

restricting' the appeals. That letter was from Eugene Lafleur, K.C., of Montreal, who is certainly one of the best lawyers, and one who goes to England very often, and he is in favour of the proposition. Before I am through I shall read letters from Mr. Campbell and Mr. Geoffrion, who have had large experience before the Judicial Committee of the Privy Council, and who are also in favour of restricting the appeal. I have here a memo from the Hon. Edward Blake, dated 6th October, 1875. I may say that I have also taken communication of Mr. Blake's speech in the Hansard, on the Bill to establish a Supreme and Exchequer Court, and also a remarkable speech, which I would commend to the members of this House, an appeal by Edward Blake to members on the Australian Court Bill, which will be found in the Commons Hansard, May 21st, 1900. On that occasion Mr. Blake drew a parallel between the constitution of this country and the constitution of Australia, adopted 33 years after our confederation. After all, that is only a small space of time in the life of a nation. It shows the wonderful strides that democracy had made from 1867 to 1900, in the Australian legislation. That Australian Commonwealth Bill is much broader, and grants more autonomy than the constitution that now governs this country. The various states of the Australian confederacy have reserved all their powers except those delegated specially by them to the Government of the Commonwealth of Australia. That constitution had been prepared by the Australian people themselves, and when it came before the Imperial Parliament, the very clause which is the burden of my remarks now, whether there should be an appeal from the Supreme Court of Australia to the Judicial Committee of the Privy Council, the Bill was about to be withdrawn when a compromise was effected and the Bill became law. Mr. Blake in speaking on this subject on the 21st May, 1900, used these words in order to depict the nature of the constitution of the Commonwealth of Australia:

This creature (the Commonwealth of Australia) has not been conceived in the womb of this Mother of Parliaments.

But it is the fruit of free men in another confederation, giving them much larger autonomy than was granted to Canada at the time. Now, Mr. Blake, in a memorandum which was communicated to the Home Government, said:

Sir, you inform me that some difficulty is felt by the Colonial Secretary with reference to the constitutional right of Parliament to pass the 47th clause of the Act to establish the Supreme Court of Canada, and that he is about to submit the questions to the law officers of the Crown with a view to considering whether the Act should be disallowed, and you request me to report to you confidentially upon the subject.

That was addressed to the then Governor, and I only quote a few passages here and there. After arguing that the Bill was within the rights of Canada he said:

It is therefore abundantly manifest that for a great number of years the Provincial Legislatures have, without remonstrance, exercised the power of determining that the judgment of the provincial courts shall be final in all those cases (comprising the large majority of the whole number of cases tried) in which they thought it was for the public advantage that there should be no appeal beyond the provincial courts.

And Mr. Blake goes on and adds:

If the law, as expounded by any court, however high, did not meet the public exigencies, the Provincial Legislature altered the law in order to remedy the defect, and what the Provincial Legislature could itself legislatively expound without appeal, it had the right to declare should be by its own courts judicially expounded without appeal.

And I give as evidence of that the famous Roy case, Canadian Pacific Railway vs. Roy, where a farmer had his barns burned by a spark from a locomotive of the Canadian Pacific railway. The case was won, I believe, in Canada, but lost in the Privy Council in England, and what was the consequence? At the very next session of the Quebec Legislature the law was amended in order to provide that in future decisions of that nature should not be reversed by the Judicial Committee of the Privy Council. Later on, within two or three years, another case arose in which the present Postmaster General was an advocate. That was a case in which a certain man by the name of Cotton had died, and his estate had to pay succession duties in another province or in another country. Having paid once, they claimed that they should not pay twice. The Judicial Committee of the Privy Council held, perhaps properly, that it was right. What happened? The Legislature of the province of Quebec, at the very next session, changed the law and made it absolutely certain that in the event of a man dying in the province of Quebec the whole of the succession duties should be collected by that province. So if the humblest and smallest province in this country—and that is the whole burden of my argument—