

4. No act of parliament of the United Kingdom passed after the commencement of this act shall extend or be deemed to extend to a dominion as part of the law of that dominion unless it is expressly declared in that act that that dominion has requested, and consented to, the enactment thereof.

5. Without prejudice to the generality of the foregoing provisions of this act sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the legislature of a British possession did not include reference to the parliament of a dominion.

That is, the restriction placed upon the supervisory power which was exercised under the Merchant Shipping Act over legislation passed by legislatures of British dominions shall not apply hereafter to this dominion. Then 6:

6. Without prejudice to the generality of the foregoing provisions of this act section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that act as requires the approval of His Majesty in council to any rules of court for regulating the practice and procedure of a colonial court of admiralty, shall cease to have effect in any dominion as from the commencement of this act.

In other words, rules that heretofore were made for our admiralty courts that had to be approved by the king in council are no longer subject to that approval. Now comes the section which deals with Canadian interests. This is the section which the members of the conference conceded we should draft for ourselves. The sections that I have read to you were sections agreed upon at the conference in London in 1930, but by the report which I have just read it was provided that the Canadian central government might after conferring with the provinces draft a section which would, if approved by the Commons and the Senate, be accepted as our section in the statute of Westminster. It is with that section—and all this long preamble I have had to make for the purpose of endeavouring to give the historic setting—that we are now dealing. The section reads:

(1) Nothing in this act shall 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.

In other words, lest it be concluded by inference that the rights of the provinces as defined by the British North America Act had been by reason of this statute curtailed, lessened, modified or repealed, we make in

the statute itself a declaration that such is not the case. Then subsection (2) proceeds:

The powers conferred by this act upon the parliament of Canada or upon the legislatures of the provinces shall 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.

It was thought by some representing provincial legislatures that under provisions as ample as these it might be competent for a dominion parliament to trench upon the jurisdiction of a provincial legislature and exercise powers beyond its competence. For instance, it was felt that it might be possible for this parliament to extend its jurisdiction, by trenching upon the jurisdiction of the provinces, to matters that are distinctly, and as the law now stands, solely within their jurisdiction, so it is provided by the subsection to which I have referred that there shall be, by reason of this law, no alteration in the authority or power of this parliament to deal with legislation which, under section 92 and the other sections of the British North America Act, is granted solely to the legislatures of the province. Subsection (3) proceeds:

The provisions of section

The number will be filled in by the draftsman:

. . . . of this act shall extend to laws made by any of the provinces of Canada and to the powers of the legislatures of such provinces.

(A number to be inserted corresponding to the section number of the second clause set forth in the schedule, Imperial conference, 1930, summary of proceedings, page 19.)

Mr. RALSTON: I must admit I have not made a very careful study of this measure, and I know the Prime Minister wants to make it clear. Subsection 2 relates to the powers conferred on the legislatures of the provinces as well as those conferred upon the parliament of Canada. Is that power simply the power conferred by the next section, subsection 3, and having relation to the second section of the bill, up near the top of the page? Is that the only power conferred on the legislatures?

Mr. BENNETT: In reply to the hon. gentleman I can only say that it is wider than that. It is intended to make it abundantly clear that there is no power to be derived from this statute that will enable a provincial legislature to enlarge the ambit of its powers under the constitution, or to enable the Dominion to enlarge its powers by inference from this statute.