

## REPORT OF PROCEEDINGS OF THE CONFERENCE.

we have the same power to deal with her as we have to deal with a ship that might break her seals under the other conditions?

MR. COX: If you ask me as a lawyer, having regard to the decisions of the Courts, I should say you could make it an offence for her to come to Australian waters, having done certain things. But whether you ought to do so is another thing.

SIR WILLIAM LYNE: I wanted to see my way to get over this difficulty by going back to Australia on this particular point, by placing the position of these vessels, or the position they will be in if they commit anything that we make it an offence to commit (like we do in regard to the Customs) under the same conditions, so that in that way, though not directly, we can control that trade.

MR. COX: Sir William Lyne has put to me a very plain question, and I will give him an equally plain answer. Australia has the power to do that, but whether it is desirable for her to do it or not I do not know. She certainly has the power. That has been decided by the Privy Council itself.

SIR WILLIAM LYNE: I believe it has.

HON. W. M. HUGHES: Now, Mr. President, do you see what follows from that? It follows from that that this resolution can only affect these vessels that, having made a contract, or having sought to enforce a contract, in this country, and our law being that such contracts have to be carried out in a certain way, have gone outside our jurisdiction and have come back again, having broken the law. To them only would the law apply, and much of your objection falls to the ground.

SIR WILLIAM LYNE: Yes, but Mr. Hughes, your resolution proposes the words "trading between," or "to and from."

THE CHAIRMAN: "Engaged in trading to and from."

SIR WILLIAM LYNE: I say we have the power to deal with such a case without a resolution of any kind.

MR. COX: I want to carefully guard myself against one thing. Take the case of a ship (and that is what I have been trying to confine myself to, all through) starting from Great Britain, registered in Great Britain; she goes to Australia, engages in the coasting trade, conforms to the conditions, as she is bound to do; then she goes back to Fiji, and while she is in Fiji she does not conform to Australian conditions. I think one would have to consider very carefully whether, in the interests of everybody, having regard to the international questions which would have to be raised, and having regard to the interests of our own shipping, one could advise His Majesty to assent to such a proposal. I wish to guard myself very carefully as to this, because all sorts of very important questions might arise.

HON. W. M. HUGHES: Cannot you see that it is a very desirable thing for us that we should know exactly the attitude Great Britain thinks we should take up in this matter, because in a very little while we propose to introduce these proposals of ours. I know the temper of the Parliament as well as most men, and I know they will ask that what I have suggested shall be made law, and if we are going to impose these conditions I think it is very desirable that at this Conference we should have an expression of opinion by the delegates of Great Britain as to what she considers our attitude ought to be.

SIR WILLIAM LYNE: I do not agree. This Conference ought not to express any opinion as to what we ought to do, but as to what we can do.

HON. W. M. HUGHES: This Conference cannot do that; this Conference is not representative of the British Crown.

MR. COX: I have given Sir William Lyne a very straightforward answer to his question, but I do not profess to say what the Courts of Justice would decide.

THE CHAIRMAN: I should like Mr. Cunliffe, the legal adviser to the Board of Trade, to express his view about Mr. Hughes's motion.

MR. CUNLIFFE: I should like to put this reservation on record upon this. Assuming that you have a right to impose upon a seaman engaged in your business that he shall not engage except at a certain rate of wages upon a ship going to Fiji, and that ship goes to Fiji and pays the seaman his rate of wages according to the terms of the contract whilst in your waters, and refuses to pay them during the time the ship is out of your waters—that is to say, while she is in Fiji and until she comes back to your waters—and that during the time she is occupied in going through your waters to get to your port she pays your rate of wages again, I think you must take it that it is open to the shipowner to say that the contract is only binding upon the ship while she is in territorial waters. You must leave it to him to raise that question, because it is a question for the Court's interpretation. The other matter is a matter upon which you have said, "If you do something when you come into our waters, we will penalise you"; the other is a matter of pure contract, and though it is quite possible that in your own Courts you will get an interpretation in your favour, it is still open to the shipowner to take that point. I want to put that reservation. They are not quite *ejusdem generis*, these things, and your contracts will not be enforced against a German ship when she gets to her own country, even if you impose those conditions on her.

MR. HAVELOCK WILSON: Nor on an English ship. I had a case where a crew, whilst on the Australian coast, demanded the Australian rate of wages, and the captain consented to it. When he arrived in London he refused to pay, and we took the case into Court, and the Court decided against us, because they said the master had no right to enter into this contract without the owners' consent.

HON. W. M. HUGHES: There was no consideration? That is an ordinary thing.

THE CHAIRMAN: I understand Sir William Lyne intends himself to raise this question of Australian suzerainty at the Imperial Conference.

SIR WILLIAM LYNE: I did not say anything definitely. I think it is very likely it will be raised.

THE CHAIRMAN: It is hardly a question we can discuss here.

SIR WILLIAM LYNE: That was only an incidental remark I made.

THE CHAIRMAN: I see. The real meaning of your resolution is that it is an attempt to impose Australian suzerainty over the Islands of the Pacific.

HON. W. M. HUGHES: No, it is not the real meaning at all, with all deference to you. What we say is that in such competition for trade every person ought to be on the same footing and because practically it is a coastal trade Australian conditions should apply. Other countries have extended their coastal trade beyond their mainland boundaries. It is very easy to show that.

SIR JOSEPH WARD: I assume that the purposes of this Conference are primarily to endeavour to bring about some line of action between the British shipping world and the Australian and New Zealand shipping world, to see if we can get any common ground of dealing with these subjects so as to arrive at something like a solution of these difficult subjects. But I do hope we shall avoid any attempt to settle what are legal points here. I have given a notice of motion now which will appear presently.

THE CHAIRMAN: Do you give this notice of motion?

SIR JOSEPH WARD: I do.

THE CHAIRMAN: Do you move this, Mr. Hughes?

HON. W. M. HUGHES: Yes.

THE CHAIRMAN: Then we had better put them on the agenda for to-morrow.

HON. W. M. HUGHES: I will try between now and to-morrow morning to draft something that more clearly and precisely expresses what we want, without doing, perhaps, so much incidental damage.

THE CHAIRMAN: This is very, very wide.