

THE EDITORIAL VIEWPOINT.

WHAT IS BEHIND IT ALL?

In November, 1931, the Privy Council handed down their decision in "The Attorney-General of Quebec vs The Attorney-General of Canada"--a case which had as its objective the delineation of the rights of the Provinces as against the Dominion in the matter of Insurance supervision and control. Three points of supreme interest came out of that decision which for our purposes we will number

(1) "that a Dominion license so far as authorizing transactions of insurance business in a province is concerned is an idle piece of paper conferring no rights which the party transacting in accordance with provincial legislation has not already got if he has complied with provincial requirements."

(2) "That to try by a false definition to pray in aid section 95 of the British North America Act, which deals with immigration, in order to control the business of insurance was equally unavailing. What has got to be considered is whether this is in a true sense of the word alien legislation and that is what Lord Haldane meant by 'properly framed legislation' ...under the guise of legislation as to aliens they (the Dominion Parliament) seek to intermeddle with the conduct of the insurance business, a business which by the first branch of the 1916 case has been declared to be exclusively subject to provincial law."

(3) that "as regards British subjects, who cannot be styled aliens, once the false definition is gone the same remark applies as to alien immigrants. This is not properly framed law as to immigration, but an attempt to saddle British immigrants with a different code as to the conduct of insurance business from the code which has been settled to be the only valid code, i.e., the Provincial Code."

All of which, if it means anything, means (1) that the Federal Government have no jurisdiction over insurance (2) that they cannot seek to control insurance under any other power they may possess and (3) that the "properly framed legislation" referred to deals with aliens, and that British subjects are not aliens.

But the Right Hon. Mr. Meighen did not agree, and it may be stated, does not yet agree.

In March, 1932, he introduced Bill E.1. and Bill F.1. to the Senate, Bill E.1 was introduced to constitute the Federal Department of Insurance. Bill F.1, was introduced to control Foreign Insurance Companies in Canada. The debate that followed the introduction of these bills is peculiarly illuminating. Mr. Meighen after expressing considerable puzzlement--which he alone seemed to suffer--as to the exact meaning of the various decisions which went to form the basis upon which the Privy Council's decision was rendered, said: "I believe that the measure is within our powers, that it is not likely to be contested, and that if it is contested, it will successfully meet all attack." Under fire of the Hon. H.W. Laird (Regina) and the Hon. G. Lynch Staunton (Hamilton) he replied, in part: "That this Parliament has jurisdiction as to aliens goes without saying... What the Privy Council says is this. "You must not exercise that jurisdiction as to make the real object of your legislation the control of the business of insurance.. If under the guise of legislation concerning aliens you enact colourable legislation in which your real object is to get into the business of insurance, which is a relationship between a company and its clients we will upset your so-called alien legislation because the business of insurance comes within the jurisdiction of the provinces"..... we must not transgress the line which bounds the jurisdiction of the provinces and seek to intermeddle in the business of insurance but we can say to aliens: 'You shall not come to Canada and enter into business unless we feel that you are fit and proper persons to do so, but once you are in the business the conduct of the business comes not within our jurisdiction, but within that of the provinces!'"

That is Mr. Meighen's own interpretation of the position in which the Federal Government found itself as a consequence of the Privy Council's decision. It did not, however, prevent him from introducing and guiding through the Federal Parliament Bill E. 1, F.1 and F.2 which were later presented to the country as Acts respecting (1) the Dominion Department of Insurance (2) Canadian & British Insurance Companies (3) Foreign Insurance Companies.