

stand by what I then said. Within the constitutional power of this parliament we have submitted to this house measures that we believe are within the competence of this parliament, subject to what I shall say presently, and which embodied the effect and purport of the decisions of the privy council with respect to the legislation on the recommendations made in 1919.

My view is that the constitution of this country must be changed. I have held that view strongly. But it is all right to say you believe in that. You must remember this in a country like ours: This is a country in which you have diverse races. You have minority rights to consider. You are not like a country where your entire population is of one race, speaking one language, and with one set of customs. You must have regard to these facts when you talk about amending the constitution. The constitution cannot be changed in a single day because some man finds that he cannot do under the present constitution what he would like to do. The constitution of Canada was arrived at as a compromise. It was arrived at after many matters had been discussed, after many negotiations and those who are familiar with the agitation that has been carried on in the maritime provinces cannot but recall that in the city of Saint John and elsewhere it has been contended that the constitution as it now stands was a departure from the understanding between the parties who negotiated the terms of the constitution.

I have endeavoured to discuss the question of amendments to the constitution on more than one occasion with representatives of the provinces. The right hon. gentleman who leads the opposition called together a conference, they sat for a week discussing the question in a solemn and serious effort to arrive at a conclusion as to what steps might be taken to amend the constitution and at the end they had arrived at no definite conclusion because there are problems that you meet at the very threshold of any such discussion that make it very difficult not to create an air of suspicion with respect to rights that are prized more dearly than anything else in the world. It is so necessary that we should keep that fact in mind in dealing with a problem of this kind. I have endeavoured to point out that anyone dealing with this matter must take cognizance of what has taken place, of the effort made by parliament and of the failure of parliament to accomplish the end aimed at because of insufficiency of legislative jurisdiction.

Now let us go a step further and deal with the report that is now before the house called

the price spreads report, as it relates to the legislation in this bill which is now before the house for its third reading. I suppose I must in the very nature of things make a few observations with respect to one or two matters that have been referred to.

How can it be possible for any member of this house to stand up in his place and say seriously: Why don't you pass an amendment to the criminal code and deal with these matters that way? Well, the counsel who argued the board of commerce and combines cases in 1919 urged that same argument. They are all dealt with, and in the proprietary medicine case Lord Atkin dealt with this problem. I may point out that the present chief justice of Canada speaking for the privy council in the celebrated reciprocal insurance case pointed out that it was ultra vires of this parliament to make anything it pleases a crime. The chief justice in reading the judgment of all the court pointed out—I am speaking from memory—that when parliament endeavoured to make it a crime for an insurance agent to solicit business for a non-registered company, a company that had not come within the provisions of the insurance act, that that was ultra vires of parliament and must be treated as such, and he set aside that part of the statute as being invalid because it was an interference with and an encroachment upon provincial rights, and disguising the encroachment upon that power by the assertion that a certain combination of conditions constituted a crime. Now I have to meet that fact. Whether we like it or not we have to meet it, and if I assumed with the aid of counsel that the price spreads commission was going to make recommendations within the law, I think I was perfectly right in assuming it would when I made the statement I did in January. What is more, to the limit of the power of parliament we have invited parliament to pass measures that will give redress within our competence.

To deal for a moment with criminal law, I would be the last to say that men who are trained in the law have any peculiar monopoly of judgment with respect to any particular matter, but they at least are trained to know something of the principles that govern courts in deciding cases, and it is their business at least to point out, if they happen to be in government, to those with whom they are associated, the Minister of Justice and others with whom they can discuss it, what constitutes the limitations upon our constitutional powers. It is so easy for those who do not know to assume a power which does not exist. It is so difficult at times to make the ordinary