

Dominions is governed by constitutional conventions which have been in existence for many years and are recognized in the Preamble to the Statute itself, which merely declares the existing position. Nor will it weaken the tie between New Zealand and the United Kingdom and the other members of the Commonwealth. The Statute is merely a lawyers' document for bringing legal form into line with political fact. The real, as distinct from the formal or legal, relationship of Canada, Australia, South Africa, and Eire with the other members of the British Commonwealth was precisely the same in each case after it had adopted the Statute as it had been before. The association between Britain and New Zealand rests on a more substantial basis than the legal subordination of the Parliament of the people of New Zealand to the Parliament of the people of the United Kingdom. All that the adoption of sections 2 to 6 will do is to move to the position where the New Zealand Parliament, like the Parliaments of all the other self-governing members of the British Commonwealth, will have full legislative capacity. For example, legislation on New Zealand affairs passed by duly elected New Zealanders in their own Parliament will no longer run the risk of invalidation through the operation of a British Act of Parliament passed over eighty years ago when New Zealand was still a colony—an Act passed before the British Commonwealth had grown into a free association of independent countries—equal partners in a great enterprise.

9. It is necessary to use the words "move to the position where the New Zealand Parliament will have full legislative capacity" because the Statute of Westminster contains a clause which was also made to include New Zealand when the Statute was drafted in 1931 and which has the effect of taking away with one hand what it gives with the other. The purpose of the Statute is to ensure that the legal forms correspond with the real status of the self-governing members of the Commonwealth. Accordingly, section 2 terminates the application, in so far as New Zealand legislation is concerned, of the Colonial Laws Validity Act of 1865, an Act which, though having mainly a liberating effect, had come in time to be important chiefly for the restrictions on colonial legislatures, which it still retained; and, similarly, other sections remove obsolete formal shackles from the various Parliaments. But sections 7 and 8 say that the Statute shall not give to Canada, Australia, and New Zealand any more power legally to alter their Constitutions than they had before the Statute was adopted. As far as New Zealand is concerned that means that, even if we pass the Statute of Westminster, we shall still be limited by those provisions of the 1857 New Zealand Constitution Amendment Act, which prevent us from altering certain sections of our Constitution (including that which establishes the Legislative Council). Thus a Statute intended to give us legislative autonomy will clear away most legal restrictions, but will leave our Parliament still powerless to alter its Constitution. This curious position arose in this way: Canada and Australia have federal constitutions,