

lative competence of the provincial legislature, and desire to have the question referred to the courts, and the Department of Justice expresses itself ready and willing to do so.

The MINISTER OF JUSTICE. Yes.

Mr. BORDEN (Halifax). Was that option given to British Columbia in this case?

The MINISTER OF JUSTICE. No. As I have said, Sir Alexander Campbell stated in his report that the law was ultra vires, and he said it was contrary to imperial interests and he said in addition to that, that it was contrary to the general interests of Canada. My hon. friend is well aware that an Act may be perfectly ultra vires of the powers of a province, but if that Act is contrary to the general interests of the Dominion of Canada that is sufficient cause for disallowance.

Mr. BORDEN (Halifax). I know; but let us not revert to the other ground. I was dealing with that a moment ago and my hon. friend raised the question of ultra vires; let us not mix up the two things. I want to know from my hon. friend this—I want to know whether or not the option to which he refers was extended to the executive of British Columbia; whether or not they had an opportunity of having this question referred to the courts and determined by the courts instead of having it referred to and determined by the Department of Justice.

The MINISTER OF JUSTICE. I do not like to discuss the language of documents without having these documents before me. I read what Sir Alexander said and I shall read it again, and it is all that he said on that point.

Having reference to the condition of Canada at the time of the union with the province the undersigned is of opinion: That the authority given by the 95th section of the British North America Act is an authority to regulate and promote immigration into the provinces and not an authority to prohibit immigration.

That is what the British Columbia authorities attempted to do at the time.

A law which prevents the people of any country from coming into the province cannot be said to be of a local or private nature. On the contrary, it is one involving Dominion, and possibly imperial interests.

By that rule we have been bound ever since.

Mr. BORDEN (Halifax). Evidently I do not make myself clear to my hon. friend. Does he take the position, that the province of British Columbia, with respect to the Act passed last year or the year before—

The MINISTER OF JUSTICE. There have been four or five Acts passed.

Mr. BORDEN (Halifax).—is bound by what Sir Alexander Campbell said seven-teen or twenty years ago.

Mr. BORDEN (Halifax).

The PRIME MINISTER. The principle is the same.

Mr. BORDEN (Halifax). The principle is not the same.

The MINISTER OF JUSTICE. Will my hon. friend (Mr. Borden) pardon me a moment. The hon. gentleman speaks of an Act passed two or three or four years ago. There have been several Acts passed in that period of time, one was left to its operation and it came before the Judicial Committee of the Privy Council a year ago. I would like my hon. friend (Mr. Borden) to be more precise and to specify which particular Act he refers to.

Mr. BORDEN (Halifax). I am referring to the Acts which were disallowed; I am trying to find out why they were disallowed. I am told by the right hon. gentleman that they were disallowed because they were considered not in accordance with Canadian interests and not in accordance with imperial interests. I discussed that matter very briefly. Then I was told by the Minister of Justice that they were considered ultra vires of the province of British Columbia.

Mr. RUSSELL. And not in accordance with Canadian or imperial interests.

Mr. BORDEN (Halifax). I will have my hon. friend from Hants (Mr. Russell) to the rescue in a moment, but I hope he will pardon me until I finish and then I will give him an opportunity. Assuming now that they were disallowed on the ground that they were ultra vires, I want to know whether or not the province of British Columbia had an opportunity of having that question determined by the courts, and if not why it did not have that opportunity. I am told that it depends upon an opinion given by Sir Alexander Campbell in 1884. Well, Sir Alexander Campbell was not sitting as a court; Sir Alexander Campbell was Minister of Justice; and the province of British Columbia if it is bound as my hon. friend the Minister of Justice seems to think it is bound by the decision of Sir Alexander Campbell in 1884, has had no opportunity of having the question settled by the courts. Therefore, I think that that advances the matter not very much further; it still leaves it as it was before. If it be a fact, what is the reason that the province of British Columbia had not an opportunity of having this question determined by a proper court?

The PRIME MINISTER. I thought I had made myself clear, but I will try once more to give the reason to my hon. friend. We considered first of all, that it was very doubtful whether or not it was within the power of the British Columbia legislature to enact such legislation. But, apart from that consideration, we had no doubt whatever that it was not in the interest of Canada, either from an imperial or Canadian standpoint. We did not give the opportu-