

that we should now say, in terms of the statute, that we are accepting the new offer, and enact it as a statute of Canada, supplementary to the statute which we passed in 1930.

There remains only one other question that might be mentioned, and that is the effect upon the general situation with respect to what was said by the privy council a few days ago in connection with our treaty-making power. What I wish to direct attention to is this:

It must not be thought that the result of this decision is that Canada is incompetent to legislate in performance of treaty obligations. In totality of legislative powers, dominion and provincial together, she is fully equipped. But the legislative powers remain distributed and if in the exercise of her new functions derived from her new international status she incurs obligations they must, so far as legislation be concerned when they deal with provincial classes of subjects, be dealt with by the totality of powers, in other words, by cooperation between the dominion and the provinces.

If those words have any value—and in my opinion they have not—they perhaps should not be overlooked until such time as they have been overruled.

Mr. CAHAN: Or withdrawn.

Mr. BENNETT: "Withdrawn" may be the proper word, but as it is a hypothetical case perhaps "overruled" would be the more appropriate term. But that factor does arise. It need not be considered in detail, but I think it is my duty to direct attention to it in view of the fact that that pronouncement was made long subsequent to the date of our adoption of the treaty by legislative action, and long subsequent to the date of modification of the treaty by the act of the senate itself.

Mr. MACKENZIE KING: It would not help us at all to enact a statute, if what my right hon. friend is now saying is true.

Mr. BENNETT: I do not suggest that it would, but in my judgment it would strengthen our hands in so far as maintaining the validity of our position on the first statute is concerned, if now that these modifications are made we adopted the same method in dealing with them. Because the language of the Prime Minister's declaration, it will be recalled, is this: he asks parliament to state that—

... it is expedient that the houses of parliament do approve of a declaration being made on the part of Canada to the effect that the provisions of the convention may be administered upon the following understandings.

[Mr. Bennett.]

There is, I think, a slight contradiction of terms there. When we talk about giving effect to the provisions of the convention and administering it "upon the following understandings," it is not too much to say that at least in part, that is a modification, and certainly in one particular a very important reservation. In other words, what we looked upon as immediate action will now be delayed action; what we looked upon as continuous improvement will now be delayed for eight years. Regulations which we had hoped would begin to effect the preservation of the fishery in which we are so keenly interested will not, as far as this treaty is concerned, become effective until eight years from the date of ratification. The ratification can probably take place in ten days, but we should have to wait eight years more before we had any promulgation of regulations to effect the preservation of a fishery which we regard as extremely important. The net result is that if the contentions of my friends from British Columbia are correct—and I defer to their views—that we have not been obtaining our portion of this fishery, this state of things will be continued for eight years notwithstanding that article VIII is of very great importance.

Mr. REID: We have obtained a greater catch in the past two years.

Mr. BENNETT: Article VIII reads:

Each high contracting party shall be responsible for the enforcement of the regulations provided by the commission in the portion of their respective waters covered by the convention, and to this end they agree to enact and enforce such legislation as may be necessary to make effective the provisions of this convention, with appropriate penalties for violations thereof.

For eight years that will have no effect at all. And the seventh article, to which we attach the greatest importance, will become completely nugatory:

Inasmuch as the purpose of this convention is to establish for the high contracting parties, by their joint effort and expense, a fishery that is now largely non-existent, each of the high contracting parties should share equally in the fishery. The commission shall, consequently, in regulating the fishery do so with the object of enabling, as nearly as they can, an equal portion of the fish that is allowed to be caught each year to be taken by the fishermen of each high contracting party.

Certainly the effect of this reservation is to render that article completely useless for eight years, because this was to be done by regulation. If it were not that one does not desire to speak in other than respectful terms of the legislative body of another country I

would say that our friends from the state of Washington have certainly endeavoured to put it over us. We have laboured incessantly to maintain the principle that as the fish spawn in Canada and are caught in the sea, there should be as nearly as possible an equal division of the fish caught. That was the whole purpose of our efforts. But as it now stands, for eight long years no regulations are to be passed which will in any sense regulate equality of catch by the fishermen of the high contracting parties, although that was the essential matter with which we were dealing.

Mr. LAPOINTE (Quebec East): But if the treaty falls it will be more than eight years; it will be never.

Mr. BENNETT: If there is no treaty, my hon. friend is entirely right. We would just have to take conditions as they are. But I know that if Canadians were to assert themselves within their legal rights on the Fraser river they could make it difficult for our neighbours to get the spoil of the sea that they now secure. It is because they realize that on the one hand, and we on the other hand desire to have friendly and amicable relations in respect to this great resource, that we said that the catch should be equally divided between us, and that was to be secured by regulation of the fishery. And now for eight years there is to be no regulation. That is my difficulty.

I have no party interest in this matter; if the government, with the fund of knowledge that it possesses respecting the situation which I have not, is of the opinion that to proceed in accordance with the resolution is in the national interest, I am content. I desire only to point out my difficulties, and certainly they are very real, having regard to the purpose of the treaty. The essential part of it was equality of catch. That has been destroyed, for it was to be secured by regulation, and regulations are not even to be promulgated for eight years from the date of ratification. Whether it is worth while to wait eight years for regulations that have effect only if four people agree, two from each country—which of course is an unusual provision but was the only one our friends would accept—is another question. Whether it is worth while to wait eight years, with the experience we have had with this and other treaties, for the purpose of determining whether or not at the end of that period two men representing Canada and two the United States will agree upon regulations that will give Canada half that catch, I cannot say. It is for parliament to determine.

Mr. MACKENZIE KING: May I say a word to my right hon. friend in regard to his last remark. In the view of the government the vital thing is to get a commission appointed and get it to work. Experience has shown in regard to the preservation of the halibut that little if anything could be done until a commission was appointed. After the commission was appointed very much was achieved in a comparatively short time. In the case of the halibut fisheries commission no regulations were promulgated in less than eight years; it took that period of scientific investigation and study and experimentation to enable the members of the commission to become agreed on the regulations they wished to make and satisfied they would be practicable. But it did not prevent the governments of the two countries from amending the original convention and giving additional powers and putting through measures which were helpful in the conservation of that resource.

Mr. BENNETT: Of course they can do that without a treaty.

Mr. MACKENZIE KING: No, I do not agree with that statement. Unless some sort of organization in the nature of a commission is established they will never get together. Once a commission is established with a personnel of three representatives from each country upon it, then you have the necessary machinery wherewith to work towards securing something in the way of agreement between the two countries. Without some such organization it would be very difficult indeed to get agreement. And apart altogether from the matter of regulations promulgated, there are other functions and powers given to the commission, as I indicated at the outset. For example, under articles III to VII, the commission is instructed:

(a) to investigate the natural history of this fishery as well as hatchery methods, spawning ground conditions, et cetera;

(b) to conduct fish cultural operations, improve spawning grounds, establish hatcheries, rearing ponds and other facilities for the purpose of stocking convention waters;

(c) to recommend the removal of obstructions to the ascent of sockeye salmon;

(d) to report annually upon the commission's investigations and action taken;

Similar powers were given to the commission having to do with halibut—

Mr. BENNETT: Of course halibut and salmon are entirely different. The halibut are deep sea fish entirely, while salmon have their origin in Canada. That is the real difficulty.