

I propose first simply to read to you a brief example from a judgement by the Judicial Committee of the Privy Council, a few paragraphs of a widely-known dissenting opinion of the late Oliver Wendell Holmes, Justice of the Supreme Court of the United States and, since we need not go so far afield for what we want, part of a dissenting opinion of Mr. Justice Cartwright, now Chief Justice of the Supreme Court of Canada. Following these excerpts, which I propose to read to you with a brief explanation of what they are about, I hope to be able to suggest fairly clearly the virtues common to these three examples from different countries on different subject matters. I hope to make the point that this is the sort of thing we should be trying to do in style and in vocabulary.

The first example comes from a judgement in 1932, delivered for their Lordships by Viscount Dunedin. The volume from which it comes is entitled Canadian Constitutional Decisions of the Judicial Committee 1930-39, and we have a copy in the Library.

It was an appeal from a judgement by the Supreme Court of Canada concerning the jurisdiction of the Parliament of Canada to regulate and control radio communication. Since, a little earlier, in October of 1931, the Privy Council had determined that the regulation of aviation was a matter for the Federal Government, the advocates for the provinces hardly expected to convince the Judicial Committee that broadcasting was a provincial matter, particularly since Canada had signed a few months earlier an International Convention on Broadcasting, but they tried to make a case for provincial jurisdiction over the reception of broadcasting. Their Lordships dealt with this one, in part, as follows:

"The result is in their Lordships' opinion clear. It is Canada as a whole which is amenable to the other powers for the proper carrying out of the convention; and to prevent individuals in Canada infringing the stipulations of the convention, it is necessary that the Dominion should pass legislation which should apply to all the dwellers in Canada.

At the same time, while this view is destructive of the view urged by the Province as to how ⁽¹⁾ the observance of the international convention should be secured, it does not, they say, dispose of the whole of the question. They say it does not touch the consideration of inter-Provincial broadcasting. Now, much the same might have been said as to aeronautics. It is quite possible to fly without going outside the Province, yet that was not thought to disturb the general view, and once you come to the conclusion that the convention is binding on

(1) The conflict between this and an item in Appendix B is both apparent and real.