

Mr. BENNETT: The minister has overlooked the fact that the supreme court was bound by decisions of the privy council which entirely eliminated the words "trade and commerce" from consideration at all, as well as other words to which reference has already been made. The supreme court was bound by those decisions, and hence it is that their decisions were as they were.

Mr. LAPOINTE (Quebec East): I cannot very well accept that view, because the decisions have been blamed by reason of the fact that the privy council had decided otherwise than it had decided in previous cases. So if the supreme court was bound by the previous decisions of the privy council, I do not see how they could have differed now.

However, my reasons are largely those expressed by constitutional authorities like Berriedale Keith and others, and by my hon. friend from St. Lawrence-St. George when he said that the sovereignty of Canada still resides in the privy council. We are an equal nation in the commonwealth; we have full power in every domain as a nation, and I do not think anybody would differ from me when I say that when we are a nation of twenty-five or thirty millions of people, as we shall be some day, it would seem absurd that we should go across the seas to get a decision in an appeal from our own courts. If it would be absurd when we are twenty-five millions of people, it becomes not so wise when we are a nation of eleven or twelve millions.

Then there is the question of expense. We must admit that recourse to the privy council means an expenditure of money which many litigants in Canada cannot afford to incur, and that makes the privy council too much of a court where only the wealthy can carry their cases in the last resort.

There is something else, too. There is the question—what shall I call it?—of judicial consciousness. I think that our own supreme court will not be as it finally will be when it is definitely a court of last resort for all Canadian litigation.

It is stated—it was stated, because the argument is weakening from year to year—the privy council is a symbol of unity. Well, a symbol of unity which creates dissatisfaction carries some danger within itself, and I do not think that argument is strong enough to prevent a rational decision in the matter.

May I give—it is important to have all the data; for this question will certainly be discussed in the country—a statistical survey of the appeals to His Majesty in Council since 1867.

There have been from the provincial courts between 1867 and 1938, 329 appeals to the privy council. In 187 cases the judgment was affirmed; in 131 cases the judgment was reversed, and in 10 cases it was modified.

From the supreme court there have been since the creation of the court 198 appeals to the Privy Council. In 117 cases the judgment was affirmed; in 74 cases the judgment was reversed, and in 5 cases it was modified.

From the exchequer court there have been three appeals. In one the judgment was affirmed, and in the other two the judgment was reversed.

I have also a table of all the constitutional cases in which appeals have been heard by the judicial committee, indicating the court, dominion or provincial, from which the appeal was taken.

From the provincial courts 70 appeals have been taken in constitutional matters; in 35 cases the judgments were affirmed, in 4 they were modified, and in 31 they were reversed.

From the Supreme Court of Canada there have been 68 appeals in constitutional cases; 49 judgments have been affirmed, 15 have been reversed, and 4 have been modified.

I come back now to my argument as to the competence of Canada—

Mr. BENNETT: May I interrupt? Those three appeals from the exchequer court were exclusive of exchequer court appeals from the Supreme Court of Canada.

Mr. LAPOINTE (Quebec East): Quite so.

Mr. BENNETT: I did not think that was made quite clear.

Mr. LAPOINTE (Quebec East): Appeals from the exchequer court direct.

As to civil appeals relating to subject matters within the exclusive authority of the dominion parliament—and I think the bill of my hon. friend (Mr. Cahan) is limited to those appeals—I submit there is no doubt as to the competence of parliament to abolish those appeals. This is supported by the decision in the *Nadan* case, and I will also refer to the decision in the case of *Cushing v. Dupuy* (1880) 5 A.C., 409. The decision in that case was as follows:

The Quebec code of civil procedure, article 1178, allowed an appeal to His Majesty in Council as of right from final judgments on appeal to the Court of Queen's bench of Quebec.

A dominion act made in virtue of the power conferred by section 91, bankruptcy and insolvency, gave the Court of Queen's Bench a bankruptcy jurisdiction. This dominion act provided that the judgment of the court in