

I think we can proceed with this legislation.

Mr. DOHERTY. Let me say, first, that I think the Minister of Labour fell into error when he cited the leader of the opposition as an authority for the proposition that this was a Bill for the regulation of trade and commerce. It is true that in so far as the Bill does prohibit the importation of these matches, it is dealing with the regulation of trade and commerce, and is to that extent within our jurisdiction. But I would like to point out that the leader of the opposition did not express any opinion upon the question of our jurisdiction to deal with this matter the other day, and that although rule 50 of the House required Bills relating to trade to be introduced by a resolution, that did not imply that it was a Bill for the regulation of trade and commerce, because the rule prescribes that any Bill that relates to trade and commerce shall be introduced through a resolution. Now, you may have many Bills that relate to trade and commerce, the purpose whereof will not be the regulation of trade and commerce. For my part, I would be disposed to think, differing in that respect from the Prime Minister, that in so far as this legislation going further than dealing with the question of prohibition of importation, it can be justified as being within the jurisdiction of this parliament, it would be in virtue of the general clauses which give the jurisdiction to legislate in regard to the peace, order and good government of Canada, and more especially the clause at the end, which gives jurisdiction in all matters not specially reserved to the provinces. But it would seem to me clear that this legislation cannot be justified as being a regulation of trade and commerce. Now, I am not without knowing that when we were first called upon to apply the British North America Act there was a pretty general impression that the regulation of trade and commerce meant the regulation of the carrying on of all the operations of buying and selling, so much so that it was urged in our province that the legislature could not deal with laws limiting the location in which a butcher's stall could be established, because it was said that that was a regulation of trade and commerce. Now, as my hon. friend from Hasting (Mr. Northrup) has pointed out, I think their lordships of the Privy Council have made it clear that what is meant by a regulation of trade and commerce is a regulation of trade and commerce in general, not the making of laws to govern one particular trade. In the case of the insurance company, I think they made it clear that though the carrying on for profit of the business of insurance was a trade, or commercial business, it was within the power

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of the provinces to legislate as to what sort of contract should be made in the prosecution of that business. The objection made was precisely this: You are regulating trade and commerce. Their lordships said: No, such legislation is not regulating trade and commerce in general; it is not regulating interprovincial trade, nor trade with other countries, nor making any regulation with regard to trade in general applicable throughout the Dominion. I think here, if we are dealing with trade at all, we are clearly dealing with what is going to be prohibited in one particular manufacture, and if a manufacture is to be considered a trade, then we are making a law for one trade. Now, how it can be said that in doing that we are regulating trade and commerce in the general way in which the Privy Council says the provision that we have power to regulate trade and commerce is to be interpreted, I fail to see. Now, the Prime Minister has justified this Bill by saying that it was a Bill to prohibit the selling of those matches, and that it has been conceded by the hon. member for Hastings that the operation of buying and selling was an operation of trade, whether a manufacture or not.

I have looked at the Bill and the resolution, and I have been rather struck with the fact that the clause of the English Bill does prohibit the importation, manufacture and sale, while neither the resolution nor the Bill, as I read them and I think I have read them correctly, prohibits the sale of these articles. Even if this Bill should be passed, although there would be a prohibition in it against the importation and manufacture there would be no prohibition against the sale of matches of this kind. As far as the argument in favour of our jurisdiction rests upon prohibition of the sale it necessarily falls because we are not trying to prohibit the sale by the Bill. I would not perhaps like to be quite as positive as my hon. friend from East Hastings, but it would seem to me that if we have jurisdiction it must be because of the fact that you do not find in the subjects exclusively allotted to the provinces the subject matter of the protection of health. In that connection a very serious question arises whether you do not find this within the subjects exclusively allotted to the provinces by reason of the fact that after the particular things that are found in section 92 enumerating the powers of the provinces you have the last one which is general, 'All matters of a merely local or private nature in the province,' and as has been pointed out by the hon. member for East Hastings what this Bill, outside of the question of importation, deals with is purely and simply a question in the interest of health and in the interest of the health of a limited