

Supreme Court Act

with this irrevocable matter. The law must be administered objectively. That is why I am supporting the amendment.

Mr. A. L. Smith (Calgary West): Mr. Speaker, may I assure you and the house and the minister that I shall not speak long enough to delay a decision this evening.

Mr. Cruickshank: At least you will know what you are talking about, which is more than can be said for the last speaker.

Mr. Smith (Calgary West): In reply to that remark I wish I could say there were two of us, but I am afraid I cannot make that statement at the moment.

If we were to take the opinion of the so-called man in the street, who after all is the man who sent us all down here, I am sure we would find that opinion overwhelmingly in favour of the abolition of appeals to the privy council, to put it in one short sentence. And if the minister had brought in a bill couched in that simple language I believe it would have received a tremendous amount of support from the people of Canada. But the matter is not quite that simple; and because that sentiment is so prevalent throughout Canada it seems to me that we who are here, who have to agree on the terms of legislation, who, if you will, seek to carry out the general will of the people, have imposed upon us perhaps a special duty to examine this legislation with the utmost care, first to see that their will is carried out, and second to see that in altering a status which has existed for scores of years we do not run into some pitfalls which would cause those people holding that point of view to criticize us for having failed to properly achieve their main objective.

Speaking personally, I have heard many discussions of this matter throughout the years. I have given it considerable thought and I say publicly now that broadly speaking I have been and am now in favour of the abolition of appeals to the privy council. I have taken that position for a great many years, and I still take it.

An hon. Member: Will you vote accordingly?

Mr. Smith (Calgary West): Someone says, "and vote accordingly". When I have finished perhaps that hon. gentleman will not care to make the same remark. Together with that view, however, I have also held the reservation that somehow or other I wished to find a referee or umpire in connection with jurisdictional matters as between the provinces and the dominion. If we play games we try to have them on neutral ground, and we always try to have referees who do not live in either of the contesting towns. That

is a natural human instinct. We do not say we do not trust our opponents to provide good referees; we simply say we will see that they do not have a chance to do anything else. So I have thought—I must say I am weakening to some extent—that we should not do the great big sweep all at once. In 1931, I believe it was, we eliminated appeals in criminal matters. I think now we certainly should eliminate appeals in civil matters; and to a great extent I agree with the statement of the hon. member for Fort William (Mr. McIvor) that the question of cost is a very serious matter. It is a just criticism that appeals to the privy council cost money. Many people have not the money to carry the appeal to the ultimate court. I agree with that, so that is one of the many reasons which impel me to say I believe those appeals should be abolished. After all, that is merely a matter of dollars or of property, and that is about the only remaining appealable matter between person and person. I am therefore heartily in favour of the abolition of those appeals.

I shall not repeat many of the arguments which have been made with respect to jurisdiction as between the provinces and the dominion. I do not want someone to recklessly throw the statement at me that I am being political if I say what I have in mind. May I immediately add, sir, a compliment to you, the minister and the members of this house for the very high plane upon which this debate has been conducted. Listening to this debate, I have not heard a political word from either side of this house.

It does seem to me, however, that we have heard the constitution discussed. What is our constitution? Originally, it was the British North America Act of 1867, with such amendments as have been passed and such separate statutes as have been passed as, for example, the statute doing away with colonial laws validity, and the Statute of Westminster. We have not only that act, with its statutory amendments, but the interpretation of the act by our own Supreme Court of Canada and the privy council. This now forms a part of that same constitution. In a sense, it is an approach to what we call the constitution of the United Kingdom. There is not a word written, but it is a growth from precedent to precedent and is now as plain as can be. It seems to me that, in the light of that experience, the judicial interpretation has now become part and parcel of our constitution. We should do nothing to destroy that position.

I am not saying this bill does destroy it, but I realize that if we are to have a final court of appeal in Canada we cannot hamstring that court. We dare not do that. The