

In the statutes of Ontario, there is a Factory Act, and he would probably find such an Act in the statutes of every province in the Dominion. In the Ontario Factory Act, chapter 256, he will find sanitary conditions imposed on all factories. He will find that ventilation, which in England was considered the principal remedy, is insisted on in the Ontario Act besides other regulations for the prevention of disease which have been found very effective. In the schedule at the end of that Act, page 3119 of the statutes, are included all those factories to which it applies, and I find match factories specifically named.

Mr. KING. Can the hon. gentleman give a reference to legislation by any of the provinces on this subject of phosphorus necrosis?

Mr. NORTHRUP. Does my hon. friend suppose for a moment that if the province of Ontario were to pass an Act to suppress necrosis, they could suppress it by giving the courts jurisdiction to grant an injunction against the presence of necrosis or to order its deportation? Does it not strike him that a practical government would pass an Act requiring the factories to do what would put an end to necrosis and would not require to mention the word at all. It is perfectly true that there is not a word in the statutes against necrosis, and I am not aware that there is a word in it against any disease known to the medical faculty, but the Act provides regulations which will prevent disease, and if this government, which takes such an interest in this matter, would draw the attention of the various provincial authorities to the information it has at hand, and point out any proper precautions that could be taken to prevent this disease, no doubt the provincial authorities would be ready to adopt any regulation which would have this effect. It would be very unfair to them to suppose for a moment that they would refuse to do so. The fact that this Ontario Act has been before the courts frequently and has always been declared *intra vires*, the fact that it provides sanitary regulations to protect the public health against all disease—these surely show that every province has the right to legislate with regard to sanitary conditions in its factories, and the fact that this Act to which I have referred is on the Ontario statutes is another argument against this House having the right to pass what is practically a factory Act.

The question of public health has been dealt with by our provinces again and again, and the right of the provinces to deal with them has been held in the case of *Rinfret vs. Pope* in the province of Quebec. That question has been held to be a matter for provincial jurisdiction, and consequently

Mr. NORTHRUP.

this House has no jurisdiction to deal with it.

A word or two as to the question of jurisdiction under the head of trade and commerce. If the hon. minister will look at the British North America Act, he will find that, on the one hand, the Dominion parliament has the power to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the class of subjects assigned to the provincial legislatures. So the minister is quite mistaken and the Deputy Minister of Justice is quite mistaken if he thinks there is any clause in the British North America Act that gives this House power to legislate, to make laws for the peace, order and good government of Canada. There is a long list of subjects assigned to this parliament and a long list assigned to the legislatures. Besides this, we have power to pass laws for the peace, order and good government of Canada in relation to all matters that do not come within the class of subjects by this Act assigned exclusively to the legislatures of each province. Each province is allowed to legislate in regard to local works and undertakings, to property and civil rights and generally in relation to all matters of a merely local or private nature in the province. Did the minister ever stop to consider what the meaning of these words, 'the regulation of trade and commerce' would be? They have received a judicial interpretation and I venture to say that any one's common sense would teach him just what the Lord Chancellor of England concluded, that is that if this parliament is given power to regulate the trade and commerce of Canada, the power to regulate implied a continued opportunity to regulate; there is all the difference in the world between regulation and prohibition. In case there is any doubt, we have the opinion of the Privy Council in the case of the city of Toronto and Virgo in VII. Appeal Cases in these terms:—

Their lordships think there is marked distinction to be drawn between the prohibition or prevention of a trade and the regulation or governance of it, and indeed a power to regulate and govern seems to imply the continued existence of that which is to be regulated or governed.

In the case of the Attorney General of Ontario vs. the Attorney General of the Dominion, the courts held that:

A power to regulate, naturally, if not necessarily, assumes, unless it is enlarged by the context, the conservation of the thing which is to be made the subject of regulation.

So the Minister of Labour, when he speaks of regulating trade, is in reality proposing to prohibit trade. This sta-