

very interesting, I admit, but I suggest we had better wait until a concrete case arises.

MR. NEWCOMBE: My Lords, there is one observation which I should like to make with regard to what my learned friend has said. I intimated to your Lordships, when the application for leave to appeal was made in this case, that, considering the debate and consideration to which these questions were subjected, we did not think, on the general questions, that it was expedient to proceed further with them, because of the difficulties which had been encountered judicially in dealing with them. My learned friend has said I drafted the questions. I suppose he does not mean that I did it with my own hand. It was a deliberate transaction of the Governor-General of Canada upon the advice of his Ministers with a view to settling this very difficult question affecting business interests in the Dominion, and I think from the point of view at that time the reference has served very good purpose, although it may be inexpedient to debate it further now. There is one question here which is a specific question. No. 4 at page 82, referring to sub-section 3 of section 3 of the Insurance Act, "Is the said enactment, the Insurance Act, 1910, chapter 32, section 3, sub-section 3 *intra vires* of the Parliament of Canada"? Of course if your Lordships should unfortunately pronounce in accordance with the views of the majority of the Supreme Court that the whole Act is *ultra vires*, that goes with it, but if, as I hope I have grounds to anticipate, that the Act will be upheld, then there is the question as to whether the Dominion has the power to say of the company which is incorporated locally, that that company, upon simply complying with the provisions of the statute, may extend its business throughout the Dominion by force of the Dominion legislation. I submit that that section is a very important section in the administration of the Insurance Act, because when many companies are exerting their right to do business upon that very section it would be desirable to know whether that was an *intra vires* enactment, and I would submit, if your Lordships approve, what I have to say in support of that. It will be very brief.

THE LORD CHANCELLOR: Let us hear what you have to say with regard to it. SIR ROBERT FINLAY: This really resolves itself into what has been argued already on the capacity point.

VISCOUNT HALDANE: I think it does.

LORD PARKER OF WADDINGTON: It would only become the least bit important if it was decided that a provincial company has no liberty outside its own limits. The only question would be whether there was a *quasi* corporation or a *quasi* recognition having a legal effect on those lines. MR. NEWCOMBE: I think the enacting authority for this section is denied by all the Judges of the Supreme Court of Canada, even those who held that the provincial corporation has no extra provincial effect. Of course if your Lordships say that this is a company incorporated by a province to carry on the business of insurance within the province, it may be incorporated to carry on business in the province in terms on it may be incorporated generally to carry on the business of insurance. It is at page 252 of the book of Acts, sub-section 3: "Any company incorporated by an Act of the legislature of the late province of Canada or by an Act of the legislature of any province now forming part of Canada which carries on the business of insurance wholly within the limits of the province by the legislature of which it was incorporated and which is within the exclusive control of the legislature of such province, may, by leave of the Governor-in-Council, avail itself of the provisions of this Act on complying with the provisions thereof; and if it so avails itself the provisions of this Act shall thereafter apply to it, and such company shall thereafter have the power of transacting its business of insurance throughout Canada."

THE LORD CHANCELLOR: This statute is 1910. MR. NEWCOMBE: This is a consolidation later, but it is in the same section.

LORD SUMNER: It is section 3, sub-section 3. MR. NEWCOMBE: Yes, my Lord.

VISCOUNT HALDANE: This is the section we have been discussing up and down. MR. NEWCOMBE: The statute deals with the case of a company incorporated to carry on business within the province.