Order in Council regarding Canadian Request and Consent for Enactment of United Kingdom Legislation altering Succession (1936)

CANADA
PRIVY COUNCIL

P.C. 3144

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 10th December, 1936.

The Committee of the Privy Council have had before them a report, dated 10th December, 1936, from the Right Honourable the Prime Minister and Secretary of State for External Affairs, submitting, with the concurrence of the Minister of Justice, as follows:

1. That His Majesty the King, through His Majesty’s Representative in Canada, has this 10th day of December, 1936, informed His Majesty’s Government in Canada that he has this day duly executed an instrument of abdication, a copy of which is hereunto annexed;

2. That His Majesty’s Government in the United Kingdom have communicated their intention to introduce immediately legislation in the Parliament at Westminster in order to give effect to His Majesty’s instrument of abdication and to provide for the succession to the throne, the said legislation to be based upon a draft bill, a copy of which is hereunto annexed;

3. That the Statute of Westminster, 1931, provides in the second recital of the preamble as follows:

   And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom,

   and in the fourth section, as follows:

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

4. That, in order to insure that the requirements of the fourth section of the Statute are satisfied, it is necessary to provide for the request and consent of Canada to the
enactment of the proposed legislation; and, in order to insure compliance with the constitutional convention expressed in the second recital of the preamble, hereinbefore set forth, it is necessary to make provision for securing the assent of the Parliament of Canada thereto;

5. That, by proclamation dated the thirtieth day of November, 1936, the Parliament of Canada has been summoned to meet on the 14th day of January, 1937;

6. That it is impossible so to expedite the assembling of the Parliament of Canada as to enable appropriate parliamentary action to be taken prior to or contemporaneously with the enactment of the proposed legislation by the Parliament at Westminster.

The Committee, therefore, on the recommendation of the Right Honourable the Prime Minister and Secretary of State for External Affairs, with the concurrence of the Minister of Justice, advise —

(a) That the enactment of legislation by the Parliament at Westminster, following upon the voluntary abdication of His Majesty the King, providing for the validation thereof, the consequential demise of the Crown, succession of the heir presumptive and revision of the laws relating to the succession to the throne, and declaring that Canada has requested and consented to such enactment, be hereby approved;

(b) That the proposed legislation, in so far as it extends to Canada, shall conform\(^1\) as nearly as may be to the annexed draft bill;

(c) That the legislation, enacted as aforesaid, shall be submitted to the Parliament of Canada, immediately after the opening of the next session, so as to enable the Parliament of Canada to take appropriate action pursuant to the provisions of the Statute of Westminster;

(d) That His Majesty’s Government in the United Kingdom shall be informed accordingly.

All of which is respectfully submitted for Your Excellency’s approval.

(Sgd.) R.G. ROBERTSON  
Clerk of the Privy Council

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\(^1\) Not included.