

*Privy Council Appeals*

subject. The dominion cannot pass the necessary legislation because it interferes with property and civil rights in the provinces, nor can the provinces legislate effectively, because there is an interference with the dominion jurisdiction over trade and commerce. Then, too, Mr. Speaker, we cannot deal with national social problems. We cannot even attempt to deal with social security in a national way. In this parliament we can raise money by any method of taxation, but our right to spend the money is seriously in dispute. If the judgment of the Judicial Committee of the Privy Council in regard to the unemployment insurance act is sound—and I do not think it is—then this parliament cannot spend money for any object that is not within the legislative competence of this parliament. To this state of affairs we have come through decisions of the Judicial Committee of the Privy Council, and by the deliberate act of the judicial committee. The hon. member for St. Lawrence-St. George read the panegyric which Lord Haldane delivered with regard to the work done by Lord Watson, in which he praised Lord Watson as an imperial statesman for making the business of laying down the new law that was necessary his own, and for completely altering the tendency of the decisions of the supreme court, that had been followed during the first twenty years of the history of that court. May we be saved from further imperial statesmanship of that sort. The fathers of confederation saw the weakness of the central authority in the United States as it had been created in that country, and they deliberately determined that in Canada there should be a centralized federalism with the residue of legislative power in the dominion parliament. For twenty years the Supreme Court of Canada upheld this viewpoint and uniformly maintained it; but when Lord Watson came upon the scene, he deliberately altered the tendency of these decisions, with the result that the basic character of the federalism of Canada has been changed so that we now have a decentralized federalism with the residue of legislative power in the provinces.

In the result we are left powerless in this national parliament to deal with national problems for lack of the necessary jurisdiction, and the provinces cannot effectively deal with the duties that have been assigned to them because they have not the necessary powers of taxation. We in Canada are wallowing in a constitutional morass. It was not necessary for the preservation of provincial rights that the Judicial Committee of the Privy Council should

[Mr. Thorson.]

have gone as far as it did. I venture the opinion that the privy council failed to grasp and understand the spirit of confederation. They did not understand Canada and its national growth.

Now, Mr. Speaker, what action should be taken by us to recover our national position? Some way must be found to undo the harm that has been done to our country by the decisions of the Judicial Committee of the Privy Council and to recover for this national parliament the necessary power to deal with national problems.

In the first place, we must prohibit all further appeals to the Judicial Committee of the Privy Council. This is necessary for the reconstruction of Canada. We would not as Canadians for a moment permit any outside legislative body to legislate for Canada. Why, then, should we permit an outside judicial body to legislate for us indirectly as the Judicial Committee of the Privy Council has done? I am glad to see this move for the abolition of appeals to the Judicial Committee of the Privy Council. In constitutional cases, particularly, the appeal should be prohibited immediately, in order that further violation of our national structure may be prevented.

It is not sufficient, however, merely to prohibit further appeals. We must do something more, for the decisions of the Judicial Committee of the Privy Council will still prevail and be binding upon us. We must free ourselves from the constitutional strait-jacket that now confines us. To that end Canadian statesmanship of a high order must be directed. We must face the task of recasting our constitution so that Canada will be able to discharge its national obligations for the welfare of the Canadian people. That task will not be an easy one. It will call for courage—great courage, but the cause is a great one—the creation of a great Canadian nation able to discharge effectively its national obligations.

How is this great task to be performed? In the first place, we must recapture the spirit of confederation. We must determine, as the fathers of confederation did, that Canada shall be a great nation. We must face boldly and courageously the task of recasting our constitution. We must see to it that this parliament is vested with the necessary jurisdiction over national matters. We must take care not to interfere with minority rights. Indeed, we must guarantee minority rights so that they shall be preserved inviolate. There is a great distinction that ought to be drawn between minority rights and provincial jurisdiction. The former we must preserve and guarantee, but there is