

*Industrial Disputes Act*

This bill has been more than carefully studied and considered before being drafted and it has been submitted to strong authorities on this matter.

Mr. MACLEAN (York): Outside of Canada?

Mr. LAPOINTE: No. As regards the other objection, or possible objection, of my hon. friend in reference to paragraph (iii) of section 2A which reads:

Any dispute which the Governor in Council may by reason of any real or apprehended national emergency declare to be subject to the provisions of this act.

This is absolutely in accord with the views as expressed by the Privy Council and especially in the argument by counsel representing the appellants in that case. It is also in conformity with the views of the Privy Council in the Fort Frances pulp case. The hon. member for North Toronto (Mr. Church) says that this should apply only to war. Of course the emergency must be a very serious one. The subject of famine and pestilence, for instance, has been mentioned—serious emergencies, emergencies in which provincial matters must be dominated by the national interest of the whole country. I might call to the attention of the committee the remarks which were made in that case during the argument, and I am not sure that it is not referred to in the judgment concerning the case of Russell and the Attorney General of Canada, when the Canada Temperance Act was declared valid and *intra vires* by the Privy Council. According to the Privy Council of that day, the only justification for the Canada Temperance Act being considered *intra vires* was that there was an emergency at the time; that the use of liquor was so widespread in Canada as to justify the government in considering the matter as an emergency. The other day I saw that one eminent judge in this country, I think it was the Chief Justice, referred to those remarks, saying that they certainly were mistaken in the Old Country when they thought that we ever had such an emergency in Canada in regard to the liquor question. This shows, though, that when an emergency arises, there is no doubt as to the power of this parliament to enact legislation with regard to a matter which might be connected with it. The hon. member for North Toronto objects to paragraph (f):

Such works as, although wholly situate within the province, have been or may be declared by the parliament of Canada to be for the general advantage of Canada, or for the advantage of two or more of the provinces.

[Mr. Lapointe.]

This is almost word for word the language of paragraph (c) of subsection 10 of section 92 of the British North America Act which excepts from provincial jurisdiction—

Such works as, although wholly situate within the province, are before or after their execution declared by the parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the provinces.

I repeat that this bill has been very carefully considered, and in the opinion of the Department of Justice, we are not encroaching upon the jurisdiction of either the provinces or municipalities in any of the sections proposed. And it is necessary that we should have such legislation on the statute books.

Mr. MACLEAN (York): Is it liable to be declared *ultra vires*?

Mr. LAPOINTE: I hope not.

Mr. MACLEAN (York): It is subject to that.

Mr. LAPOINTE: Every piece of legislation passed by this House that was afterwards declared *ultra vires*, was thought at the time it was passed to be valid. No legislation has been more carefully considered and drafted than this one, and when we are challenged, we are prepared to meet the foe.

Mr. MEIGHEN: I do not make any suggestion that the legislation is not wise, that is, that it is not a necessary step to introduce declaratory legislation of this kind in view of the decision. But I am strongly of opinion that the proceedings which resulted in the decision were unnecessary and ill-advised. The Lemieux Act, so-called, passed in 1907, remained in operation through some seventeen years. Throughout the whole period of the life of that act I do not think there was a single month when the validity of its provisions was not at least in doubt on the part of the Justice department, and certainly on the part of eminent lawyers in this country. The question whether it was within the power of parliament to legislate as to the settlement of disputes in all the fields provided for therein, certainly as provided for in section 2 of the original act, was really never seriously supported by the law officers of the crown. I well recall on more than one occasion when we in our time encountered difficulties and sought the advice of the Justice department, we were cautioned to let well enough alone, to keep away from the courts, and to take such a course as would enable the law to operate where it was not challenged or where, if challenged, there was no doubt as to jurisdiction, as for example in relation to our rail-