As Lord Carnarvon intimates that it will be necessary to take the opinion of the Law Officers of the Crown on the legal questions arising out of this clause, viz., whether it was competent to the Legislature of Canada to pass it? whether the proviso saving the rights of Her Majesty's prerogative suffices for the protection of those rights? and, lastly, whether the right of direct appeal to the Queen in Council is affected by the Supreme and Exchequer Court Act?" it must be left to the Law Advisers of the Crown to decide these questions.

But it is impossible to read the debates of the Canadian Parliament, a copy of which accompanies these papers, without preceiving that the intention of the Canadian Ministers who introduced the Bill, and of the Canadian Legislature which passed it (not without a strong opposition and protest against the measure), was to abolish and take away, as far as lay within their power, the right of appeal from Canada to the Queen in Council.

At the time when this Bill was proposed to the Canadian Legislature it seemed probable, if not certain, that the provisions of the British Judicature Acts of 1873 and 1874, with reference to appeals, would speedily come into operation, and that the effects of these Acts would be that Colonial and other Appeals to Her Majesty in Council, instead of being referred as heretofore to the Judicial Committee of the Privy Council would henceforth be referred by Her Majesty to a British Court designated as the High or Imperial Court of Appeal. It had long ago been pointed out as a probable contingency that the Colonies would object to this transfer of jurisdiction, which, for the first time, was to have given a British Court, not being a part of the Privy Council, judicial authority over them. The terms of the 17th Section clearly show that this objection was not unfelt in Canada (indeed, Mr. Fournier stated as much in introducing the Bill), for that clause expressly enacts that "no appeal shall be brought from any judgment or Order of the Supreme Court *to any Court of Appeal established by the Parliament of Great Britain and Ireland*, by which appeals or petitions to Her Majesty in Council may be ordered to be heard." These words are a direct response to the clause in the Judicature Act which was to transfer the reference of appeals and petitions by Her Majesty from the Judicial Committee to the Imperial Court of Appeal. The right of appeal to Her Majesty in Council is no creation of Parliament. It is essentially a part of the prerogative, and has existed ever since England had any foreign plantations or dependencies. The appeal lies to Her Majesty in Council, not to the Judicial Committee of the Privy Council, and though the Privy Council Act of 1833 regulated and improved the structure of that Committee, it left the old prerogative character of the jurisdiction untouched and unimpaired, and expressly provided that the constitution and duties of the Privy Council were to remain unaltered. The Colonial Legislatures and Judicatures have constantly recognized this jurisdiction of the Crown exercised in and by the Privy Council. Even in this Act it is acknowledged by the proviso annexed to the 47th Clause; and it would scarcely be contended that the Parliament of Canada has