this—that they are rendered on re-hearings. If the former are turned into courts of first instance they lose this advantage. Again, why make the decision of the Supreme Court final? If the decision of the highest courts is really desired, it seems strange to restrain the appeal to the Privy Council.

We venture to affirm further, that the Dominion legislature has no authority to pass such an Act. Its exceptional power to create courts is contained in sec. 101 B. N. A. Act, 1867. That section allows Parliament (1) to create a Court of Appeal for Canada; (2) to establish additional courts for the better administration of the laws of Canada. The Act in question neither creates a Court of Appeal nor an *additional* court, for the administration of the laws of Canada. The Supreme Court is called upon to act as a court of first instance, and to decide on an Imperial Act which is not exclusively a law of Canada.

We should be glad to know what is meant by the concluding words, "unless leave be granted to appeal to the Privy Council." By whom is leave to be granted in the test suit? Is it supposed that if the Supreme Court decides that the License Act of 1883 and its amending act are within the authority of Parliament, the first liquor seller prosecuted will be precluded from pleading that the law is null? If so, we are to have *arrêts portant réglement*—an anomaly in the British system.

R.

THE BOUNDARY QUESTION.

While our local legislators have been amusing themselves and the public with resolutions and counter resolutions autonomous, which really signify nothing, important questions of federal politics have been progressing unheeded. All this may be for the best. It may be as effectual to steal an advantage as to cut the Gordian knot, but such deft operations look better at a distance than when performed under our noses.

From the personal and fashionable intelligence of Toronto dailies we learned, some little time ago, that Mr. Attorney-General Mowat had taken his departure for London, there to prepare for his expected triumph on the Boundary Question. It will be remembered that in the speech of the Lieutenant-Governor of Ontario at the opening of last session, we were told how glad Mr. Mowat was to have it in his power to state, that a case had been agreed for a reference of the dispute respecting the intercolonial boundary between Manitoba and Ontario, to the judicial committee of Her Majesty's Privy Council. "The first question to be decided under that reference is the validity of the award made by the arbitrators in 1878," &c.

As the pre-eminence given to this branch of the case has been thought deserving of such exceptional notice, it is not unfair to suppose that it is considered as a diplomatic victory of some moment, and perhaps the cause of Mr. Mowat's well-known dislike to a reference to the Privy Council being changed to gladness. It may be a crumb of comfort, for on the real question as to the boundaries of Ontario there is no sort of difficulty.* Probably Mr. Mowat over-rates the result of his diplomacy. Much reliance need not be placed on the unwillingness of the Privy Council to disturb an award concurred in by an English Ambassador. Nor can one of Mr. Mowat's legal experience hope that the judicial committee will seek to escape from the examination of the ponderous historico-legal argument on the merits by deciding so slim a *question préjudicielle* as the validity of the so-called award.

Equitably the award has no claim to be favourably considered. It is notorious that the Dominion Government sold the battle. The real question, then, was between Ontario and Quebec, and yet the Chief Justice of Ontario and a former representative of Upper Canada and of Ontario, with the Ambassador thrown in to give some show of fairness to the preconcerted decree, were selected to decide the matter.† There was no attempt

* The only other view than that of the height of land and the due north line from the junction of the Ohio and Mississippi Rivers, that can be sustained with any show of reason, is that put forward by Mr. Justice Armour. I understand from the answers of the learned judge that he maintains the height of land to be the whole boundary to the north and west of Ontario as being the territory always occupied by the former province of Upper Canada. There is much that is equitable in this view; but the learned judge hastens to observe that the decision in the *Reinhardt* case is an authoritative protest.

† See with what care the Imperial Parliament deemed it necessary to provide for impartiality in the selection of arbitrators. Section 142 B. N. A. Act of 1867.