

Mr. BENNETT: The premiers of the provinces agreed to this in its present terms.

Mr. RALSTON: It may be for the protection of the provinces, but I submit there is at least room for doubt whether it does protect the provinces against repeal of any amendments made after 1930.

Now I should like to say a word with regard to the effect of the dominion-provincial conference which was held this spring. I said a moment ago that I did not think it went any further than the provision which was already contained in the recommendation of 1929, as far as the prevention of repeal or amendment to the British North America Act is concerned. But I should like the house to note that the provincial conference did a great deal more than that; as my hon. friend the former Minister of Justice said, it made a very substantial contribution to the powers of the provinces, in this way: As I understand it, and as I read this address, the provinces emerged from that conference with a power I think no province ever had before; that is, the power of repealing an imperial statute. That power is conferred by the terms address which is before us. I have no doubt that was intended; I suppose we can assume that there was some consultation with the authorities in Great Britain in order to be sure that such a clause would be acceptable. From what I have heard of the conference of 1929, however, the representatives of the United Kingdom were at least hesitant to confer the express power, even on the federal parliament, of repealing a British statute. They said, "Is it not going far enough if we indicate that any statute of the United Kingdom which is repugnant to a statute of the Dominion of Canada shall not have any force or effect, without going the next step and saying that the Dominion of Canada shall have power to repeal that statute entirely."

However, as I say the conference of 1929 agreed that the Dominion parliament should have that power and now as a result of the dominion-provincial conference held this spring the provinces have the power to repeal a statute of the United Kingdom which is repugnant to a provincial statute.

Mr. BENNETT: But my hon. friend realizes that it must be within the ambit of section 92.

Mr. RALSTON: I quite understand that; of course one would not expect the provinces to have the power to repeal a statute which had nothing to do with anything over which they had jurisdiction, but I say that the result of the provincial conference has been to grant the provinces very substantial powers.

Mr. CAHAN: What is the objection?

Mr. RALSTON: I am not making an objection; I am just leading up to the matter of the next dominion-provincial conference. I am trying to find out whether some new practice is to be devised under which there is to be no amendment to the British North America Act except with the consent of or after consultation with the provinces, I notice my right hon. friend was very careful in his report of the Imperial conference not to suggest that the consent of the provinces was necessary, but only that they should be consulted. It seems to me that is important; it marks an entirely new step. If I look at the fact that the provinces were according to the 1930 report to be consulted, if I look at the fact that they were brought together and their views obtained, if I look at the fact that now they are being given power to repeal an imperial statute if it concerns a subject within their ambit; if I look at the recital of the very resolution on the order paper, where I find—

... a clause was approved by the delegates of His Majesty's government in Canada and of the governments of all the provinces of Canada, for insertion in the proposed act for the purpose of providing that the provisions of the proposed act relating to the Colonial Laws Validity Act should extend to laws made by the provinces of Canada and to the powers of the legislatures of the provinces; and also for the purpose of providing that nothing in the proposed act should be deemed to apply to the repeal, amendment or alteration of the British North America Acts 1867 to 1930, or any order, rule or regulation made thereunder; and also for the purpose of providing that the powers conferred by the proposed act on the parliament of Canada and upon the legislatures of the provinces should be restricted to the enactment of laws in relation to matters within the competence of the parliament of Canada or of any of the legislatures of the provinces respectively.

I am led to believe that at least some new practice is growing up and that after this the former practice with regard to the amending of the British North America Act may not prevail.

Mr. BENNETT: I hope the hon. gentleman realizes that it is not a question of amending the British North America Act. The conference was held with respect to the passing of the statute of Westminster.

Mr. RALSTON: I realize that. But the crux of the whole thing, the question on which the conference, as I understood it, was held, was whether or not the British North America Act could be repealed or amended by virtue of the powers conferred by the statute of Westminster.