

of the federal system. The Constitution of the Commonwealth, though paramount law for the Parliament of the Commonwealth, is subject to alteration by the joint action of Parliament and the electorate. To that extent the Commonwealth need not have recourse to any authority external to itself for alterations of its instrument of government. But "the Constitution," though the main part, is not the whole, of the Commonwealth of Australia Constitution Act; and the eight sections of that Act which precede the section containing "the Constitution" can be altered only by an Act of Parliament of the United Kingdom. It will be for the proper authorities in Australia in due course to consider whether they desire this position to remain, and, if not, how they propose to provide for the matter.

65. The Constitution of New Zealand is to a very considerable extent alterable by the Parliament of New Zealand; but the powers of alteration conferred by the Constitution are subject to certain qualifications, and it is apparently a matter of doubt whether these qualifications have been removed by section 5 of the Colonial Laws Validity Act. It appears to us that any recommendations in relation to the Constitution of the Dominion of Canada and the Commonwealth of Australia should also be applied to New Zealand; and it will then be for the appropriate authorities in New Zealand to consider whether, and if so in what form, the full power of alteration should be given.

66. We are accordingly of opinion that the inclusion is required in the proposed Act of the Parliament of the United Kingdom of express provisions dealing with the matters discussed in the three preceding paragraphs, and we have prepared the following clauses:—

"(1) Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution Acts of the Dominion of Canada, the Commonwealth of Australia, and the Dominion of New Zealand, otherwise than in accordance with the law and constitutional usage and practice heretofore existing.

"(2) Nothing in this Act shall be deemed to authorize the Parliaments of the Dominion of Canada and the Commonwealth of Australia to make laws on any matter at present within the authority of the Provinces of Canada or the States of Australia, as the case may be, not being a matter within the authority of the Parliaments or Governments of the Dominion of Canada and of the Commonwealth of Australia respectively."

67. Similar considerations do not arise in connection with the Constitutions of the Union of South Africa and the Irish Free State. The Constitutions of both countries are framed on the unitary principle. Both include complete legal powers of constitutional amendment. In the case of the Union of South Africa the exercise of these powers is conditioned only by the provisions of section 152 of the South Africa Act, 1909. In the case of the Irish Free State they are exercised in accordance with the obligations undertaken by the Articles of Agreement for a treaty signed at London on the 6th day of December, 1921.

68. The Report of 1926 dealt only with the constitutional position of the Governments and Parliaments of the Dominions. In recommending the setting-up of the present Conference it did not make any specific mention of the special problems presented by federal Constitutions, and accordingly the present Conference has not been called on to consider any matters relating to the legislative powers of the Provincial Legislatures in Canada or the State Legislatures in Australia. The federal character of the Constitutions of Canada and Australia, however, gives rise to questions which we have not found it possible to leave out of account, inasmuch as they concern self-government in those Dominions.

69. The Constitution of Australia presents a special problem in respect to extra-territorial legislative power. The most urgently required field of extra-territorial power is criminal law, which, in general, is within the State power in Australia. In Australia the Parliaments of the States are not subject to any specific territorial restrictions; they differ from the Commonwealth Parliament only in this, that their laws have not the extended operation specifically given to the laws of the Commonwealth Parliament by section 5 of the Commonwealth of Australia Constitution Act, and that the Commonwealth Parliament has power over certain specific matters which look beyond the territory of the Commonwealth. The question whether the power of enacting extra-territorial laws over matters within its sphere, to be enjoyed by the Commonwealth Parliament in common with the