

*Statute of Westminster*

This statute of Westminster, when enacted, will certainly be a milestone in the process of nationhood of Canada and the other dominions of the empire.

But there are a couple of questions which I should like to touch upon very briefly. There is first the question of the right of amending our constitution, and that is what the hon. member for Winnipeg North Centre (Mr. Woodsworth) had in mind in asking his question. I have already stated on other occasions and even during the present session when the house was discussing a resolution of the hon. member for Winnipeg North Centre with regard to the question, that I never felt that the necessity of having to confirm by imperial legislation any change that we desire to make in the British North America Act, means essentially that Canada is a subordinate country. This is due to a condition peculiar to our country, and is the result of the situation which existed at the time of confederation and of certain conditions which prevail in Canada. I stated and I still state that this is not at all imposed upon us; it is a condition which comes to us of our own free will. Indeed, the Imperial parliament would be pleased at all times to be rid of the necessity of having to enact legislation which might be difficult when complications might arise as between the government of the dominion and the governments of the provinces or the government of one province concerning some change which might be asked in the constitution. But this was accepted by the parties to the confederation; it has been accepted since on account of our peculiar conditions and it is not at all imposed by a sovereign power upon a subordinate power. This might be likened to a condition which the Permanent Court of International Justice stated with regard to the European commission of the Danube case which was submitted to that court last year or the year before. The Permanent Court of International Justice said:

Restrictions on the exercise of sovereign rights accepted by treaty by the state concerned cannot be considered as an infringement of sovereignty.

I think this must be considered a similar situation when the case of the necessity of an imperial act with regard to a change in our constitution is concerned. As I stated, that was the view of experts, but there is no doubt that it gives rise to misunderstanding not only in this country but abroad, and if there might be devised a system whereby Canada, in common with other dominions of the empire and all federated countries of the

[Mr. Lapointe.]

world, could in some way, as a result of a conference with the provinces, amend her own constitution, that source of misunderstanding would certainly disappear. Especially is this desirable on account of the view which the Prime Minister (Mr. Bennett) has to my knowledge expressed in the house on two or three occasions. My right hon. friend has taken issue with me on this matter, and he has plainly argued that as long as Canada has not the power to amend her own constitution, there cannot be equality of status. Everybody now accepts the doctrine of the equality of status. I do not think there is any hon. member who is opposed to that doctrine, and if my right hon. friend believes now as he did before that there cannot be equality of status as long as that condition remains, it is his paramount duty to take steps in order that this obstacle should disappear. So that I may not be charged with misrepresenting my right hon. friend in that regard, I find that at the regular session of 1930, speaking on the address, he is reported on page 24 of Hansard as saying:

That report—

That was the report of the conference of 1929.

—makes certain recommendations, but, sir, can there be any such thing as equality of status in this dominion and no subordination of one parliament to another if this parliament is deprived of the right to frame our own constitution? That is the test, the supreme test of equality of status.

Later on in the same session, when the report of the conference was submitted for approval, my right hon. friend again said, as reported on page 2612 of Hansard:

I put this question to the Minister of Justice: Can you say that you have equality of status if you do not have power to amend your constitution?

Mr. Lapointe: Surely.

Mr. Bennett: The Minister of Justice is too astute a lawyer to answer that question in the affirmative.

Mr. Lapointe: Then I am not astute, because I do answer in the affirmative.

Mr. Bennett: Surely the hon. gentleman does not wish to negative the first qualification of a state, which is the power to amend its constitution?

Mr. Lapointe: A condition brought about by our own will is not a subordination.

Mr. Bennett: I put to my hon. friend a fundamental principle which I think governs all these matters and which should be in our minds when we are discussing them. It is this: If it becomes necessary for another parliament to exercise its power in order that we may attain our ends, we are not on an equality of status with that power.