

*Industrial Disputes Act*

when we go a little further and read some of the other paragraphs, I fear, while I do not intend in any way to oppose this legislation, that we are simply opening up new avenues of possible litigation without obtaining any corresponding beneficial results. I agree with the remarks of the draughtsman in editing this bill that it is, perhaps, advisable to put, in a succinct form before the people who will possibly have resort to its provisions, an enumeration of the particular matters to which the bill will relate. But when we find that paragraph (e) includes:

Works, undertakings or business belonging to, carried on or operated by aliens, including foreign corporations immigrating into Canada to carry on business.

I very much doubt whether we can resort to the provisions of the British North America Act which puts "naturalization and aliens" under our jurisdiction, in order to provide that whenever a dispute occurs in an industry carried on by an alien, we shall have legislative power. I doubt if we can confer it upon ourselves. I know the Privy Council has, in many instances, reprobated attempts which have been made to legislate, under the name of the criminal law, with regard to things that are not at all criminal, and in every instance the Privy Council has defeated such attempts. No one knows what the highest court of last resort will ever do, but the Privy Council will show no more favour to an attempt to legislate on a different subject under the title of aliens than it does under the title of the criminal law. While a business is being carried on in any province by aliens, they take their status practically by permission of the federal government. They are accorded by the comity of nations, an opportunity to carry on business within our territory, but it has been held and it has been acted upon in many provinces, in fact, I think, in all provinces, that on the other hand the right to acquire land can be conferred only by the legislature of the particular province in which the land is situated. In other words, it is beyond the power of this parliament to confer upon an alien the right to hold land in any particular province. It can confer upon him the right to be a British subject; it can make a British subject of him for Canadian purposes, and the moment he has the status of a British subject, his right to hold land is indisputable. But while he remains an alien, he must resort to the particular province to get his rights.

I am not going to pursue the discussion into any other region than that of pure law; but let us take, for instance, the business which

[Mr. Baxter.]

is carried on in the Nova Scotia coal mines, and I do not intend to refer to the particular dispute that exists there at the present time. Supposing an alien owned a mine. That alien could not get title to the mine unless the law of the particular province permitted him to do so. But when he has that mine, as I understand the judgment of the Privy Council, his relations with his employees must be determined simply by the law of that province. I think I am correct in that position. At all events, while I am not in a position to say that I am absolutely correct, no hon. gentleman whose mind is inclined to the opposite view is in a position to say that he is indisputably correct. I must grant the same liberty of thought to others that I ask for myself. But the moment you have two divergent views, which probably will be expressed in this House, you throw the whole thing into the melting pot of litigation once more. Instead of, by this enumeration, giving security to the man who reads the act that whatever falls within those phrases is within our legislative power, you only invite him to rely upon those phrases and send him eventually to the Privy Council to find out whether we have power to do what we are proposing to do to-day or not. While I do not oppose the legislation—and this is not in any sense a party matter—I think it is my duty to point out the danger which may result from legislation of this character. If it were within the competence of this parliament to restore what is popularly known as the Lemieux Act in full force, I would be entirely in accord with the government and the Minister of Labour in trying to do that. But we cannot do it, and the fact that we cannot do it is surely a strong argument against an attempt to lead people to believe that we are doing something well which yet may be quite outside of our competence.

One other paragraph to which I should like to call attention is paragraph (iii):

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.

Now, the war brought about a new interpretation of our constitution and it was held that the war emergency evoked certain powers which were slumbering in the constitution or perhaps almost lay outside of it, and to which we had not given attention before. A great many things were done because of the existence of a state of war which undoubtedly could not have been done by this parliament or by the executive of the nation under peace conditions. But I desire to point out that the same declaration by the government, that