(October 1933 - July 1934)
Vol. 11 Canadian Defence Quarterly

The Statute of Westminister

Notes on the Application of the Statute and Complementary Legislation to the Armed Forces of Canada

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THE following is a summary of notes prepared for two lectures to the Staff College Preparatory Course at the Royal Military College of Canada. The first lecture dealt with the Statute of Westminster itself, and the second with the legal situation which resulted from this enactment and the measures taken by Canada to meet the same. These notes will deal with the subject in the order indicated.

1. The Statute of Westminster and Its Effect

The Statute of Westminster is an Act of the Parliament of the United Kingdom and came into force on the 11th of December, 1931. While this Statute as a matter of law made a sudden change in the legal constitutional structure of the British Commonwealth, recognition of the principles necessitating such a change only came about gradually, the same keeping pace with the adolescent development of the self-governing Dominions. Once these principles were recognized it became clear that certain of the legislative and administrative machinery suitable when self-government was first conferred on the Dominions was now unsuitable and was only observed as a matter of form.

It is, therefore, desirable in the first instance to examine the Statute of Westminster as a whole, and to have a general idea of what occurred prior to its enactment.

In 1926 an Imperial Conference was held in London, and its report, in addition to setting forth the problems which required further examination, contained, first and foremost, a statement of the principles regulating the relations of the British Commonwealth of Nations. The principles involved therein established the basis and starting point of the work of a succeeding Conference from which, among other things, there resulted the Statute of Westminster. The Report of the 1926 Imperial Conference declared in relation to the United Kingdom and the Dominions that:

> "They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations."

The report of the Conference recognized, however, that existing administrative, legislative and judicial forms were admittedly not wholly in accord with the position as described, a condition of things following inevitably from the fact that most of these forms dated back to a time well antecedent to the present stage of constitutional development.

In practice, these principles mean exactly what they imply, namely, that while each member of the Commonwealth enjoys complete autonomy, it bears exactly the same allegiance to the British Crown as each other member does and, so long as it bears such allegiance, it obviously, whether with respect to its domestic, external or inter-Imperial affairs, ought not to do anything which is repugnant to such common allegiance to the Crown or to its free association with the other members of the Commonwealth.

Following the Imperial Conference of 1926, there was set up in London in October, 1929, a Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation for the purpose of examining and reporting upon certain legislative questions resulting from the 1926 Declaration which I have mentioned. This Conference reported on the legislative and constitutional situation and there followed the Act of Parliament known as "The Statute of Westminster". This Act, which, as stated, came into force on the 11th of December, 1931, recites in its preamble the fact that certain Declarations and Resolutions are set out in reports of the Imperial Conferences of 1926 and 1930, and 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". It also recited that in accord with the established constitutional position, no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.

The expression "Dominion" as used in the Statute of Westminster means Canada, Australia, New Zealand, South Africa, the Irish Free State, and Newfoundland.

I do not intend to mention all the provisions of the Act, but only those which have a bearing on the position of the Armed Forces of the Crown. Clause 2 of Section 2 of the Act provides that:

> "No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any Order, Rule or Regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Order, Rule or Regulation insofar as the same is part of the law of the Dominion."

This Section relates to the operation of the Colonial Laws Validity Act of 1865, which provides, in effect, that any colonial laws—which would include those passed by the Parliaments of any of the Dominions—are to be read subject to the provisions of any Act of the Parliament of the United Kingdom extending to the Colony, and to the extent that the

same are repugnant to such Act of the British Parliament would be void and inoperative. The most important sections, however, so far as concerns the Armed Forces of the Crown, are Sections 3 and 4, which read as follows:—

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.
4. No Act of Parliament of the United Kingdom passed after the commencement of this Act (i.e. the Statute of Westminster) 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.

This brings us to the point where we can examine in some detail the situation with regard to the Armed Forces of the Crown, raised and maintained by His Majesty in the Right of Canada. As you are aware, each of the Armed Forces of the Crown has its own code of law, the Navy being governed by the Naval Discipline Act of 1866, the Army by The Army Act, and the Air Force by the Air Force Act, but the legislative position with regard to these Service Codes differs. In the case of the Navy the Naval Discipline Act always remains in force, but in the case of the Army and Air Force The Army Act and the Air Force Act have each of themselves no force, but require to be brought into operation annually by another Act of Parliament now called "The Army and Air Force (Annual) Act", thus securing the constitutional principle of the control of Parliament over the discipline, without which a standing Army and Air Force could not be maintained.

It is not proposed in any way to consider certain constitutional factors whereby, through any species of superior legislative authority on the part of the Parliament of the United Kingdom, the Naval Discipline Act and The Army and Air Force Acts could or might have been made applicable to the corresponding Forces raised and maintained by Canada. This phase of the matter is interesting merely on academic grounds. So far as as we are concerned we will take as our starting point the fact that legislation of the Parliament of Canada, namely, the Naval Service Act, the Militia Act, and the Regulations made under the Aeronautics Act, which regulations have the force of law, has applied to the respective Forces the laws passed by the Parliament of the United Kingdom for the government of the corresponding Forces to the extent that the same are not inconsistent with any laws passed by the Parliament of Canada for the government of the Canadian Forces, or the Regulations made thereunder.

At this point I would emphasize the fact that these Acts of the British Parliament are not made applicable to the Canadian Forces by any legislative authority over such Forces on the part of the United Kingdom Parliament, but because the Parliament of Canada has, by its own legislation, made them so applicable. It is a perfect example of what is termed "legislation by reference". This principle should always be kept in mind, and it is so important that, in the course of these remarks, there will be further allusions to it. As already mentioned, the Naval Discipline Act

has, of itself, full force and effect, and does not, as is the case with respect to The Army Act and the Air Force Act, require to be brought into force annually, but we are only concerned at the moment with the Militia and the Air Force.

As provided in Section 4 of the Statute of Westminster, no Act of the Parliament of the United Kingdom passed after the coming into force of the Statute shall extend to a Dominion. Consequently, no Army and Air Force Annual Act passed subsequent to the 11th of December, 1931, can, insofar as the United Kingdom Parliament might have any legislative control over the Land and Air Forces maintained by a Dominion, have any effect. On the other hand, however, the provisions of Section 69 of The Militia Act, and of the corresponding provision in the K.R. for the Royal Canadian Air Force, state that The Army Act or the Air Force Act, as the case may be, in force in the United Kingdom, shall have force and effect in Canada for the government of the Militia or the Air Force, except insofar as the same is inconsistent with the legislation relating to the government of the Militia or the Air Force, but the Army and Air Force (Annual) Act as passed in 1932 (and this may doubtless be the case with respect to future similar Acts) made numerous amendments to the basic Army and Air Force Acts intended to cover the situation as it exists in England in relation to the Army and Air Forces coming within the legislative authority of the Parliament of the United Kingdom.

It is clear, therefore, that so long as The Militia Act and the Regulations for the Royal Canadian Air Force apply to the Militia and the Air Force The Army Act and the Air Force Act for the time being in force in the United Kingdom, any amendments to The Army Act and the Air Force Act made by the Parliament of the United Kingdom would, unless inconsistent with Canadian law, apply with respect to the corresponding Canadian Forces, notwithstanding that such amendments were intended only to meet conditions in the Forces raised and maintained by Great Britain. It must be clearly understood, however, that these amendments would not apply by virtue of any legislative authority over Canada on the part of the United Kingdom Parliament, but because Canadian legislation makes these respective Acts as from time to time in force apply in Canada.

By virtue of certain amendments made to the Army Act and the Air Force Act by the Army and Air Force (Annual) Act, 1933, the two Acts in question continue to apply to Australia, New Zealand and Newfoundland until such time as those Dominions adopt Section 4 of the Statute of Westminster quoted above, but the Army Act and the Air Force Act do not, by reason of anything which they contain, apply to the other Dominions unless those Dominions have requested and consented to legislation of the Parliament of the United Kingdom making them so applicable, or have, by their own legislation, made provision for such application.

In Canada, as you are aware, this latter procedure is followed as Section 69 of The Militia Act applies The Army Act for the government of the Militia to the extent that the same is not inconsistent with any provisions of The Militia Act or of the Regulations made thereunder. The situation is, therefore, that with respect to the three Dominions,

namely, Australia, New Zealand and Newfoundland, which have not yet chosen to exercise their constitutional right to be independent of the Parliament of the United Kingdom, the provisions of The Army Act and obviously also those of The Air Force Act continue to apply to such Dominions and to their Forces as they did prior to the passing of the Statute of Westminster.

On the other hand, with regard to the remaining Dominions, namely, those which have chosen to exercise their constitutional right to be independent of the legislative authority of the United Kingdom Parliament, the situation is different. Hence, in the first mentioned group of Dominions a body of the Regular Army present in one of such Dominions would carry with it its own code of Service laws as comprised in The Army Act, and not only while in the Dominion would it be governed by that code in regard to its own internal discipline and penal procedure, but the authorities of the Dominion concerned would also have to comply with the provisions of such code, for, as stated, until that Dominion exercised its right to be independent of the United Kingdom legislative authority, The Army Act would be deemed to be part of the Law of such Dominion. This is in direct contrast to the situation prevailing in the second group of Dominions in any one of which a body of the Regular Army might be present. While that body would carry with it its own code of law for its discipline and penal procedure, that code would not, by virtue of anything which it itself contains, be part of the law of that Dominion except to the extent that it was so made either by request and consent of the Dominion, or by that Dominion's own legislation. Hence, as in Canada The Army Act is only made applicable for the government of the Militia, it would not, insofar as it purports to impose any duties on officials or civilians, extend to the imposition of such duties in relation to a body of the Regular Army present in Canada. For example, if a soldier belonging to a body of the Regular Army present in Canada struck his Superior Officer, he commits the same offence and might be tried and punished in the same manner as if he struck that Superior while serving in the United Kingdom, but the Canadian Military Forces or the Civil Authorities are not under any obligation, by virtue of any provision in The Army Act of itself, to arrest and hand over such a soldier to his unit, or to receive him in any prison or detention barrack controlled by the Canadian Militia or the Civil Authorities, assuming that such soldier had been sentenced to imprisonment or detention by a Court Martial under The Army Act. Bodies of His Majesty's Navy, Army or Air Force present in any of those Dominions which have adopted Section 4 of the Statute of Westminster must, therefore, look to the law of the Dominion in which they are present for the protection and assistance which in other portions of the British Commonwealth is provided for by The Army Act and other legislation of the Parliament of the United Kingdom for such purposes as, for example, exemption from the interference of the Civil Courts in matters of Service discipline, recovery of deserters, attendance of civilian witnesses, etc.

Again, for example, it is interesting to examine the situation which the Statute of Westminster in itself creates if Forces from two or more of the

Dominions or of a Dominion and Great Britain were serving together, particularly in the case of those Dominions which had adopted Section 4 of the Statute. Nothing contained in the Army Act or the laws of one Dominion would give power of command to the officers and superiors of such British or Dominion Force over the officers and men of a Force belonging to another Dominion serving with it.

There also arose certain questions pertaining to the liberty of the subject affecting particularly members of a Canadian Naval, Military or Air Force serving beyond the limits of Canada. As you are aware, a member of the Navy, Army or Air Force may invoke certain remedies for the purpose of rectifying or removing what he may consider to be an injustice or a wrongful deprivation or restriction of his rights as a Subject. Those remedies are proceedings by way of habeas corpus, mandamus or certiorari. It is true that the occasions on which any of these may be successfully invoked are limited. Nevertheless, the right of the subject to attempt to invoke them must be preserved and adequate means for this purpose must be created if it does not already exist.

Here again the legislative autonomy of a Dominion came into the picture, and it became necessary to pass in Canada certain legislation to which reference will be made. Otherwise the situation might be that, for example, if a member of a Canadian Force serving in Australia was placed in arrest under circumstances where in his opinion such arrest was made without authority, he would, other than through the procedure set out in his service code of law, by way of making a complaint, be unable to obtain redress in the manner to which as a Subject he ought to be entitled. The normal procedure would be to apply for a writ of habeas corpus. If such a procedure was followed the matter, if it was possible for adjudication at all, would have to be dealt with by the Australian Courts, but, as already pointed out, if a Canadian soldier took with him to Australia the law of his own Dominion, which might be entirely different from that prevailing in Australia, and if the Australian Courts had any jurisdiction (a matter of some doubt), they would be passing judgment upon a member of another Dominion in accordance with the laws of that Dominion and not those of Australia. It will thus be realized that unless some complementary legislation was passed as mentioned there would doubtless arise in such a case a situation which would amount to some loss of Canadian jurisdiction over the members of that Dominion's Forces serving outside its territorial limits.

I have attempted to point out by example some of the situations which, by virtue of the Statute of Westminster itself, have arisen and which, particularly when questions of Imperial Defence involving co-operation between the Forces of various self-governing Dominions are studied, may either arise or in any event be involved to some extent. These arise, generally speaking, on account of the complete legislative autonomy resulting from the Statute of Westminster. Let us now take up briefly the means Canada has adopted to meet the situation as outlined, observing, in this connection, that eventually legislation corresponding in principle will doubtless have to be enacted by the other Dominions if they

have not already done so. In any event the action taken by the Parliament of Canada will serve as an illustration of what is required.

2. Complementary Legislation

In the earlier part of these notes I mentioned the fact that the Statute of Westminster gave to a Dominion power to make laws having extra-territorial operation. At the last Session the Canadian Parliament passed the "Extra-Territorial Act, 1933", which provides that every Act of the Parliament of Canada now in force, enacted prior to the 11th of December, 1931, that is the date when the Statute of Westminster came into force, which, in terms or by necessary or reasonable implication, was intended, as to the whole or any part thereof, to have extra-territorial operation, shall be construed as if at the date of its enactment the Parliament of Canada then had full power to make laws having extra-territorial operation as provided by the Statute of Westminster, 1931.

This Statute is very general in its terms and it gives extra-territorial application to all Canadian legislation which was intended, or which by its nature ought, to have such effect. This extra-territorial effect of Canadian legislation is of particular importance as you will readily see when a Canadian Force or Aircraft and Ships of Canadian Register are operating beyond the territorial limits of Canada. As a result of this enactment if a member of a Canadian Force commits an offence against Canadian Service law it is possible for him to be dealt with by his own Service Tribunals, in accordance with the laws of the Dominion to which he belongs. In the case of civilian Aircraft and Ships, any infraction of the laws relating to such matters occurring outside of Canada could, on the return of the person concerned to Canada, be adequately dealt with.

I shall now take up the legislative machinery enacted by the Parliament of Canada comprised in The Visiting Forces (British Commonwealth) Act, 1933, Chapter 21 of the Statutes of that year, intended to meet the situation as illustrated in the first group of examples which I have already given. This Statute is designed to make provision with respect to the Forces of His Majesty from other parts of the British Commonwealth or from a Colony when visiting Canada, with respect to the exercise of command and discipline when Forces of His Majesty from different parts of the Commonwealth are serving together, and with respect to the attachment of members of one such Force to another such Force and with respect to deserters from such Forces. Dealing with this phase of the matter, I shall make use of the expressions "Home Force" and "Visiting Force", a Home Force meaning a Canadian Force and a Visiting Force meaning one belonging to some other part of the British Commonwealth present, for the time being, in Canada.

The Act is a very comprehensive and detailed species of legislation, but time does not permit any meticulous examination. Its general features may be briefly stated as being—

(i) It provides that when a Visiting Force is present in Canada the Naval, Military and Air Force Courts and Authorities, described generally

as Service Courts and Service Authorities of that part of the Commonwealth to which the Force belongs, may with lawful authority exercise within Canada, in relation to members of that Force in matters concerning discipline and its internal administration, all the powers which are conferred on such Service Courts and Service Authorities by the law of that part of the Commonwealth to which the Force in question belongs.

(ii) Provision is made whereby the members of any such Service Court exercising jurisdiction in accordance with the Statute and the witnesses appearing before such Court, shall enjoy like immunities and privileges as would be enjoyed by a Service Court exercising jurisdiction under Canadian law and by witnesses appearing before such Court.

(iii) Provision is made for the temporary detention in prisons or detention barracks of members of a Visiting Force placed in arrest, and for the carrying out in Canadian institutions of sentences of imprisonment or detention which such Courts award.

(iv) The Governor in Council is given power to authorize any Government Department Minister or other person in Canada to perform, at the request of the Authorities of a Visiting Force, such functions in relation to members of that Force as they could perform in relation to a Home Force of a like nature to that of a Visiting Force other than any function which would involve interference in matters relating to discipline or internal administration of a Visiting Force. It will thus be noted that when a Force is visiting Canada it is competent for there to be constituted, in relation to such Force, such Courts Martial and other Tribunals as may be constituted under the laws of that part of the Commonwealth to which that Force belongs, and that Canadian institutions, such as prisons and detention barracks, may be utilized for the custody of persons belonging to such Force placed in arrest or sentenced to imprisonment or detention. If it were not for this legislation persons belonging to that Force either could not be dealt with at all according to their own laws, or, if they were dealt with, their cases would have to be disposed of in accordance with Canadian law.

(v) The next portion of the Statute deals with the matter of deserters, and, generally speaking, provides that a deserter from a Force belonging to any part of the British Commonwealth may, if in Canada, be apprehended by the Canadian Authorities upon the request of the Government of that part of the Commonwealth to which the Force of which he is a member belongs, and handed over to the Authorities of that part of the Commonwealth at that part of the coast or frontier of Canada as may be agreed. Prior to this legislation it was always a question of doubt as to whether, for example, a deserter from the Regular Army could be apprehended in Canada and returned to England, for, as you are aware, desertion is not in itself an extraditable offence. Possibly on account of the original implied paramount authority of the British Parliament the arrest in Canada of a deserter who had skipped from England to Canada could have been effected, but I am not aware that this question was ever put to the test in any event in peace time.

(vi) The next important part is that dealing with the relations—

(a) between individuals belonging to the Forces of one part of the Commonwealth attached to or temporarily serving with a Canadian Force in Canada, and

(b) the relationship between a Canadian Force when serving in company with a Force belonging to another part of the Commonwealth either in Canada or beyond.

(a) There is a considerable distinction between these two situations, and I shall deal first with that of the individual officer or man attached temporarily to a Canadian Force. The Act provides that the Governor in Council may attach temporarily to a Home Force any member of a Force from another part of the British Commonwealth who is placed at his disposal for that purpose by the Service Authorities of that part of the Commonwealth. On the other hand, the Governor in Council has power to place any member of a Canadian Force at the disposal of the Service Authorities of another part of the Commonwealth for the purpose of being attached temporarily by those Authorities to a Force belonging to that part. So far as an attachment to a Canadian Force is concerned, the member of a Force belonging to another part of the Commonwealth is, whilst so attached, subject to the law relating to the Naval Service, Militia or Air Force, as the case may be, to the same extent as if he were a member of such Canadian Force, and he is required to be treated and have like powers of command and punishment over members of the Canadian Force to which he is attached as if he were a member of that Force of relative rank. The converse also applies, of course, when a Canadian officer or soldier is, for example, attached temporarily to a Force in England. Under corresponding British legislation that Canadian officer or man, whilst serving with the British Force, is treated as if he was in all respects a member of that Force.

Prior to this enactment it was, with the exception of Naval Officers attached for duty to the Royal Canadian Navy, necessary for officers to be granted temporary commissions in the Canadian Militia or the Royal Canadian Air Force, as the case might be, and for Other Ranks to be attested and, if Warrant Officers, to be given a temporary Warrant so as to clothe them with the requisite status, not only in connection with their own treatment but also to enable them to exercise properly the necessary powers of command and discipline. This procedure is obviously no longer necessary.

(b) When a Canadian Force and a Force from another part of the Commonwealth are serving together or acting in combination, the situation is different from that of the individual attachment already mentioned. Under the Act Forces are deemed to be serving together or acting in combination if, and only if, they are declared to be so serving or so acting by Order of the Governor in Council. The Act provides that when a Canadian Force from Great Britain or another Dominion are serving together, any member of the other Force shall be treated and have over members of the Home Force the like powers of command as if he were a member of the Home Force of relative rank, and if the Forces are acting in combination

any Officer of the other Force appointed by His Majesty, or in accordance with Regulations made by or under the Authority of His Majesty, to command the combined Force or any part thereof, shall be treated and shall have over members of the Canadian Force the like powers of command and punishment and for convening and confirming the findings and sentences of Courts Martial as if he were a member of the Canadian Force of relative rank and holding the same command. Hence, for example, if a Canadian Force and a Force from Great Britain were serving together in Canada or elsewhere an Officer of the British Force would, in relation to the Canadian Force, be treated and have exactly the same powers of command over the members of that Force as if he were an Officer of the Canadian Force of corresponding rank. So also if two such Forces were acting in combination and the Officer appointed to command the combined Force was an Officer of the British Regular Army, that Officer would, in relation to personnel of the Canadian Force, have exactly the same powers as would be possessed by an Officer of the Canadian Force of like rank and holding the same command.

The necessity for these provisions is, of course, obvious. Otherwise it would be impossible, when a Canadian Force and that from another part of the Commonwealth were serving together, for there to be exercised the proper command and discipline and for there to be enjoyed the relationships which a proper co-ordination of effort demands. This covers generally the situation resulting from the enactment by the Parliament of Canada of The Visiting Forces (British Commonwealth) Act, 1933. Similar legislation has been enacted by the Parliament of the United Kingdom, and, in due course, legislation involving the same principles will be enacted by the Parliaments of the other Dominions if they have not already done so.

With particular reference to the Naval Forces, it should be pointed out that the Visiting Forces, British Commonwealth Act, 1933, makes provision that, so far as regards any Naval Force and the members of any such Force, the provisions of that Statute shall be deemed to be in addition to and not in derogation of such of the provisions of any Act of the Parliament of the United Kingdom or of the Parliament of any other part of the Commonwealth as are for the time being applicable to that Force and the members thereof.

The last phase of the matter is that relating to the preservation of the liberty of the Subject and the creation of the requisite machinery to enable him to exercise this right. This is comprised in an amendment to The Exchequer Court Act contained in Chapter 13 of the Statutes of 1933.

Under The Exchequer Court Act that Tribunal is given original exclusive jurisdiction to hear and determine certain matters. The amendment enlarges the jurisdiction of The Exchequer Court so as to enable it to hear and determine every application for a writ of habeas corpus, certiorari, prohibition or mandamus in relation to any officer or man of any Canadian Naval, Military or Air Forces serving outside of Canada or in relation to any proceedings or to any act or omission respecting any such officer or man, to the same extent as and under similar circumstances in which jurisdiction now exists in that Court or in the Courts or Judges of

the several Provinces in respect of similar matters within Canada. The Amendment further provides that any such writ shall be directed to the Minister of National Defence, and, upon the receipt of such writ, it shall be the duty of that Minister, by the most rapid means of communication available, to transmit the same or notification of its issue and terms to the appropriate Authority having regard to the matters to which such writ relates. It then imposes upon such Authority, when he receives the writ or notification thereof, to take such steps as are necessary to comply with the terms of such writ. The effect of this can best be illustrated by an example of a soldier of a Canadian Force serving say in Australia, who has been arrested on account of the commission of some alleged offence and who considers either that his being brought to trial is unduly delayed or that he was arrested without lawful authority. In such a case he, through his representatives in Canada, would make an application for a writ of habeas corpus. Such application would be dealt with by The Exchequer Court and, if granted, the writ would then be served upon the Minister of National Defence who would then as rapidly as possible transmit the same or a notification of its contents to the Officer Commanding the Canadian Force serving in Australia. If that writ required that the man in question be produced before the Canadian Court, it would be the duty of the Officer Commanding forthwith to comply with the terms of the writ and cause the man to be returned pursuant to the directions of the writ.

The foregoing example will serve as an indication of the principles which this enactment sets up. It enables members of a Canadian Force serving outside of Canada to invoke and enjoy exactly the same machinery which, if they were in Canada, could be so invoked or enjoyed with respect to the preservation of their rights and liberties as Subjects.

The above sets out very generally and in a very sketchy fashion the main factors resulting from the Statute of Westminster and the means taken to deal with the same. It all may appear to be extremely complicated, but, as already pointed out, this is not really so if the legislative autonomy of the self-governing Dominions is appreciated and that, in respect to their own matters, no Dominion without its consent or enabling legislative provisions can, within its own territory, be made subject to compliance with the Laws of another part of the Commonwealth, nor can it when its Forces are serving in another Dominion have those Forces governed by its own laws unless the laws of that other Dominion so permit. The legislation mentioned is, as pointed out, designed to cover the case and its effectual working must obviously be dependent upon complementary legislation of a similar character which eventually will be in force throughout the Commonwealth.
