

I have, however, reason to believe that, although we now have the undoubted constitutional power to enact this legislation, there are still some people among us who would hesitate to support this bill for various reasons, but I presume I can honestly maintain that such people are in the minority. I believe, on the other hand, that the vast majority of the Canadian people endorse the principle of this bill, mainly because of a present awareness of Canadian sovereignty, and because of a pride in this sovereignty, a pride that is justified by the achievements of Canada during the war, achievements especially in the production field, which equal or at least approach the achievements of some of the great powers.

This state of Canadian sovereignty is especially emphasized by Lord Jowitt, who delivered the judgment of the privy council. When discussing the argument of counsel opposing the validity of the legislation with respect to appeals from provincial courts, the learned lord said this at page 815:

It is in fact a prime element in the self-government of the dominion, that it should be able to secure through its own courts of justice that the law should be one and the same for all its citizens. This result is attainable only if section 101 now authorizes the establishment of a court with final and exclusive appellate jurisdiction. The words used by Lord Macmillan in delivering the opinion of the board in *Croft v. Dunphy* (1933), 1 D.L.R. 225 at page 228, upon a question that arose in regard to one of the specific subjects enumerated in section 91 are equally applicable in the consideration of section 101: "Their Lordships," he said, "see no reason to restrict the permitted scope of such legislation by any other consideration than is applicable to the legislation of a fully sovereign state."

Yet even in spite of this strong prevailing sentiment of sovereignty, as I mentioned before, there are undoubtedly objections here and there, and perhaps even some hon. members might entertain thoughts of doubt and might hesitate to go along with us who advocate that this spirit of sovereignty be given full scope and application; and anticipating their arguments, I might be permitted to mention some of those which might be advanced, all of which are, I claim, untenable and inconsistent with this main argument of mine based upon this idea of sovereignty.

Perhaps the passing of this bill, which I hope we may be able to accomplish, will be another great step in our development through the decades toward Canadian sovereignty. It is but a fulfilment of the growth and development of our constitution, as it has so often been expressed in statements by great Canadians who have gone before; and it has even been expressed in judgments of the privy council itself on numerous occasions.

[Mr. Jaenicke.]

When the Hon. C. H. Cahan spoke to the second reading of this bill in 1939, he said this, as reported at page 2814 of *Hansard* of that year:

After all, to my mind the constitution is not a dead organ; it is a living organism, which grows with the body which it animates, and the only way in which we shall ever grow to be a country is by looking at it in that way.

The sentiments expressed by the hon. gentleman in the foregoing quotation are but an echo of the thoughts of the fathers of confederation when they formulated the proposals which led up to the British North America Act, and although we may have been criticizing some of the decisions of the privy council, yet on occasion some of the same sentiments were expressed by the learned law lords themselves. In the reference pertaining to section 24 of the British North America Act—reported in 1930, 1 D.L.R., page 98—Lord Sankey had this to say:

The British North America Act planted in Canada a living tree capable of growth and expansion within its natural limits.

To oppose the passage of this bill would, in my humble opinion, only be an effort to hinder the growth of this living tree or of this living organism as described so vividly and adequately by the Hon. C. H. Cahan.

However, as I said, I must anticipate some objections, and in the preparation of my arguments in that behalf I have been greatly assisted by a perusal of the admirable work of Doctor Maurice Ollivier, legal adviser of this house, in his book, "Problems of Canadian Sovereignty". I am also indebted greatly to the speeches made in this house upon the subject by the Hon. C. H. Cahan; by the Right Hon. Mr. Lapointe, a former minister of justice; by Mr. Thorson, the former member for Selkirk who is now, I believe, a judge of our exchequer court; and by other eminent and noted Canadians. It is really their work, their pioneering in this field which I wish to place for a few moments before this house.

One of the arguments against the measure would no doubt be that abolishing appeals to the privy council would take away the prerogative of the king of hearing appeals of his subjects. I wish to differ from this contention, because in the long run His Majesty does not hear these appeals personally, but depends upon his judges; and in making the Supreme Court of Canada the final court of appeal we simply substitute His Majesty's Canadian judges as the final arbiters upon any grievances brought before him by his subjects in Canada.

On page 232 of his book, "Problems of Canadian Sovereignty", Doctor Ollivier quotes Lord Haldane as follows: