

*Privy Council Appeals*

not been refuted, it is conceded that what I said was true, that the British North America Act was an intentional misrepresentation of fact, and is therefore null and void. This being so, it cannot be retained as part of the statute of Westminster. Each province is therefore a political unit, without a political superior, and there is nothing to prevent them from creating a federal union and stipulating that the Supreme Court of Canada be the court of last resort.

Mr. THORSON: What authority is there for that statement?

Mr. KUHL: Subsection (2) of section 7 of the statute of Westminster.

Mr. FINN: Read it, please.

Mr. KUHL: It reads:

The provisions of section two 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.

Mr. THORSON: Would the hon. member read the first subsection?

Mr. KUHL: It reads:

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 to any order, rule or regulation made thereunder.

Mr. THORSON: So the British North America Act is preserved intact.

Mr. KUHL: In my speech on February 10 I believe I produced sufficient evidence to show that unless the preamble of a bill can be proven, the bill fails. If the preamble of the British North America Act cannot be proven to-day, how could it have been proven in 1867? If it cannot be proven, is it not a natural consequence that the bill is null and void?

Mr. THORSON: Does the hon. member expect that argument to be taken seriously by anybody in Canada?

Mr. KUHL: If it is based on fact, I certainly do.

Mr. THORSON: "If."

Mr. KUHL: I have presented what I regard as facts; I have quoted the right hon. leader of the opposition (Mr. Bennett) and the authorities given by the right hon. Prime Minister (Mr. Mackenzie King) as to the nature of a preamble and what is expected of a preamble.

Mr. BENNETT: It must occur to the hon. gentleman that if the preamble is accepted by the enacting legislature as having been proven, it is not for us to say it has not been.

[Mr. Kuhl.]

Mr. KUHL: I am not sure that I understand the statement of the right hon. gentleman.

Mr. BENNETT: I merely mean this, that the British North America Act is a statute which was passed by the parliament at Westminster, and the preamble was passed by that parliament. Having been passed by that parliament, it is not for us to question it. We have no legislative power in regard to it.

Mr. KUHL: Would the right hon. gentleman say there was evidence that the preamble to the British North America Act was proven by the imperial parliament?

Mr. BENNETT: It was accepted and passed by them.

Mr. GRAYDON: I should like to make one observation. It occurs to me that the hon. gentleman is definitely out of order to-night in bringing this matter before a body which has no legislative jurisdiction whatsoever in regard to it.

Mr. THORSON: Indeed, according to his own argument he has no right to be here, because he is here pursuant to the provisions of the British North America Act.

Mr. KUHL: I am placing my opinions before the house, and I shall be pleased to listen to any refutations that may be made when hon. members make their own speeches.

Mr. POULIOT: Would my hon. friend be kind enough to let me ask the question which the hon. member for Selkirk (Mr. Thorson) would not let me ask this afternoon?

Mr. KUHL: The hon. gentleman may ask, but I do not know that I can answer.

Mr. POULIOT: Whereas His Majesty King George VI is the king of Canada; and whereas it is the privilege of all British subjects to bring their grievances to the foot of the throne, how shall we do so if appeals to the privy council are denied?

Mr. KUHL: Perhaps the hon. gentleman would repeat his question after I have concluded my speech, if I may be allowed to do so.

Regardless of whether we think appeals to the privy council should be discontinued, we certainly have no power to determine the minds of the legislatures of the provinces in this matter. Further, I contend that to attempt to enact legislation upon this subject at this time, for the reason that this house disapproves the decisions which have been rendered in some cases, is to deprecate our own intelligence and is a mark of extreme