

*Supreme Court Act*

and greater reason for respect, than here in Canada. I would hope that state of affairs would continue. I would hope that the courts of Canada, whether exercising first, intermediate or final jurisdiction, would continue to deserve and to have the respect which the courts of justice in Canada have had since the first day of confederation. If the leader of the opposition (Mr. Drew) were sitting on this side of the house I do not think he would feel that he could, in justice to future generations of Canadians, abandon that part of the responsibility placed by the British North America Act on the governor in council acting for the general Canadian public. I do not think he would accept the responsibility of substituting for the system provided for by the constitution, and which has operated in so eminently satisfactory a manner, some other system that might be regarded as choosing arbitrators with an umpire to decide constitutional questions.

The hon. gentleman and I have had some experience in practice at the bar. We know that in these arbitrations the arbitrator selected by a party generally feels he is in duty bound to find for his party, and that he would be unfaithful to his party if he did otherwise. Courts of justice have to be strictly objective and cannot regard themselves as the arbitrators of any party, but as the authority to decide between contending parties. That is the only sort of judicial body that can have the responsibility that has been exercised and discharged by the privy council.

There were times when there was a conflict of interest between a colony or a dominion and the home authorities, as they used to be called. The gentlemen who had to determine where the right lay were the gentlemen appointed by His Majesty the King in his capacity as King of the United Kingdom. I do not think it ever occurred to anyone that because they were appointed by His Majesty they would not observe the requirements of their oaths of office. Now, the situation will be identical here. I believe it will be desirable to have this, the most responsible and respected office in the public service of Canada, in its judicial branch, and I also believe that the gentlemen who will have the responsibility of discharging the functions of that court will discharge that responsibility to the best of their ability, conscious of their obligation to carry out the oaths they will have taken.

I believe that is the only question before us at this time. Notwithstanding the great respect I have for all of those before whom I ever appeared in the judicial committee of the privy council, I believe it is possible for us to find and develop in this country as

[Mr. St. Laurent.]

great jurists as they happen to be. I know of the high regard in which one of our Canadian jurists, who participated from time to time in the deliberations of that body, was held by his colleagues in the privy council. To my mind, that is a demonstration of the fact that the ability and integrity required can be produced in our own country.

The Canadian Bar Association has suggested that there should be sufficient time before the statute is enacted to permit the public to give consideration, both as to the question whether there should be abolition of appeals and as to the effect which the abolition may have upon provincial and minority rights. There has been consideration over a long period. During the last election campaign there was consideration by the electorate. It was the announced policy of the party it was my honour to lead to abolish appeals to the privy council. I may be mistaken, but I take it that we received from the electorate of Canada a mandate to carry out that policy.

The bar association is concerned also about the effect this action may have on provincial and minority rights. Quite frankly, I am unable to see that it could have any effect upon provincial or minority rights. It is the substitution of one body of men for another body of men to pronounce upon conflicts which may arise in connection with provincial or minority rights. I cannot see how it could have any effect unless one takes the view that the body of men we intend to substitute are not as reliable as the body of men for whom they are being substituted. I am of the opinion that the body of men we intend to substitute will not be inferior in ability, in integrity or in learning to the body of men for whom they are substituted.

It seems to have been the opinion of many editorial writers throughout the country that the method we have suggested of providing for amendments to the constitution does provide a way of breaking the deadlock which has existed for a long time. We will refer in general terms to those things which are allocated to the central authority. We will not attempt to define what they are, but when we come to deal with any particular one that we believe is among that class of subjects, if anyone feels that is not so our conduct can be challenged before the courts. We shall have to abide by the decision the courts render. It might be more convenient to have all possibility of conflict in that regard removed, but in the past many attempts have been made to remove all possibility of conflict and they have not been successful. Because we have not been able to eliminate the possibility of conflict, let us not say we can do nothing. We will get a system here which will work.