

# BILLS BEFORE THE LEGISLATURES

## DOMINION

### *Immigration*

For sixty years or more a succession of special laws restricting the immigration into Canada of persons of Chinese origin has appeared on the statute books. In recent years there has been considerable agitation to eliminate this legislation on the ground that it discriminates against a friendly country, recently our ally. Hon. J. A. Glen, Minister of Mines and Resources, has now introduced a bill to repeal the Chinese Immigration Act. In the words of Mr. Glen, "The consequence of its repeal will be that Chinese, citizens of this country, who have resided here will be able to bring their wives and children to this country".

The same bill contains authorization, similar to that at present provided by order in council, for dependents of members of the Canadian armed forces to enter Canada. (Bill 10)

### *Patents*

For the first time since its enactment in 1935, changes are to be made in The Patent Act. One of the most important of these provides for the extension of time limits under the act, where circumstances arising out of the recent war prevented compliance with these provisions. The proposed measure is similar to recent United States legislation and also to the Canadian law enacted in 1921 to deal with cases arising out of the first Great War. The extension of time is to end six months after the legislation comes into force. The privilege is applicable to Canadian citizens, British subjects and nationals of any other country which grants reciprocal privileges to Canadians.

The second change in the law provides for secret patents—a concept that appears somewhat inconsistent with patent theory. The provision is applicable to patents on instruments and munitions of war which have been assigned to the Minister of National Defence. Where the Minister certifies that it is in the public interest that a patent should be kept secret, the applications and specifications are to be delivered to the Commissioner of Patents in a sealed packet and so kept until the expiry of the patent, when they are to be returned to the Minister.

Another provision deals with patent applications relating to the use of atomic energy, which must be referred to the Atomic

Energy Control Board. Other changes include the establishment of a higher tariff of fees. (Bill 16)

### *Representation in the House of Commons*

Redistribution of the seats in the House of Commons normally takes place shortly after the results of the decennial census become known. However, the special conditions existing as a result of the war made it advisable to postpone the readjustment which was due after the 1941 census until the end of the war. The postponement was made possible by an amendment to the British North America Act passed by the Parliament of the United Kingdom in July 1943.

As was explained at the time in this Review,<sup>1</sup> the provisions of the British North America Act regarding representation in the House of Commons (section 51) were completely revised last summer and the rules in effect since Confederation discarded. The total number of members of the House of Commons has been raised from 245 to 255 and the basis of representation altered.

On February 13th Prime Minister King introduced a bill to provide for a redistribution of representation in the House in accordance with the new section 51 of the British North America Act. The bill as introduced specifies the number of members to which each province is entitled, but the boundaries of the new constituencies to be established will be defined in a schedule, which will be added after they have been considered by a special committee of the House. (Bill 18)

### *Canada's Obligations as Member of the United Nations*

On February 11th Senator W. L. Robertson introduced in the Senate a bill to empower the Governor in Council to make such orders and regulations as appear necessary in order to apply any measure decided upon by the Security Council of The United Nations under Article 41 of the Charter. This article provides that the Security Council may decide what measures not involving the use of armed force (such as the interruption of economic relations and of means of communication and the severance of diplomatic relations) are to be employed to give effect to its decisions and may call upon the members of The United Nations to give effect to them. (Bill F)

<sup>1</sup> (1946), 24 Can. Bar Rev. 609.

### *Statutes to Replace Orders in Council*

The Prime Minister stated on February 4th that "the government will introduce about fifteen bills which, if adopted, will replace by legislation a number of orders in council which it is considered should in the national interest be placed on a more permanent footing. All of these relate to subjects which are within the normal competence of the parliament of Canada."

He added that this legislation would include bills to amend the Fertilizers Act, the Inspection and Sales Act, the Feeding Stuffs Act, the Customs Act, the Militia Pension Act, the Militia Act, the Patents Act, the Department of National Defence Act, the Canadian Grain Act, the Wheat Board Act and the Immigration Act, and bills respecting mail contract supplements, trading with the enemy, export and import controls and agricultural products. All these measures have now been introduced in Parliament; they cover generally the same ground as the orders in council they replace.

## ALBERTA

### *District Courts*

The District Courts of Alberta have wide jurisdiction over actions where the debt, damages or claim does not exceed \$600. The law respecting these courts contains a provision for a small debt procedure applicable at present to claims not exceeding \$100, with the Lieutenant Governor in Council having power to amend the procedure. In 1944 new rules were made, which increased the limit to \$200. Some doubt having arisen as to the legality of this action, it is proposed to effect the increase by legislation.

A change is also being made in the law to prevent a District Court judge, who is appointed to another court or resigns, from losing jurisdiction to give judgment in cases which he has already tried. (Bill 10)

### *Enforcement of Maintenance Orders*

In 1920 the Parliament of the United Kingdom passed legislation for the enforcement in England and Ireland of maintenance orders made in any part of His Majesty's Dominions where reciprocal arrangements exist. In a number of the Dominions, including in Canada the provinces of Manitoba, Saskatchewan and British Columbia, reciprocal legislation has already been enacted. The Alberta law will follow the form

recommended by the Commissioners on Uniformity of Legislation. A maintenance order is by definition an order, other than an order of affiliation, for the periodic payment of sums of money toward the maintenance of the wife or other dependents of the person against whom the order is made. The legislation will not confer new rights, but is entirely procedural. (Bill 24)

### *Maintenance of Dependents of Testators*

The provisions of The Widows Relief Act are to be replaced and extended by a new law to be known as The Testators Family Maintenance Act. The right to apply to the court for relief will no longer be limited to widows but will also apply to children and a husband. "Dependent" is defined to mean the wife or husband of the testator, a child of the testator under nineteen years of age, and a child over that age who by reason of mental or physical disability is unable to earn a living. Application is made to a supreme court judge who has power to order that such provision as he deems adequate shall be made out of the estate of the testator for the proper maintenance and support of the dependents or any of them. (Bill 25)

### *Vehicles and Highway Traffic*

A change is to be made in several important phases of the law governing the conduct of vehicles on the public highways of Alberta. The changes affect chiefly the right of way at intersections and admission of statements made to police after an accident. The driver of a vehicle approaching but not having entered an intersection is to yield the right of way to a vehicle within the intersection making a left turn across the path of the driver, if the driver making the left turn gives a plainly visible signal. The statements required to be made to the police after an accident by the driver of a car, or by another occupant where the driver is incapacitated, are to be privileged and are not to be used as evidence in any trial, civil or criminal, arising out of the accident. (Bill 32)

### *Evidence*

The rule in *Russell v. Russell* lays down the principle that neither a husband nor wife can give evidence to show non-access of the other spouse for the purpose of bastardizing offspring born after the marriage. In the field of divorce it prevents a husband from testifying that he was out of the country during the time his wife had children. In 1945 the Commissioners on

Uniformity of Legislation recommended an amendment to the Uniform Evidence Act whereby a husband or wife may give evidence that he or she did not have sexual intercourse with the other party to the marriage. (See the informative discussion of the whole matter by Dr. C. A. Wright at pages 250 – 268 of the Report of the Conference for that year.) It is now proposed to enact this amendment in Alberta.

At the same time two other recommendations of the Commissioners are to be adopted. The one extends to witnesses in any action immunity from answering questions tending to show that he or she has been guilty of adultery (see Report of the 1945 Conference at pages 236 and 269). The province also proposes to adopt the recommendation of the 1944 Conference of Commissioners (page 390) which extends the provisions regarding admissibility of photostatic copies of records. (Bill 33)

#### BRITISH COLUMBIA

##### *Official Date of End of War*

Expressions such as “the continuance of the war” and “the conclusion of the war” have been used in a number of statutes passed during the war. It is now deemed advisable to fix a date on which for such purposes the war will be deemed to have ended. Legislation has been introduced to fix midnight on June 30th, 1947, as the date of the end of the war for the purposes of British Columbia statutes. (Bill 1)

#### QUEBEC

##### *Superior Court*

On February 13th Premier Duplessis introduced legislation to create the position of associate chief justice of the Superior Court and to permit the holding of sittings of the Superior Court at a place in the judicial district other than the chief place. (Bill 5)

##### *An Additional Mode of Registration of Rights*

A measure was also introduced by Premier Duplessis to provide an additional mode of registration of rights by adding to the Civil Code a new section entitled “Of Registration by Deposit”, to follow article 2147b. The new mode of registration consists in a mere deposit of the document in the archives of the registry office and its inscription in the entry book, in the index of names and, if required, in the index of immoveables.

A large number of consequent amendments will also be made to other articles of the Civil Code and to various statutes to which registration by deposit is to apply. (Bill 6)

### *New Code of Civil Procedure*

At the 1945 session of the Quebec Legislature an act was passed to provide for a revision of the Code of Civil Procedure of the Province of Quebec, in order to make the procedure "less costly, simpler and more expeditious and better adapted to present needs". Premier Duplessis has now introduced a measure to fix October 1st, 1947, as the date on which the Commissioner appointed under the Act to Improve the Code of Civil Procedure shall deliver to the Attorney-General a preliminary draft of the new Code of Civil Procedure. (Bill 7)

### *Holidays and Non-judicial Days*

Legislation was introduced on February 13th to revise the provisions of the Revised Statutes, the Civil Code and the Code of Civil Procedure which relate to holidays and non-judicial days. (Bill 20)

## SASKATCHEWAN

### *Conditional Sales of Aircraft*

On February 4th Hon. Mr. Corman introduced a bill to amend The Conditional Sales Act to make provision for the registration of conditional sales or bailments of machines designed for navigation of the air. Section 4 of the act will be changed to provide that such sales will be registered in the office of the registration clerk for chattel mortgages in the registration district of Regina and in the registration district where the buyer or bailee resides, if that is other than Regina. (Bill 7)

### *Official Date of End of War*

Saskatchewan, like British Columbia, proposes to fix the date of the end of the war for the purpose of interpreting such expressions as "the continuance of the war" and "the conclusion of the war" when found in legislation passed since 1939. The end of the war for purposes of Saskatchewan statutes is to be midnight, June 30th, 1946. (Bill 9)

*Liability of Overholding Tenants*

The Saskatchewan Landlord and Tenant Act contains provisions for a penalty consisting of double rent where a tenant wilfully overholds after his term of occupancy has expired. Hon. Mr. Corman has now introduced a bill to repeal these provisions, which are contained in sections 49 and 50 of the act. (Bill 10)

*Appropriation for Canadian Bar Association*

Authority is sought to permit the benchers of the Law Society of Saskatchewan to disburse and appropriate a sum not exceeding \$500 per annum for the general purposes of the Canadian Bar Association. (Bill 11)

*District Courts*

The District Courts of Saskatchewan have jurisdiction in many kinds of action where the amount claimed does not exceed \$1200. A measure was introduced on February 4th to include in the jurisdiction of these courts all actions for an accounting, provided that the amount recovered in any such action shall not exceed \$1,200. (Bill 12)

*Limitation of Actions*

An injustice may sometimes arise when a person who has a claim against him dies before the end of the limitation period for the action. It is proposed to add a provision to the Limitation of Actions Act so that where a claim against a person was not barred at his death an action may be brought within the ordinary limitation period or within two years from the date of death, whichever period is longer. (Bill 13)

*Notaries Public*

On February 19th Hon. Mr. Corman introduced an amendment to the Notaries Public Act to deal with the situation where a barrister or solicitor has been disbarred or suspended from practising. Hereafter the commission as a notary public of a barrister or solicitor will be automatically [revoked when he loses the right to practise for any reason other than the non-payment of fees to the law society. (Bill 28)

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