

Problems of Canadian Sovereignty

FROM

THE BRITISH NORTH AMERICA ACT, 1867

TO

THE STATUTE OF WESTMINSTER, 1931.

BY THE SAME AUTHOR

Le Statut de Westminster (1933)

Le Canada, Pays Souverain? (1935)

L'Avenir Constitutionnel du Canada (1935)

BY

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Certain sections of Act not to apply to Australia, New Zealand or Newfoundland unless adopted.

10. (1) None of the following sections of this Act that is to say, sections two, three, four, five and six shall extend to a Dominion to which this section applies as part of the law of that Dominion unless the section is adopted by the Parliament of the Dominion and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adoption Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in subsection (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

A.D. 1931.

Meaning of "Colony" in future Acts.
52 & 53 Vict. c. 63.

Short Title.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony" shall not, in relation to the Dominion of the United Kingdom, include any Dominion or any Province or State forming part of the Dominion.

12. This Act may be cited as the Statute of Westminster, 1931. (o)

(o) This is not the first and only "Statute of Westminster" Under Edward the First we find 3 Edward I. A.D. 1275 "Statutum in parliamento Westmynster" (this title from Lib. Westm. X fo. xxj [xxv], translated in English as "The Statute of Westmynster: The First". This code of 1275 dealt with Freedom of election, Reasonableness of Amercements, Disturbance of Champerty and Extortion by the King's officers, Deceits by plenary officers, Excessive tolls in market towns, etc.

The Statute of Westminster the Second is the name given to the Code of 1285 (13 Edward I. A.D. 1285) "Statutum Edwardi edita apud Westmon in Parlamento suo Pasche Regni sui Triciddecimo:—xliij".

The Statute of Westminster the Third (18 Edward I. A.D. 1283-90) is referred to as the Statute "Quia Emptores Terrarum" and has to do with the Selling and Buying of Land. There are printed copies and translations it is intitled "Statutum Westmynster etc.",

There is a fourth Statute of Westminster which goes under the name of the Statute of Westminster the Fourth, the legislative sentence against the Despensers passed at Westminster in the summer of 1321. See Stubbs "Constitutional History of England" Volume II, pages 368-378 (4th edition).

Enactments of the Parliament of Great Britain Which By Their Express Terms or By Necessary Implication Apply to the Dominion of Canada. (a)

Year	Title	Subject
1351-2-25	Edw. III. Stat. Treason.	
5. c. 2.		
1551-2-5-6	Edw. VI. c. 16	Buying and Selling Offices.
1554	1 Mary Sess. 3. c. 1.	Female Succession.
1688	1 Wm. and Mary c. 2.	"Bill of Rights"
1688	1 Wm. and Mary c. 6	Coronation Oath.
1698-9-11-12	Wm. III. c. 12.	Punishment of Officials in Colonies.
1700	12-13 Wm. III. c. 2.	"Act of Settlement"
1702	1 Anne Stat. 2. c. 21.	Treason.
1706	6 Anne c. 11	Union with Scotland.
1772	12 Geo. III. c. 11.	Royal Marriages.
1774	14 Geo. III. c. 83.	"Quebec Act"
1778	18 Geo. III. c. 12.	Taxation of Colonies.
1791	31 Geo. III. c. 31.	Constitutional Act.
1795	35 Geo. III. c. 125.	Heir Apparent Establishment.
1795	36 Geo. III. c. 7	Treason.
1809	49 Geo. III. c. 126.	Buying and Selling Offices.
1830	11 Geo. IV. c. 53.	Constitutional Act Amendment.
1830	1 Wm. IV. c. 4. s. 2.	Demise of Crown.
1833	3-4 Wm. IV. c. 41.	Privy Council.
1833	3-4 Wm. IV. c. 50.	Judicial Committee.
1836	6-7 Wm. IV. c. 85	Customs (Repeal) Marriages.

(a) This is a tentative list prepared in the Department of External Affairs and furnished to the author by Mr. J. E. Read, Legal Adviser of the Department.

<i>Year</i>	<i>Title</i>	<i>Subject</i>
1837	7 Wm. IV-1 Vic. c. 72.	Lord Justices.
1840	3-4 Vic. s. 28, 29, 60, c. 35.	Constitutional Canada
1842	5-6 Vic. c. 51.	Treason.
1843	6-7 Vic. c. 98.	Slave Trade.
1844	7-8 Vic. c. 69.	Judicial Committee 1844.
1847	10-11 Vic. c. 62.	Naval Deserters.
1848	11-12 Vic. c. 12.	Treason Felony.
1849	12-13 Vic. c. 96.	Admiralty Offences (Colonial)
1850	13-14 Vic. c. 26.	Piracy.
1851	14-15 Vic. c. 99, s. 11.	Evidence.
1851	14-15 Vic. c. 63.	Boundary, New Brunswick.
1853	16-17 Vic. c. 48.	Coinage (Colonial Offences).
1855	18-19 Vic. c. 104	Chinese Passengers.
1856	19-20 Vic. c. 113.	Foreign Tribunals Evidence
1857	20-21 Vic. c. 34.	New Brunswick Boundary
1858	21-22 Vic. c. 95.	Probates, Witnesses in Colonies
1859	22 Vic. c. 20.	Colonial Tribunals Evidence
1859	22-23 Vic. c. 12.	Colonial Affidavits
1859	22-23 Vic. c. 26.	North West Territories of America
1859	22-23 Vic. c. 40.	Royal Naval Reserve
1859	22-23 Vic. c. 63.	Colonial Law Ascertainment Evidence
1860	23-24 Vic. c. 122.	Admiralty Offences in Colonies
1861	24-25 Vic. c. 10.	Admiralty Court
1861	24-25 Vic. c. 11.	Foreign Law Ascertainment Evidence
1862	25-26 Vic. c. 20.	Writs of Habeas Corpus in Colonies
1862	25-26 Vic. c. 37.	Crown Private Estates

<i>Year</i>	<i>Title</i>	<i>Subject</i>
1863	26-27 Vic. c. 84.	Colonial Legislation
1864	27-28 Vic. c. 25.	Naval Prize
1865	28-29 Vic. c. 14.	Colonial Naval Defence
1865	28-29 Vic. c. 106.	Colonial Deck Law
1866	29-30 Vic. c. 67.	British Columbia
1866	29-30 Vic. c. 109.	Naval Discipline
1867	30-31 Vic. c. 3.	"B.N.A. Act" 1867
1868	31-32 Vic. c. 37.	Documentary Evidence
1868	31-32 Vic. c. 105.	Rupert's Land
1869	32-33 Vic. c. 10.	Colonial Prisoners Removal
1870	33-34 Vic. c. 52.	Extradition Procedure
1870	33-34 Vic. c. 90.	Foreign Enlistment
1871	34-35 Vic. c. 28.	"B.N.A. Act" 1871 (Manitoba)
1872	35-36 Vic. c. 19.	Pacific Islanders Protection
1873	36-37 Vic. c. 59	Slave Trade
1873	36-37 Vic. c. 88.	Slave Trade
1873	36-37 Vic. c. 61.	Crown Private Estates
1874	37-38 Vic. c. 27.	Courts (Colonial) Jurisdiction
1875	38-39 Vic. c. 38.	Parliament of Canada
1875	38-39 Vic. c. 53.	Canada Copyright
1875	38-39 Vic. c. 51.	Pacific Islanders Protection
1876	39-40 Vic. c. 10.	Royal Titles
1876	39-40 Vic. c. 46.	Slave Trade
1877	40-41 Vic. c. 59.	Colonial Stock
1878	41-42 Vic. c. 73.	Territorial Waters Jurisdiction
1879	42-43 Vic. c. 38.	Slave Trade
1881	44-45 Vic. c. 58.	Army
1881	44-45 Vic. c. 69.	Fugitive Offenders
1883	46 Vic. c. 3.	Explosive Substances
1884	47-48 Vic. c. 31.	Colonial Prisoners Removal
1885	48-49 Vic. c. 74.	Evidence by Commission
1886	49 Vic. c. 13.	Lighthouse, Cape Race

Year	Title	Subject
1886	49-50 Vic. c. 35.	B.N.A. Act 1886
1886	49-50 Vic. c. 48.	Medical Practitioners
1889	52-53 Vic. c. 10.	Commissioners of Oaths
1889	52-53 Vic. c. 28.	Boundaries of Ontario
1890	53-54 Vic. c. 27.	Colonial Courts of Admiralty
1890	53-54 Vic. c. 37.	Foreign Jurisdiction
1891	54-55 Vic. c. 50.	Commissioners for Oaths
1891	54-55 Vic. 72. (c)	Coinage
1892	55 Vic. c. 6.	Colonial Probates
1892	55-56 Vic. c. 23.	Foreign Marriages
1892	55-56 Vic. c. 35.	Colonial Stock
1892	55-56 Vic. c. 52.	Advance to British Columbia Act
1894	57 Vic. c. 2.	Behring Sea Award
1894	57-58 Vic. c. 39.	Prize Courts
1895	58-59 Vic. c. 21.	Seal Fisheries, North Pacific, Behring Sea.
1895	58-59 Vic. c. 34.	Colonial Boundaries
1896	59 Vic. (Sess. 2) c. 3.	Deputy Speaker, Senate
1896	59-60 Vic. c. 12.	Floating Derelicts
1900	63-64 Vic. c. 62.	Colonial Stock
1901	1 Edw. VII. c. 5.	Demise of the Crown
1901	1 Edw. VII. c. 31.	Pacific Cable
1901	1 Edw. VII. c. 15.	Royal Titles
1903	3 Edw. VII. c. 6.	Naval Force
1907	7 Edw. VII. c. 47.	Marriages, Deceased Wife's sister
1907	8 Edw. VII. c. 69. s. 35.	Companies (Consolidation)
1908	8 Edw. VII. c. 19.	Colonial Defence
1910	(10 Edw. VII. c. 2. (1) Geo. V.	Accession Declaration Perjury
1911	1-2 Geo. V. c. 6.	Geneva Convention

Year	Title	Subject
1911	1-2 Geo. V. c. 36.	Pacific Cable
1911	1-2 Geo. V. c. 46.	Copyright
1911	1-2 Geo. V. c. 47.	Naval Discipline
1913	3-4 Geo. V. c. 16.	Dominion Forces
1914	4-5 Geo. V. c. 17.	Foreign Jurisdiction
1914	4-5 Geo. V. c. 17.	British Nationality
1914	4-5 Geo. V. c. 59.	Status of Aliens
1915	5-6 Geo. V. c. 45.	Bankruptcy
1915	5-6 Geo. V. c. 45.	B.N.A. Act, 1915. Senate, etc.
1915	5-6 Geo. V. c. 57.	Naval Prize Court
1916	6-7 Geo. V. c. 2.	Naval Prize Court
1917	7-8 Geo. V. c. 51.	Air Force Constitution
1918	8-9 Geo. V. c. 30.	Naval Prize
1920	10 Geo. V. c. 3.	Coinage
1920	10-11 Geo. V. c. 75.	Official Secrets
1925	15-16 Geo. V. c. 49.	Supreme Court of Judicature (Consolidation)
1926	16-17 Geo. V. c. 7.	Bankruptcy
1927	17-18 Geo. V. c. 4.	Royal and Parliamentary Titles
1927	17-18 Geo. V. c. 19.	Pacific Cable
1930	20-21 Geo. V. c. 26.	Natural Resources
1931	22-23 Geo. V. c. 4.	Statute of Westminster
1936	1 Edw. VIII.	His Majesty's Declaration of Abdication Act 1936.
1940	3-4 Geo. VI. c. 36.	B.N.A. Act, 1940 (Unemployment Insurance)
1943	7 Geo. VI. c. 30.	B.N.A. Act, 1943 (Postponement of Redistribution)