

4. *Constitutionality.*—It was argued before the Committee of the Senate that the Act might be ultra vires of the Dominion Parliament, in so far as it applied to the carriage of goods from a Canadian to a foreign port, upon the ground that section 91, paragraph 15, of the British North America Act, in authorizing Parliament to legislate respecting "Navigation and Shipping," did not permit it to legislate respecting the carriage of goods beyond the limits of Canada. The question was not seriously considered by the Senate Committee. It was considered that Parliament had jurisdiction.

The Merchant Shipping Act of England is, of course, in force in Canada, and applies to British ships trading therewith. That Act deals with the "Liability of Shipowners" in sections 502 to 509 inclusive, and these sections, unless the context otherwise requires, extend to the "hole of His Majesty's dominions."⁸ They would not apply, however, to Canadian registered vessels, if repealed by a Canadian Act.⁹

Section 2 of the Colonial Laws Validity Act, 1865,¹⁰ provides that, "Any colonial law which is or shall be repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force or effect of such Act, shall be read subject to such Act, order or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative."¹¹

The Parliament of Canada has power, under the British North America Act, to legislate respecting "Trade and Commerce" and "Navigation and Shipping." Although the power to legislate respecting trade and commerce is limited, it may fairly be said to extend to all matters of trade and commerce, in

8. *Id.*, s. 509.

9. Section 735.

10. 28-29 Vict. Imp., c. 63.

11. Cr. Code, s. 589, as to offences in Canada against Imperial statutes.