This is not a theoretical problem. These problems have arisen in other countries. The federal system has broken down in other countries where a division of real responsibility, of real taxing power, of real authority did not go hand in hand under a constitution which could be clearly interpreted and could be invoked through some recognized tribunal just as effectively by one government as by another.

This matter has been given extended consideration by other countries than Canada. It has been considered, for instance, by the United States and by Australia, which countries, with a number of differences, have a somewhat similar federal structure. Just a few years ago Mr. Franklin Roosevelt, discussing this whole subject of state rights—which corresponds to our problem of provincial rights—said something which it seemed to me has application to what we are considering here today. These are his words:

> The preservation of this home rule by the states is not a cry of jealous commonwealths seeking their own aggrandizement at the expense of sister states. It is a fundamental necessity if we are to remain a truly united country. The whole success of our democracy has not been that it is a democracy wherein the will of a bare majority of the total inhabitants is imposed upon the minority, but because it has been a democracy where through a dividing of government into units called states the rights and interests of the minority have been respected and have always been given a voice in the control of our affairs.

This whole question of the importance of a constitution to divide authority and of the interpretation of that constitution was put forward extremely well by a great Australian constitutional expert, Mr. R. C. Teece, from whose analysis of the subject I should like to quote one paragraph:

> The federal system requires a supreme law—known as the constitution—which will embody the above-mentioned principles, whose provisions can only be amended by some authority above and beyond the ordinary legislative bodies, whether central or provincial. The necessity for such a supreme law can be easily deduced from the other features of federalism. This dual system of government involves, as we have shown, an elaborate distribution of powers between the states and the nation, and the delimitation of the powers granted to each. If the national government were able to extend the powers vested in it, the component states would have no guarantee for the continuance of that amount of independence reserved to them when they entered the federation. If the legislature of state or province could extend its powers, the authority of the central government would be illusory. The very nature of federalism, then, demands that there should be a supreme law defining the powers of the central and state governments, and declaring illegal and invalid any law that they might pass in excess of those powers. For the same reason it follows that it must be beyond the competence of both central and provincial legislatures to alter that supreme law. The authority to do that must be vested in some body in which the legal sovereignty of the federation will thus reside.

In that discussion and in the discussion which has taken place here in Canada there has been the repeated suggestion that if, as and when appeals to the privy council are ended in respect to constitutional matters, appeals in constitutional matters should not go to the Supreme Court of Canada as such but should go to some special constitutional tribunal. This may or may not be an acceptable suggestion but reasons have been put forward for its being considered desirable.

It has been pointed out that in the United States their constitution is interpreted by the Supreme Court of the United States. It has been pointed out also that the Supreme Court of the United States operates within a much more rigid framework than the Supreme Court of Canada; not only is it part of the constitution, but the constitution is a rigid one which can be changed only by a system of general amendment supported by the people of the United States. Nevertheless, as you know, sir, questions have been raised as to the interpretation of constitutional matters by the Supreme Court of the United States, and it has been suggested there that it has not been wise in every case to place upon the Supreme Court of the United States the onus of actually writing the constitution. Because of that very fact the Supreme Court of the United States has in certain cases become the centre of political controversy. I should hope that, by every device within the wisdom of this parliament in both its houses, the respect for the Supreme Court of Canada will be preserved by keeping it aloof from anything that might savour of controversy.

It may be said that these are not matters affecting the provinces, and that past history shows that it may be difficult to get agreement by the provinces. Our constitution is one constitution; it is not something that is broken down through the middle. If it is to be changed and a new tribunal set up to determine the rights, responsibilities and administrative duties under it, then I earnestly urge upon the government a recognition of the fact that such constitution as we have in the future will operate best to the advantage of every Canadian if suggestions and proposals are obtained in advance in regard to every aspect of this problem instead of dealing with it piecemeal as is now proposed.

The question of appeal in constitutional matters is part and parcel of our whole constitutional structure. It cannot be separated. As Mr. Teece points out, the constitution itself is the supreme law. But along with that goes the tribunal that will interpret the