

*Privy Council Appeals*

91 or section 101 of the British North America Act or under a combination of both sections.

I do not intend at this juncture to deal further with the legal argument; it was dealt with in a comprehensive manner by the Minister of Justice. Nor shall I at this stage discuss the effectiveness of the language used by the hon. member for St. Lawrence-St. George in the bill that he has presented to the house. It may be necessary to consider some amendments, but we can attack that problem when the bill is in committee.

I shall confine myself to the principles involved in the measure that is now proposed. In my opinion the Judicial Committee of the Privy Council has not been a satisfactory court for Canada. It is also my opinion that its decisions have in the main and in their totality caused great harm to Canadian national development, and constitute a menace to Canadian national unity. It is also my opinion that the retention of appeals to the Judicial Committee of the Privy Council is now an anachronism, a survival of colonial inferiority, and inconsistent both with our right and with our duty as an autonomous nation.

I do not deny that the Judicial Committee of the Privy Council has included within its ranks many distinguished jurists, but I suggest that on many occasions they have not possessed adequate knowledge of Canadian conditions. They have not often visited Canada; they do not know the Canadian people or the conditions under which they live, nor have they adequately understood the changes that are inherent in the rapid growth of a new nation. They have themselves admitted this deficiency on their own part, by inviting Canadian judges and judges from the other dominions to join the board.

Moreover, there has been little continuity in the membership of the court. Indeed, there has been less continuity of membership in this court than in any other British court in the world. The result has been confusion and uncertainty. They have frequently decided constitutional cases that came before them without any evidence, or without adequate evidence of the issue that was before the court. It is not an infallible court; indeed, it has made many errors and has frequently reversed itself; sometimes these reversals have been by strange and circuitous methods.

I am prepared to judge this court by its record. I agree with the Minister of Justice that it is unwise to make sweeping generalizations; indeed, it is impossible to do so. I am free to admit that many fine decisions have emanated from that body, but I have been

[Mr. Thorson.]

driven to the conclusion, after many years of study, that in many vital and fundamental aspects their decisions have done almost irreparable harm to Canadian national development, and constitute a menace to Canadian national unity. I should, therefore, like to see all appeals to the Judicial Committee of the Privy Council, and particularly appeals in constitutional cases, immediately abolished.

I have frequently and for many years urged the abolition of all such appeals. I did so a year ago, when it was my privilege to speak on the subject of the decisions of that body. In the course of what I said a year ago I made four main charges against the Judicial Committee of the Privy Council and its decisions. I stated, first, that the court was a court not of law but of political expediency: second, that it had mutilated the structure of our federal system and changed its basic character contrary to the spirit of confederation and contrary to the clear intent of the British North America Act itself: third, that its decisions had done serious harm to Canadian national development, and, finally that it had failed to protect minority rights. I need not repeat what I said a year ago in proof of the charges that I then made. I have given many years of study to Canadian constitutional law and welcome this opportunity of expressing myself once again in favour of the abolition of all appeals to the Judicial Committee of the Privy Council. I venture the hope that we shall soon see an end to any further disintegration of our national structure at the hands of that body.

What is the greatest issue now before the Canadian people? Can there be any doubt as to the answer? It is whether Canada shall be a great and united nation, able through this parliament to discharge its national obligations for the welfare of the Canadian people. It was the dream of the fathers of confederation that in North America there should be built a great new nation enjoying the freedom and the liberty inherent in the British constitution, and uniting the various racial stocks of which it was composed with the common bond of Canadian nationhood. It was Sir Wilfrid Laurier's proud hope that the twentieth century should belong to Canada. How far we are from this dream of the fathers of confederation! How far we are from the realization of the wish of Sir Wilfrid Laurier! Indeed, Mr. Speaker, there are more disintegrating influences in operation in Canada to-day than ever before in our history. We in this national parliament must become alive to that fact. Thinking men throughout Canada are becoming alarmed. The Canadian people are calling for action.