

"King of Canada"

ance of non-legal rules; and seriously to misconceive the relation of the two classes of rule to each other. It is asserted, for example, that Great Britain and the British empire have an "unwritten" constitution.

That is what this motion seems to contemplate.

A constitutional statute is regarded therefore as something alien to the spirit of the constitution. On such a view of the nature of the British constitution, and of the constitution of the British empire, it was inevitable that the passing of the Statute of Westminster should appear to be a mistake. Some members of parliament in the United Kingdom and in the dominions objected to the proposal to pass the statute, not because of the terms it contained, but because it was a statute. Lord Buckmaster, an ex-Lord Chancellor, put this point of view in the House of Lords during the second reading of the Statute of Westminster Bill. He said that he intended to support the bill, but that he felt it was a mistake. "It is not—he said—that its actual terms offend any of the relationships existing between ourselves and our dominions. It is that it is, as I believe, for the first time, an attempt made to put into the form of an act of parliament rules which bind the various component parts of the empire, and that I regard as a grave mistake." He went on to assert that "the thing which has made this country grow is that it never has had a written constitution of any sort or kind, and the consequence has been that it has been possible to adapt from time to time, the various relationships and authorities between every component part of this state, without any serious mistake or disaster. That is what I think ought to be the ideal aimed at between ourselves and the various other nations which together make up the British empire You should avoid as far as possible putting a definition of what the relationships may be into the unyielding form of an act of parliament. That is what this statute has attempted to do."

Chapter 7 of this book, the Statute and the Legal Status of Canada, sets out the law on this subject—and this is regarded as one of the most learned text books we have. I quote from page 177:

The fundamental fact in the case of the Dominion of Canada was that it was a federation. The powers and functions of the federal and provincial parliaments and governments were demarcated and their existing distribution was guaranteed by an act of the United Kingdom parliament, the British North America Act, 1867. This act was unalterable in essentials by the federal or provincial legislatures in Canada; it was completely alterable by the United Kingdom parliament only. From 1867 to 1930 inclusive, it had been amended seven times by that parliament. No clear rules regulated the procedure by which amendments of the British North America Act, desired by the provincial or federal parliaments in Canada, should be transmitted to and executed by the United Kingdom parliament

Thus dominion status, after the passing of the Statute of Westminster, as before, though its predominant characteristic is conventional equality of status, contains legal ingredients which are different and are unequal from one

[Mr. Church.]

dominion to another. Apart from this common ingredient of conventional equality, the recipe differs in each case to a greater or less degree. Dominion status to-day, it should be emphasized, means equality of conventional status, but it does not necessarily mean equality of legal status or identity in the legal rules which define that status for each dominion.

It can be seen that from the legal point of view what is proposed here is not the proper form in which the motion should be presented to parliament. As I have pointed out, the proper procedure should be through an address by both houses of parliament praying for an act to change the British North America Act.

On the question of policy, is it desirable at this time that we should pass a motion of this kind? After all, consider what the mother country has done for us. She has borne the brunt of the war, and there is no reason to believe that the status, the autonomy and the sovereignty of Canada are at this moment endangered. If our status is good enough for over a million men who enlisted, so many of whom died, so many of them having suffered so much on land, on sea and in the air, then I suggest that that status should be good enough for those who stayed at home. Is there really any interest in this motion? Look at the slim attendance there is in the chamber today, at the very mention of the word "empire". We barely have a quorum. Next to the Christian church, Mr. Speaker, no other agency has contributed more to the freedom, liberty and civilization of the world than the mother country has done. For two and a half years she stood alone, save the dominions, while others did nothing, and but for her we would have lost the war.

I would like to have your ruling, Mr. Speaker, on my submission that this resolution is out of order on the ground that it is not in the form of an address to both houses. In my opinion it is not necessary. In fact, I think it would be a good thing for parliament and the country if private members' day were abolished altogether for this year so that we could devote our time to the consideration of practical questions for the welfare of the people.

Mr. BONA ARSENAULT (Bonaventure): We have heard with interest the hon. member for Broadview (Mr. Church), who is one of the most distinguished members, but unfortunately we cannot share all his views. If we did, the hon. member would not be sitting on the other side; he would be here.

An hon. MEMBER: You would be over here.

Mr. ARSENAULT: Don't worry; I do not think you will ever see that day. The hon. member for Broadview claims that there