

(a) REPORT OF THE CONFERENCE OF 1929 ON THE OPERATION OF DOMINION LEGISLATION.

The Imperial Conference examined the various questions arising with regard to the Report of the Conference on the Operation of Dominion Legislation, and in particular took into consideration the difficulties which were explained by the Prime Minister of Canada regarding the representations which had been received by him from the Canadian provinces in relation to that report.

A special question arose in respect to the application to Canada of the sections of the statute proposed to be passed by the Parliament at Westminster (which it was thought might conveniently be called the Statute of Westminster) relating to the Colonial Laws Validity Act and other matters. On the one hand, it appeared that approval had been given to the Report of the Conference on the Operation of Dominion Legislation by resolution of the House of Commons of Canada, and accordingly that the Canadian representatives felt themselves bound not to take any action which might properly be construed as a departure from the spirit of that resolution. On the other hand, it appeared that representations had been received from certain of the provinces of Canada subsequent to the passing of the resolution, protesting against action on the report until an opportunity had been given to the provinces to determine whether their rights would be adversely affected by such action.

Accordingly, it appeared necessary to provide for two things. In the first place, it was necessary to provide an opportunity for His Majesty's Government in Canada to take such action as might be appropriate to enable the provinces to present their views. In the second place, it was necessary to provide for the extension of the sections of the proposed statute to Canada or for the exclusion of Canada from their operation after the provinces had been consulted. To this end it seemed desirable to place on record the view that the sections of the statute relating to the Colonial Laws Validity Act should be so drafted as not to extend to Canada unless the statute was enacted in response to such requests as are appropriate to an amendment of the British North America Act. It also seemed desirable to place on record the view that the sections should not subsequently be extended to Canada except by an Act of the Parliament of the United Kingdom enacted in response to such requests as are appropriate to an amendment of the British North America Act.

The Conference on the Operation of Dominion Legislation in 1929 recommended a draft clause for inclusion in the statute proposed to be passed by the Parliament at Westminster, to the following effect :—

“ 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 unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.”

At the present Conference the delegates of His Majesty's Government in the United Kingdom were apprehensive lest a clause in this form should have the effect of preventing an Act of the United Kingdom Parliament passed hereafter from having the operation which the legislation of one State normally has in relation to the territory of another. To obviate this, the following amendment was proposed :—

“ 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 in force in that Dominion*, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.”

The delegates from some of the Dominions were apprehensive lest the acceptance of the above amendment might imply the recognition of a right of the Parliament of the United Kingdom to legislate in relation to a Dominion (otherwise than at the request and with the consent of the Dominion) in a manner which, if the legislation had been enacted in relation to a foreign State, would be inconsistent with the principles of international comity. It was agreed that the clause as amended did not imply, and was not to be construed as implying, the recognition of any such right, and, on the proposal of the United Kingdom delegates, that a statement to this effect should be placed on record.