

passed are, even apart from the general powers, wide enough to authorize total abolition, although hitherto exercised only for the purposes of partial abolition.

My conclusions are, that, in case the Canadian Parliament should pass an Act making the decision of the Supreme Court final, that Act should be left to its operations, and that in case the Canadian Parliament should instead of thus abolishing only restrict or regulate the appeal, it should be restricted to cases involving a very important sum, and absolutely abolished in other cases.

In the memoranda came the reply, a short letter, from the Earl of Carnarvon, as follows:

Downing Street, 28th August, 1876.

My Lord,—I have the honour to inform you that Her Majesty will not be advised to exercise her power of disallowance with respect to the Act of the Legislature of Canada, entitled "An Act to establish a Supreme Court and a Court of Exchequer for the Dominion of Canada, transcripts of which accompanied your Lordship's despatches No. 93 of the 9th of April, 1875, and No. 147 of the 8th November last.

I have etc.,

Carnarvon.

There is another letter from the Earl of Carnarvon explaining why they will not be advised. I have here a short letter from a very well-known lawyer, who has appeared before the Judicial Committee of the Privy Council on more than one occasion, Aimé Geoffrion, K.C. I believe he has been called before the Privy Council as often as any lawyer of his years in Montreal at any rate, if not in Canada, and here is a letter he sent me after having read the speech I made in the House:

Hon. J. P. B. Casgrain,
Senate,
Ottawa.

My dear Senator,—I have read with much interest what you said in the Senate on the advisability of restricting the appeals to the Privy Council.

Of course, you could deal only with the appeals from the Supreme Court, as the question of the appeals from the provincial courts is a provincial matter. I agree with your conclusions and in fact will go further. I do not believe in the appeal, whether the court is unanimous or divided, nor do I believe in it even in constitutional cases.

Whether, as suggested by Senator Belcourt, or not a federal statute expressly abolishing the prerogative right that the Privy Council exercises of allowing appeals from the Supreme Court would require to be confirmed in London in order to be absolutely binding is, to my mind, a question of secondary importance. If Parliament express the wish that there be no more appeals, even of grace, to the Privy Council from the Supreme Court, an Imperial statute could easily be passed; in fact, such a statute would not even be necessary, the Privy Council would comply with the wish of the Canadian Parliament.

Yours truly,

Aimé Geoffrion.

Hon. Mr. CASGRAIN.

He has had more experience in cases in the Privy Council than anybody I know of, and he wants no appeals at all. Then I have a letter here from Mr. C. S. Campbell, who has retired from active practice in Montreal. He has made a fortune at law, which is a rare thing in Canada. Having read the speech I made, he writes me the following letter, which I have just received:

The Honourable J. P. B. Casgrain,
Senate,
Ottawa, Ont.

My dear Casgrain—I have a copy of your speech in the Senate relative to the finality of Supreme Court judgments. What you say is very interesting and very much to the point.

Although I am pretty rusty in the law from not having followed the reported cases attentively of late years; it may interest you if I take the risk of approaching the matter from another standpoint.

The only authority for saying that an appeal from the Supreme Court to the Judicial Committee exists is the decision of the committee itself. Their real reasons no doubt were as they generally are matters of policy: the ostensible reasons contained in their orders or reports are rarely the real ones and no doubt that is why the views of dissentient members are never made public. Obviously a decision which is at once politic and of doubtful legality would not command any acceptance if dissentient members' views upon it were expressed. The expression of opinion by all the members is the real strength of any Appellate Tribunal, because if the views of the majority are of doubtful legality they hesitate to put them into language which may be attacked by other members of the court.

As the appeal to the Judicial Committee exists by the decision of the committee, so I have always thought that it would ultimately disappear not by legislation but by the decision of another court, i.e., the Supreme Court.

Suppose for instance that an appeal is instituted from a decision of the Supreme Court dismissing a claim of the payment of a sum of money and that the Judicial Committee reverses the Supreme Court and condemns the defendant to pay the sum of money and that the defendant makes opposition to the execution of the judgment on the grounds that no such appeal ever existed, and that this opposition is carried through the courts until it reaches the Supreme Court and that the Supreme Court decides that it never did exist,—what then?

Except for the fact that, after the Supreme Court was instituted, warring politicians rather revelled in the superfluity of appeals the appeal to the Judicial Committee might never have existed. So far from there being any appeal to the foot of the Throne as represented by the Judicial Committee, the British North America Act contains nothing that gives colour to such a theory and a great deal that does not. For instance by section 9 the Executive Government of Canada is declared to be in the Queen; not at all in the Queen and the British Privy Council. By section 11 there is to be a Canadian Privy Council. By section 17 again a Parliament for Canada consists of the Queen and two Houses. As far as the use of statutory language is concerned, this is just as broad a statement as it