given through the attorney general of Canada or the attorney general of the province. These appeals are to the foot of the throne. It is merely an application to the attorney general, who represents the public, that the king give his consent to the claim being tried. The attorney general of Canada has many of these applications and usually passes them as a matter of form. Sir Allen Aylesworth said that during the time he was Minister of Justice he had forty-five such applications.

If this bill passes it can only affect certain classes of federal cases, but it cannot affect provincial cases since the provinces of Ontario and Quebec claim provincial consent is necessary. The bill before the house only seeks to restrict that prerogative; it cannot take away the right to present a petition as a matter of grace. This bill seeks to make the prerogative right a matter of statute, but appeals of grace are the result of government by monarchy.

The fact that the king was head of the state led to the doctrine that "the king is the source and fountain of justice". This was not always so under the Norman and early Plantagenet kings, during which time there were no judges and no courts except the court of the king. As the work of the king increased he delegated the administration of justice to others; thus law courts were constituted. In matters of grace, the king is still the source and fountain of justice. These are simply appeals to the king as head of the state.

There is no difference in principle between appeals from British courts and appeals from dominion courts. In both cases the appeal is to the House of Lords because London is the central place in the empire. These appeals go to the judicial committee of the privy council. Some of the members of this body are not members of the House of Lords, as Sir Charles Fitzpatrick and Sir William Mulock were, and Sir Lyman Duff now is. Sir Lyman is a member of the judicial committee of the privy council—as the two others I have mentioned were—because he was a member of the imperial privy council.

Three important ministers of justice opposed this principle. The first was the minister of justice who took part in the Bering Sea arbitration, Sir Allen Aylesworth. He made a statement on this subject in an important debate in the Senate on June 18, 1936, which can be found at page 552 of the Senate debates, if members wish to see it. The next gentleman to whom I wish to refer is Sir Charles Fitzpatrick, who was Chief Justice of the Supreme Court of Canada, Lieutenant Governor of Quebec, and a very great lawyer. He was one of those retained to defend Louis Riel in Regina in 1885. As one of the great lawyers of that day, he was opposed to the abolition of appeals to the privy council. Mr. Conant, one-time attorney general of Ontario, was of the same opinion.

May I quote a few words from Sir Charles Fitzpatrick:

> In no part of the King's dominions has greater service been rendered by the judicial committee than in Canada, particularly since confederation.
>
> Since 1867, the judicial committee has been called upon in scores of cases to trace out the line of demarcation between federal and provincial jurisdiction, and it must be truthfully said that the result has been eminently satisfactory. Removed, as the majority of judges are, from all local strifes, desirous as they are to distribute the most impartial justice, it is not surprising that the right of appeal to the King in his privy council is one of the privileges most highly prized by the people of the dominion. I do not mean to say that there has not been exception taken to the freedom with which appeals may be carried to the privy council in ordinary civil matters, but whatever view may obtain in other parts of the empire, so far as Canada is concerned, I think I may safely say that, amongst lawyers and judges competent to speak on the subject, there is but one opinion, that where constitutional questions are concerned an appeal to the judicial committee must always be retained.
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> I am offering that opinion to balance to some extent the opposite opinions which have been offered. I rather think the judicial committee of the privy council has rendered a real service to Canada. Their decisions have been one judgment, no dissenting judgments.

At one time Attorney General Conant, one of the most respected attorneys general, directed public attention to the contentious question of abolishing appeals to the privy council. At that time the proposal had been introduced by the Hon. C. H. Cahan. Then, as always, opinion was found to be strongly divided, and the bill was held over when the minister of justice suggested that it was too important a matter for summary decision.

It is important, vitally important, to the future of Canada and the commonwealth. The considered opinion of Ontario's attorney general should be a valuable guide to the House of Commons. His opinion is based on both domestic and imperial considerations, none of which can or should be left out of unbiased deliberation. He said that he had the greatest respect for the appeal court and all other Canadian courts, but was inclined to the view that in matters involving constitutional questions, particularly in issues between the dominion and a province, or provinces, the right of appeal to the privy council should be continued.

This, emphatically, is not the view of some who are, perhaps, quite as competent to judge.

Mr. Speaker: Order.

Mr. Pouliot: I would move the adjournment of the debate.