well considered, and so there is good reason to hope that these provisions, if embodied in law, would be in the interests of the country. As I said, I am not prepared to discuss the Bill this evening, nor do I desire to do so. With regard to the suggestion in favour of adopting the system of granting charters that is in use in England, I am not prepared to accept the proposition that it would be a very much better system for us than the present system of issuing charters by letters patent. On the other hand neither am I saying that it would not be an improvement. I would not care to commit myself on that proposition at this moment.

One argument used in support of the change is that everybody ought to be free, without being obliged to make a petition, and without being dependent upon the consent of the Crown or of any minister to become incorporated in accordance with the law. Though, as I understand, the present procedure involves a petition and the issuing of letters patent by the Secretary of State, yet any person who makes such a petition and conforms with the provisions of the statute is, as a matter of right and not as a matter of grace merely, entitled to the grant of his letters patent.

Mr. MACLEAN: If the Secretary of State refused, he would not be liable to mandamus by the court. But in the province of British Columbia, or in Nova Scotia, if the Registrar

of Joint Stock Companies refused to issue a certificate of incorporation, he could be enjoined by the courts.

Mr. DOHERTY: Personally, I am inclined to agree with the hon. member that the Secretary of State would not be subject to mandamus. But I do not think that the proposition that he would not be so liable is quite as unquestioned as the hon. member seems to consider it. We had some discussion on that question, connected with the issue of some charters for racing associations. The question was debated in the last Parliament, when some question arose as to the action of the then Government upon the subject. I have a clear recollection that the Secretary of State of that day took the position that it was not a matter of discretion, but was a matter of right of the parties petitioning for the letters patent. I would not like to make this further affirmation as positively, but the impression that remained on my mind was that he even took the view that the Secretary of State might be liable to mandamus. I do know that the question arising again after this Government came into power—with regard also to the issuing of letters patent to incorporate racing associations—I, following in the footsteps of my predecessor, took the view that it was not a matter of discretion but was a matter of right. And I may say that for that reason, and that reason alone, I advised that certain petitions which were lying in the Secretary of State's Department, and had been lying there for a long time, should be granted; though simultaneously we introduced legislation to prevent such a thing happening again in regard to racing associations in the future. I am under the impression that decisions were submitted to me, that came from the Secretary of State's Department, going so far as to hold that a mandamus might issue to compel the performance of the duty—treating the duty of the Secretary of State as a purely ministerial function. As to that proposition, I should like to make my own reserve, because I think there is a distinction to be made, perhaps, between even the ministerial duty when performed by a person in the quality of Minister of the Crown and when performed as a ministerial duty by any other public servant. I am not saying that a mandamus could not issue, but I am inclined to agree with the hon. member, Mr. Maclean, that it could not. But, there is a difference of opinion, and, if my memory is correct, I was furnished with authority, though I do