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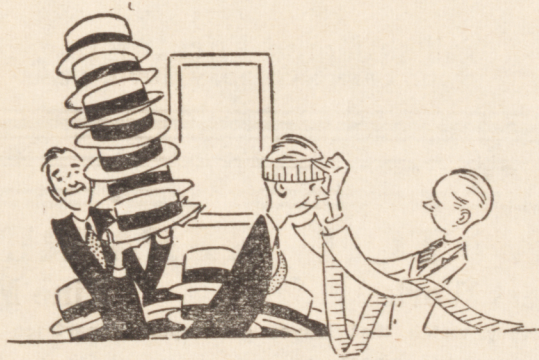
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## Attorney-General

(Continued from Page Three)  
of such conditions admit of easy proof; their presence is notorious. But upon what evidence could a Government determine that in the course of ordinary social developments matters normally within the competence of the local Legislatures had become national in their scope and conditions had developed in relation to them which, if unexpressed, would endanger the national existence and in consequence the Dominion Parliament was entitled to override the authority of the Provinces. What authoritative guide could a Court find?

Such questions do not admit of proof in the ordinary way. They are essentially matters of opinion. But what opinions could be accepted? Could it be suggested that newspaper reports or the views of economists should be accepted? These are uncertain guides. In all probability, the Courts would be driven in the end to accept the views of Parliament itself, on the ground that the two Houses best represented a cross-section of public opinion in Canada.

Can you not see the danger, Mr. Speaker? To obtain jurisdiction over matters within the legislative competence of the provinces, all that Parliament would have to do would be to pass an Act with a preamble setting out its own views that the matters dealt with had assumed national dimensions and required action by it. By this simple process, it would acquire a new jurisdiction.

In all the cases before the Privy Council, the Dominion sought to support its legislation on the peace, order and good government ground. We attacked the application of that principle. Surely all will agree it is fortunate that we won.

I desire to make some special reference now to the three labour Statutes involved in those appeals which the Dominion sought to uphold on an additional, and more dangerous, ground.

It was contended that through recent constitutional developments Canada had attained to the full status of a nation, entitled to enter on her own behalf into international agreements; that the treaty making power in Canada was lodged in the central Government; that having the right to make treaties binding on the provinces, the Dominion had the right, through its Parliament, to pass all laws necessary for their performance even in respect of matters which ordinarily lay within the competence of the provincial legislatures.

The International Labour Organization of the League of Nations, of which Canada is a member, had among others adopted proposals to regulate labour conditions by limiting hours, fixing minimum wages and providing for a weekly rest in industrial undertakings. When the light broke during the famous New Year radio programme of 1935, the Dominion Government of the day purported to ratify and adopt those conventions and a docile Parliament immediately enacted them into law.

It was admitted that the labour Acts dealt with matters ordinarily falling within the legislative field of the Provinces. But the Dominion Government submitted that in order to discharge the obligations which its Government had undertaken through these Geneva Conventions its Parliament was bound and entitled to pass the legislation.

In other words, it was contended that all the Dominion had to do to obtain for its Parliament jurisdiction over a matter which the Constitution assigned to this Province was to have the Government of the day make a treaty with some foreign country regarding it.

Had this doctrine prevailed, the charter rights of our Province and the liberties of this Legislature would have been subject to invasion

at will. The Dominion might enter into a treaty with Siam to abolish the provincial Legislatures and by so doing would acquire power to legislate to that end.

Can anyone longer wonder why we fought this legislation? Surely no Honourable member doubts the wisdom of our actions.

And so has passed the second constitutional struggle in which this Province has been engaged since the present administration took office a year and a half ago. I confidently believe that the other movement to which reference has been made is also dead.

It is regrettable that these attempts by the Dominion to obtain supremacy over the provinces and to forcibly invade their field were ever launched. They produced nothing but irritation and distrust. True progress cannot be made in that atmosphere. Only by co-operation and conciliation can we advance.

I am happy to note that these efforts do not denote the true attitude of the present administration at Ottawa. In this connection, I wish to quote the language of the Minister of Labour in a recent address in the House of Commons. (See Unrevised Hansard, 1937, pp. 490 and 491). It is as follows:

### Our Jurisdiction

"The provinces possess the jurisdiction to deal with labour and social legislation. This jurisdiction can not be taken from them by violence or by any declaration that can be made by this parliament. It will not, in the light of existing judicial decisions, be transferred to the dominion parliament by the process of judicial interpretation. It can be given to the dominion parliament, in whole or in part, only by an act of voluntary surrender of jurisdiction by the provincial legislatures. The initiative, in other words, now lies with the provinces themselves."

"It has already been brought to the attention of the house that an effort has been made through a dominion-provincial conference to determine the procedure by which the British North America Act shall be amended in future years. This resolution, however, appears to contemplate something in addition to that, namely, the adoption of a number of specific amendments here and now as a result of which jurisdiction over social legislation might be transferred from the provincial legislatures to the dominion parliament. I have had a very brief experience of dominion-provincial conferences. I happened to be present as a member of the secretariat at the conference of 1927, and I have attended two or three dominion-provincial conferences during the past year. I do not think it would be unfair or in any way unreasonable to suggest that sometimes these conferences have failed because they have met in an atmosphere of suspicion and excessive caution. At times there appears to be a feeling on the part of the provinces that the dominion government has some ulterior object in view whenever specific proposals are made to them. At all events we do know that dominion-provincial conferences from time to time have not been as successful as we would have wished. I agree wholly with the hon. member from Winnipeg North Centre in that observation. But I wonder whether, in view of the recent decisions of the privy council, the initiative does not belong with the provinces."

"Would any useful end be served at this time by the dominion parliament concurring in the report of a select committee proposing to the provincial legislatures that they should abandon some portion of their jurisdiction over social questions? After all, any doubts which may have existed before have now been resolved; the provinces possess the jurisdiction. Would it not be more reasonable to leave it to an interprovincial conference, if you will, to go into this question of whether certain

measures of social legislation can be carried out more effectively by uniform action on the part of the provincial legislatures or by action of the dominion parliament? A few days ago it was said that public opinion in this country is tending more strongly in the direction of supporting more social legislation, and also supporting the view that such legislation should be enacted by the dominion parliament. I wonder why that public opinion could not be focussed also upon provincial legislatures, so that they might of themselves, without any compulsion, without any undue pressure from the dominion government, voluntarily surrender their jurisdiction in some respects to the dominion parliament."

"It would not be the first time the question of constitutional amendments has been dealt with by an interprovincial conference as distinguished from a dominion-provincial conference. As a matter of fact, the first conference which was held after confederation was a conference of that kind. It was summoned by Mr. Mercer, then premier of Quebec, acting in close co-operation with Sir Oliver Mowat, then Premier of Ontario. As a result of its deliberations that conference actually did propose a number of specific amendments to the British North America Act. It is not necessary to go into the history of these resolutions. As a matter of fact, they fell by the wayside. They were not sent to the imperial parliament, with the suggestion that apart entirely from the views of the dominion parliament they should be enacted as amendments to the British North America Act, but it was represented to the imperial government of the day that this conference did not speak for Canada as a whole and that the dominion government would take strong exception to any attempt on the part of the imperial parliament to enact those resolutions as amendments to the British North America Act."

"My point is simply this, that there is nothing to prevent the provinces from meeting together and discussing, in the light of recent privy council decisions, what they will do and how far they are prepared to go in adopting uniform statutes to deal, let us say, with hours of labour and wages; or, if they are not so prepared, to agree among themselves that they will transfer this jurisdiction to the dominion parliament."

Mr. Speaker, I believe that great benefit will come from regular conferences of the Provinces. The close contacts rendered possible will inevitably promote a spirit of good-will and co-operation and tend to evolve uniform policies for the solution of common problems. It may be that out of the mutual discussions and studies would come a desire on the part of the provinces to transfer to the central Government some matters which now fall within their legislative competence on the ground that they could be administered to better advantage by Ottawa."

If unanimity were reached, such changes could readily be brought in a constitutional way by amendments to the British North American Act.

I feel, however, that the main progress lies along another road. I am reminded that there is today an agitation in certain quarters, very vocal at times, for extreme penury in public administration. It is suggested that the one aim of all Governments should be to balance their budgets without increasing, probably with reduced, taxation.

This can be brought about by starving the public services. But in the face of these counsels of perfection, we have a public demand from other quarters to enlarge our activities in the field of social service and aid.

Back in 1930, this Legislature placed upon the Statute Books an Act providing for Mothers' Allowances. We all know today the great benefits brought by the Old Age Pension scheme. In my view the other is

even more commendable, for it deals with the young life of our country.

On account of lack of revenue, the present Government has seen no opportunity to put that legislation into operation.

We have a big work to do in Education. We are expected to do it. It requires workmen worthy of the task. Yet yesterday we heard criticism of the Government for even having started to build.

I marvel at our teachers and how they have the heart and courage to carry on. They are notoriously the most under-paid class in this Province, at least. What a wall would rise to heaven from the lips of those who want to balance the budget by reducing expenditures should we try to do something for this great profession!

### The Feeble-Minded

Today there is a strong demand throughout the Province for action in connection with the feeble-minded. Unquestionably, this problem needs attention. What form action should take is open to debate. But it is difficult to move on our present revenues.

There is the question of our Boys' Industrial Home as well as the grave problem of tuberculosis to mention only a few other matters. If these problems are dealt with, increased expenditures must inevitably result.

The voice of those groups and individuals who from Coast to Coast cry for retrenchment and advocate Parliaments of hard-headed business men, would drown out the inarticulate cry of the great body who do not have summer homes, motor cars and world cruises at their command. We who are charged with responsibility, however, have to heed human needs.

There would be little talk of economy from the quarters to which I have referred if some Government came out with a programme involving the expenditure of half a billion dollars on armaments; for armaments mean grist to the mill of big business.

Governments in these days are and shall be required more and more to enter into the social services. It is here that the Dominion can render real assistance.

The Old Age Pension scheme which now operates in every province in Canada was conceived at Ottawa and made possible by assistance from the Federal Treasury. It is the crowning proof of what can be done by co-operation between the Dominion and the Provinces. Progress along social lines does not inevitably require centralization of control. No economies would be effected in administration costs if the Dominion Government took over the full administration of the Old Age Pension scheme. It would still be necessary to maintain in every province the same machinery which now exists under provincial administration.

In my opinion, the real work of the Dominion in the field of social aid is to give leadership, direction and support to the Provinces. I am happy to note that this view is entertained by the present Prime Minister of Canada.

Speaking in the House of Commons on the 16th day of February instant on a resolution calling for the appointment of a Royal Commission to study taxation and the division of financial power and responsibilities, he made the following statement: (See Unrevised Hansard, p. 1003)

"Mr. Speaker, I have already had occasion to intimate to this house that the government has been giving a great deal of thought to the desirability of appointing a commission to study certain aspects of the relationship between the Dominion and the provinces. The aspects to which I refer are primarily financial. They include the allocation of sources of revenue, and the financial capacity of the provinces to discharge their responsibilities."

The problem we have had in mind (Continued on Page Four)

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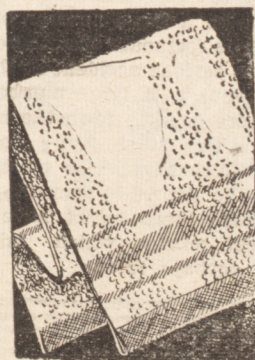
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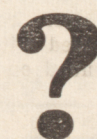


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