It was thought in the meantime upon an issue of this sort that it was more honourable and more honest with everyone concerned for the government to state its position fairly even in advance of the appeal.

Mr. Diefenbaker: What does the minister mean by saying that the privy council would clarify the law? Would not the Supreme Court of Canada clarify the law? I ask a second question which is part of my other question. Does the minister believe that the Supreme Court of Canada, now that it is the final court, should deliver just one judgment instead of judgments by the various judges?

Mr. Garson: Dealing with the first question, our view in the Department of Justice is that the law as it stood before the supreme court judgment was given was not clarified by that judgment. I ask my hon. friend not to urge me to go any further than that because this case is *sub judice*. We are on the verge of being improper in discussing it to the extent we have, but I want to be frank for the purposes of the present debate. That is the reason why we took the appeal.

With regard to the second matter which my hon. friend has raised, I do not think that that is relevant to the present discussion and I would prefer not to express an opinion upon a matter which involves the court's control over its own business.

Mr. Diefenbaker: When I made reference to the order in council, and I accept the minister's statement that he did not say that, I was not referring to the speech he made in the house on February 16 last. I was referring to the statement made the night or day following the decision being handed down by the supreme court. That appeared in various papers across Canada. I was not referring to what the minister said on February 16 in the house, I was referring to the statement which the minister said he did not give to the Canadian Press or to any press that if the privy council decision upheld the supreme court it was the intention to proceed by order in council.

The minister says that he never said that, and I accept his statement in that regard. However, the explanation he has given does not meet the challenge—I want to repeat this —which goes to the ability and the capacity and the judgments and the learning of the supreme court. We set up this court as a final court of appeal. We say that its decisions will be final in this country. Parliament intended that each member of the court would give his own individual judgment, or at least that the various views would be represented in the judgment, as was the case in the matter of Nolan.

We are going to follow the system followed in the United States supreme court rather than in the privy council. Yet on this case, a case of vast importance to the interpretation of our constitution and constitutional powers, the taking of an appeal will in my opinion have the effect and the result of not paying to that court the abiding respect which its judgments deserve as a final court. No amount of explanation as to moral issues will suffice because our court is fitted to decide moral issues. There is no question as to consequences because courts are not concerned with consequences. In this case the chief justice of the Manitoba court of appeal stated that he could not understand what the government had done here.

Mr. Garson: I do not want to interrupt my hon. friend but I do not think he should discuss this case in those terms when it is *sub judice*.

Mr. Diefenbaker: What the Manitoba court of appeal said is not in issue.

Mr. Garson: As my hon. friend knows, it may emerge finally as a reason for judgment adopted by the privy council. It would not be the first time they have adopted a Manitoba appeal court judgment.

Mr. Diefenbaker: I say to the minister that I for one feel that the action of the government in this regard has struck at the very vitals of the independence and the sense of responsibility that the supreme court deserves to have now that parliament has given to it finality in the matter of judgment.

Mr. Drew: I think that there is a great deal of importance in the fact that the Minister of Justice has decided to pursue this course as has been outlined by the hon. member for Lake Centre, after himself asserting strong reasons why this should not be done. I suggest they cannot be passed over now because these were the reasons given for asking that this legislation be passed when the bill was presented for second reading on September 20, 1949. One of the reasons given by the Minister of Justice was the practical reason which he put forward that there should be no threat against the less wealthy individual of having to take his appeal to another continent and to accept the expenses involved. He said that that threat should be withdrawn.

Mr. Garson: If my hon. friend is worrying about the litigant in this case, I can inform him, if my doing so will not be interpreted as an attack against wealth, that this is a wealthy man who is quite able to look after himself.