

us to take it away. I may say, in connection with the question as to what is a court of unlimited civil jurisdiction, a difference of opinion has already arisen as to whether anything but the Exchequer Court would be a court within the meaning of that expression of the Imperial Act. It is claimed by one class of the profession that the Exchequer Court is the only court of unlimited civil jurisdiction in Canada, inasmuch as all the others are limited territorially. I merely state that objection for what it is worth.

Mr. EDGAR. The interpretation under the 15th section of the English Act says "unlimited as to the value of the subject-matter."

Sir JOHN THOMPSON. But what I wish particularly to say about that is, that the jurisdiction, unless we pass an Act on the subject, even if it were vested in the provincial courts, would be vested in the Exchequer Court as well, because that, undoubtedly, is a court of unlimited civil jurisdiction.

Mr. MILLS (Bothwell). I do not very well see how that follows; it might in other colonies, but I do not see how it can be in Canada where there has been a distribution of powers under the British North America Act: unless the Minister of Justice is disposed to argue that that Act has no applicability at all to the subject of admiralty jurisdiction, and that all our power to deal with the matter is derived from recent legislation in England. If the hon. gentleman does not hold that view, then he must admit we had the power before. The Imperial Government might have interfered, it might have undertaken to disallow our legislation, but, apart from that interference, we have, under the British North America Act, the power to legislate upon this subject. I apprehend that under section 101 this Parliament might have constituted a court under that provision, which says that in addition to a general Court of Appeal it may establish such other courts as may be deemed necessary for the better administration of the laws of Canada. But the establishment of such courts was not intended to take away, nor would it take away from the Provincial Government, the right to establish courts for the trial of all civil matters and for the trial of criminal matters as well. If we had jurisdiction over this subject before, it is, I think, clear that the Local Legislatures could establish a court having admiralty jurisdiction just as certainly as they could establish a court having jurisdiction over criminal matters. The Judicial Committee of the Privy Council held that, so far as the trial of controverted elections is concerned, the Provincial Legislature could not establish a court to take control of that, simply because that was not one of the matters that was usually relegated to a court: that was part of the law of Parliament, and no court had jurisdiction over a matter which belonged to Parliament itself, except it was expressly given by the Parliament whose jurisdiction was affected. That is a principle which shows what the limitation is and how that limitation arises; but I do not see that any such limitation can arise in the case of the jurisdiction over admiralty matters conferred upon a provincial court, and I have not learned from anything that the Minister of Justice has said in defence of this Bill why this jurisdiction should be withheld from provincial courts and conferred upon courts specially created by this Parliament. There is

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just the one point to which the Minister of Justice referred, and that is the claim that might arise from the judges who now are entitled to salaries of the exercise of jurisdiction as judges in Vice-Admiralty. That, I think, is a matter that might be considered and dealt with without undertaking to create a court in the way that the hon. gentleman proposes, and multiplying the judicial organizations of the country by a Bill of this sort.

Sir JOHN THOMPSON. As regards the power for Provincial Legislatures to create a Court of admiralty jurisdiction, I would suggest for the consideration of the hon. gentleman that we have no power, and clearly the provinces have no power to legislate beyond our territorial limits, and that a large part of admiralty jurisdiction has to be exercised in relation to matter arising outside of our territorial jurisdiction.

Mr. MILLS (Bothwell). We try matters of contract in foreign countries.

Sir JOHN THOMPSON. There is no doubt of the jurisdiction of our Legislatures to give a court authority over our own subjects, and over any persons who come within our jurisdiction, but I very much doubt, indeed, the authority of the Provincial Legislature to give to a provincial court, or to any other court, jurisdiction over a vessel on the high seas. At present the Admiralty Courts and the High Court of Justice of England, exercising its jurisdiction through the Probate and Admiralty division, has that jurisdiction by virtue of Imperial statutes; and by virtue of our Imperial statute, this jurisdiction will come to our Canadian court. It is true there would be several classes of cases over which the Provincial Legislatures could give jurisdiction to our provincial courts, but I very much doubt that they could do so in respect to many of the subjects of admiralty jurisdiction.

Mr. MILLS (Bothwell). Let me call the attention of the Minister of Justice to sub-section 7, section 91 of the British North America Act. We have jurisdiction given to us there over "militia, military, naval service, and defence." Supposing we were to apply the rule to which the Minister of Justice has referred; We commission an officer and put him in charge of a Dominion ship, and he undertakes to sail from Halifax to Hudson Bay. If the view taken by the Minister of Justice were applied to that particular sub-section, we would have no control over him, or over the ship, or over anything that might happen outside the marine limit.

Sir JOHN THOMPSON. That is by virtue of our legislation.

Mr. MILLS (Bothwell). I do not think so. If the hon. gentleman looks at this clause he will see it refers expressly to militia, military, naval service and defence, and it is certainly clear that the Merchants' Shipping Act would not apply to it. I take it that in the interpretation of an Act like our Constitution, you must interpret it in such a way as to make it effective, and so interpreting the Act you will be obliged to admit that there is jurisdiction beyond the marine league. In some of the early cases, more than two centuries ago, with the colonies to the south of us that rule was recognized; and so I think where jurisdiction is given over navigation and shipping you are to give an interpretation broad enough to make the law