conference of 1918; but I think, since I am presenting my point of view, I may be forgiven if I quote a few sentences again:

. . . The eminent judges ordinarily available on the judicial committee, for all their legal learning and judicial experience, have not among them a single man who is intimately familiar with this constitutional document, or with the vital processes underlying it, a knowledge of which is, in the case of any constitutional document, necessary, to a full appreciation of both letter and spirit. Australia's experience of the privy council in constitutional cases has been, to say the least of it, unfortunate.

Referring to a particular case, Mr. Hughes added:

Its decision is one which must have caused great embarrassment and confusion, if it were not for the fortunate fact that the reasons for the judicial committee's decision are stated in such a way that no court and no counsel in Australia has yet been able to find out what they were. That is what must happen when a tribunal on the other side of the world, no matter how eminent and experienced its members may be, has cast upon it the duty of interpreting a complicated constitutional document with the history and principles of which no member of the court, and perhaps no counsel practising before the court, is especially familiar.

In an article in the Fortnightly of April, 1937, a writer calling himself Historicus notes the enlargement of provincial powers under privy council decisions. On page 471 he says:

What has happened? Merely this—that sections 91 and 92 have been interpreted by the privy council in such a way as to invalidate any dominion act unless it can be brought under the narrowest interpretation of the provisions of section 91, without coming into conflict with the widest possible interpretation of the "property and civil rights" provision of section 92. This process of interpretation by the privy council from the end of the nineteenth century down to 1930 enlarged provincial powers and diminished dominion powers in a way that would have astounded and discouraged Macdonald, Cartier, and their colleagues of 1867 . . .

The same point of view was definitely set forth by our own under-secretary of state for external affairs in his evidence before the 1935 special committee of the House of Commons on the British North America Act. I might say parenthetically that this committee was one which was set up after a motion of my own urging that we seek to discover some way of amending the British North America Act.

Doctor Skelton said:

In the United States they began with a constitution which emphasized state rights, but under the guiding hand of John Marshall and his successors, it was gradually transformed in many particulars until the balance was decidedly shifted in favour of national rights: In Canada, under the guiding hands of Lord Watson and Lord Haldane, a constitution which in the mind and intent of the fathers of confederation was deliberately designed to profit by the mistakes of the United States, manifested in the struggles culminating in the civil war, and to make the central government the predominant factor, the residuary legatee, has been interpreted in definitely the wrong direction.

The hon. member for Selkirk touched upon the contention that the right of appeal gave some assurance to the minorities that their special right would not be interfered with.

Mr. THORSON: No; I said quite the reverse.

Mr. WOODSWORTH: The hon. member misunderstood me; I referred to the argument frequently advanced. After a very careful review of the cases, Mr. Frank R. Scott writes in Queen's Quarterly, 1930, at page 677:

What the privy council has done in our constitution is to safeguard, not minority rights, but provincial rights. An elaboration of this statement is not possible here, but it may be stated with little fear of contradiction that the privy council has carried its protection of provincial claims so far that to-day we have in Canada a distribution of legislative powers quite unlike that which was agreed upon at confederation, and one which by its undue enlargement of the provincial sphere, considerably weakens the efficient and harmonious structure of our constitution. Possibly the judicial committee has thought that in cutting down the dominion powers they were assisting the minority in Canada. If so they were grievously mistaken.

This conclusion was arrived at after a careful review of the cases that had been before the privy council. As to the general consequences of privy council decisions, I would refer anyone interested to the Canadian Bar Review of June, 1937. Into the details of that I shall not attempt to enter.

One other aspect of the situation is that the decisions of the privy council place vested interests above the public weal. This is emphasized in an editorial in the Ottawa Journal of February 22, 1912. It is quoted by Olivier in his book Le Canada, Pays Souverain, which was published in 1935. I quote:

A number of decisions of great importance made recently by the law lords of the privy council have been such as to raise doubt of the equity of that tribunal. Ground is given for the suspicion that, however disassociated the law lords of the P.C. may be from our local prejudices or predilections, they may not be without unconscious bias due to their own surrounding and atmosphere . . . several judgments recently given suggest an undue tenderness to vested interests, seeing that in all the cases referred to the Canadian courts had previously decided the other way . . . we take the liberty of thinking that the law lords