

Mr. DUFF: Take the duty off; that would be one way.

Mr. BENNETT: That is another way altogether. I quite agree with what the hon. gentleman has said that that might or might not, I do not know. I cannot say as to that. But this I do say: As far as the Dominion of Canada is concerned, there has been the fullest possible investigation in this country with respect to the anthracite coal industry. As a result papers were sent to the attorney general of Quebec; a prosecution was carried on; convictions were secured; appeals were taken to the privy council, which of course were disallowed and the convictions sustained. Now I do not know whether or not it is suggested that in those criminal trials something was left out that should have come to light; I am in no position to know, but I think there will be no difference of opinion on the part of anyone in this house as to the desirability of any action being taken that will safeguard the interests of consumers with respect to these matters.

The next question raised in the speech from the throne has to do with the references to the Supreme Court of Canada as to the validity of a number of statutes that were enacted at the last session of parliament. Well, Mr. Speaker, I find it a little difficult to understand just why, suddenly, all these cases are referred to the Supreme Court of Canada. Was the Lemieux act referred to the Supreme Court of Canada, or was it on our statute books for ten, fifteen or twenty years? Was there a lawyer of repute who did not believe it was ultra vires of this parliament? Yet it was acted upon until a case was heard, and then it was decided alike in Canada and Great Britain that the act was unconstitutional. Why should these statutes have been thus referred? Let us see. In the United States they have a rule that you cannot refer a theory to the court; it must be an actual case under the act. In all their statutes that were declared unconstitutional there was no reference to the judges of the Supreme Court of the United States. The cases originated by the proper action of somebody alleging a grievance; they were heard by judges in the first instance; the evidence was produced and ultimately the Supreme Court of the United States passed upon their validity. In this country we have a statute that permits a reference to the Supreme Court of Canada. In most of the provinces they have statutes that permit references to the provincial supreme courts of doubtful questions in order that the executive may be advised. But long years ago some

[Mr. Bennett.]

of the provinces maintained that it was unconstitutional to do this; that no such reference should be made of hypothetical cases. Lord Loreburn, speaking for the judicial committee of that day, decided that the point was not well taken, and he used these words:

—but the answers are only advisory and will have no more effect than the opinions of the law officers.

He made it quite clear during the course of the argument, as well as in the judgment, that the court would not feel bound entirely by mere advice given in hypothetical cases that perchance might be modified by reason of the facts of a particular instance that might be brought before them for consideration.

Now what have we? Just let us look at the spectacle we have. Last year, standing here on this side of the Speaker, the present Minister of Justice (Mr. Lapointe) denounced these statutes as being unconstitutional. The privy council have said that is just as legal as the opinion of the court in a hypothetical case. He comes into office and he takes the very statutes that he said were illegal and sends them down to the Supreme Court of Canada, asking that court to say whether they are legal or illegal after he has said they are illegal. That is the position. I am bound to say that the argument of the cases was not left to the hon. gentleman himself; that they were argued with great care, great ability and great thoroughness by representatives of the federal power supporting the statutes. In other words we have this anomaly; on his reputation as a lawyer the Minister of Justice denounced the validity of these statutes; speaking as a lawyer he said, "These are invalid and unconstitutional." Now, as a minister, he employs counsel to go down to the Supreme Court of Canada and say they are legal in every particular.

Mr. LAPOINTE: I have so much admiration and respect for the legal acumen of my right hon. friend that I wanted the court to decide the question.

Mr. BENNETT: There is an old saying, "Beware of the Greeks when they come bearing gifts," and when the hon. gentleman gives that as his reason I think he is pretty hard put to it for reasons. Here is the position: Will the decision of the Supreme Court of Canada end the matter? Will there be an appeal to the privy council? Hon. members will remember that representatives of at least two of the provinces appeared and said, "We want only to preserve our right to appeal." They did not argue; they reserved their right to appeal. That is what they said.