Mr. JONES. I suppose British fishing vessels do not contribute in the United States.

Mr. FOSTER. No.

Bill reported, and read third time and passed.

PROCEDURE IN CRIMINAL CASES.

Mr. THOMPSON moved second reading of Bill (No. 19) to amend the law respecting procedure in criminal cases.

Motion agreed to, Bill read the second time, and House resolved itself into Committee.

(In the Committee.)

On section 1,

Mr. DAVIES. What change does this make in the existing law?

Mr. THOMPSON. The object of the Bill is to make it clear that there shall not be an appeal in criminal matters to the Judicial Committee of the Privy Council. When I introduced the Bill, I mentioned some of the circumstances which led to its introduction. I think there is very good reason to believe that, under the Statute as it now exists, there is no appeal to the Judicial Committee in such matters, but there has been no determination of the committee that such an appeal does not lie. I need hardly remind the House that very great inconvenience in the administration of the criminal law in a country like Canada would result from an appeal being held to lie to a tribunal so distant as the Judicial Committee of the Privy Council. The result of such an appeal would be that a long delay would be made necessary. There have been one or two decisions of the Judicial Committee under statutes somewhat like that in force in Canada now, and in one of those cases the opinion was expressed that the statute was itself sufficient to prevent further appeal to Her Majesty in Council, notwithstanding that there was no express mention of the prerogative in the statute, but simply an enactment that the decision of the Court of Appeal for the colony was final. In the case of Cuvilier *vs.* Aylwin, 2 Knapp's P. C. Cases, page 72, it was decided——

Mr. MILLS. That case has been overruled by the Judicial Committee since.

Mr. THOMPSON. Not exactly overruled, but it was stated, in a subsequent case, that it had not been fully considered. The only doubt that arises under the comments which were made on that case is, whether the statute we now have is sufficient to cover the appeal or not. On a recent case, when an appeal was taken to the Judicial Committee, the counsel on the part of the Crown were instructed to raise this point, but the appeal was dismissed on its merits without that question being decided. There are, however, several cases in which members of the Judicial Committee have expressed themselves very strongly against such appeals being considered, in consequence of the inconvenience which would result to the administration of criminal law. In the case of the Falkland Islands Company *vs.* the Queen, Moore's P.C. Reports, Vol. I, page 312, Lord Kingsdown said:

"It may be assumed that the Queen has authority, by virtue of Her prerogative, to review the decisions of all colonial courts, whether the proceedings be of a civil or criminal character, unless Her Majesty has parted with such authority. But the inconvenience of entertaining such appeals in cases of a strictly criminal character is so great, the obstruction which it would offer to the administration of justice in the colonies is so obvious, that it is very rarely that applications to this Board, similar to the present, have been attended with success."

That, of course, was in a case where it was clear that an appeal would lie, but the Judicial Committee was reluctant to entertain it, because of the inconvenience which would arise from the intervention of the committee. In a later case, Regina *vs.* Bertrand, Law Reports, P. C. cases, Vol. I, page 530, Chief Justice Coleridge said:

"In all cases, criminal as well as civil, arising in places from which an appeal would lie, and where, either by the terms of a charter or statute, the authority has not been parted with, it is the inherent prerogative right, and, on all proper occasions, the duty of the Queen in Council, to exercise an appellate jurisdiction, with a view not only to ensure, so far as may be, the due administration of justice in the individual case, but also to preserve the due course of procedure generally. The interest of the Crown, duly considered, is at least as great in criminal as in civil cases; but the exercise of this prerogative is to be regulated by a consideration of circumstances and consequences; and interference by Her Majesty in Council in criminal cases is likely in so many instances to lead to mischief and inconvenience, that in them the Crown will be very slow to entertain an appeal by its officers on behalf of itself, or by individuals. The instances of such appeals being entertained are, therefore, very rare."

We have always contended for the principle that an appeal does not lie from the judgment of the Supreme Court of Canada, but there has been no determination of the matter by the Judicial Committee of the Privy Council, and I think it should be settled.

Mr. MILLS (Bothwell). The First Minister has ovi. dently made a great deal of progress since the Supreme Court Act was under consideration in this House. The hon. gentleman then, though the Act did not propose to interfere with the Royal prerogative, nevertheless seemed to think that we were going a very long way in taking away the right of appeal granted by our own legislation. I can see very great reason for refusing to grant the right of appeal in criminal cases to the Judicial Committee of the Privy Council, and I conceive that, in the great majority of cases, if it were proposed to apply to the Judicial Committee for leave to appeal, great inconvenience would arise in the administration of criminal justice. That, however, has been so rarely applied for, the right to make that appeal has been so rarely sought, that no serious direct inconvenience has arisen in this country on account of the prerogative right of appeal. The question is rather one for the Imperial Government than for the Government of Canada to consider, how far they would comply with the hon. gentleman's proposal that the prerogative right to grant an appeal which Her Majesty exercises through the Judicial Committee of the Privy Council shall be abolished. Now, let me take a case of this sort. Supposing someone in this country was tried for a criminal offence which rendered him liable to death, but which was connected with the relations between the United Kingdom and the United States. The Government which would be responsible for the maintenance of peace between the United Kingdom and the United States, might have very serious objection to permit this country to legislate in such a way as to make it impossible for the Imperial Government to protect its own interests by interposing its sovereign authority. Now, if the hon. gentleman succeeds in carrying this Bill through this House—and I admit that it is a very wide departure from the views expressed by the First Minister a few years ago—he may find himself brought, in this particular, face to face with the Imperial Government. They may say that a party might be convicted in Canada of treason, that the act might be one of which the American Government would assume the responsibility, as the British Government did in the case of McLeod, and that it would be in the interest of the sovereign authority of the United Kingdom, that the Imperial Government should have power to intervene and to prevent the law from being carried into execution. Political feeling, or the state of the public mind in this country, might be such as to make it impossible for the Government to interpose by the exercise of the prerogative of pardon, it might be such as that the effect would be that the law would be carried into execution and serious difficulties might arise between our own country and the neighboring Republic. I mention this just to point out cases when the maintenance of the royal prerogative might be a sub-