

Seventh Day.
26 April 1907.

Mr. H. BERTRAM COX, C.B., Legal Assistant Under Secretary of State for the Colonies.

Mr. E. S. HOPE, C.B., Registrar of the Privy Council.

Mr. A. W. FITZROY, C.V.O., Clerk to the Privy Council.

IMPERIAL COURT OF APPEAL.

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CHAIRMAN : Gentlemen, we proceed to-day to the question of Judicial Appeals. We have before us two resolutions, one proposed by the Commonwealth of Australia and another by the Cape Colony. I think Mr. Deakin is ready to speak to the Australian resolution.

Mr. DEAKIN : My Lord, my Lord Chancellor, and gentlemen, the resolution of the Commonwealth of Australia is simply, "That it is desirable to establish an Imperial Court of Appeal," by which it is intended to convey a single Court of Appeal for the whole Empire, instead of as at present retaining dual Courts, the one dealing with cases from India and the self-governing Colonies, and the other dealing with cases arising within the United Kingdom. It is unnecessary to go further back than the time of the passage of the Commonwealth Constitution through the British Parliament, when the question of appeal arose in relation to the discussions as to the proposals in regard to appeals made in the Commonwealth Constitution, at the very outset of the discussion between the then British Government and the representatives from Australia who were charged with attendance here during the passage of that Bill. In the very first document that we received from the Government of the United Kingdom occurs a memorable passage. It is headed, "Memorandum of the Objections of Her Majesty's Government to some provisions of the Draft Commonwealth Bill." I quote the statement made by the Government on page 152 of the volume of "Debates in the Imperial Parliament with Appendices," published in 1901 from the British Hansard : "Proposals are under consideration for securing a permanent and effective representation of the great Colonies on the Judicial Committee, and for amalgamating the Judicial Committee with the House of Lords so as to constitute a Court of Appeal for the whole British Empire." Again, on page 156, in a telegram from the then Secretary of State for the Colonies, Mr. Chamberlain, to the Governors of the Australian States, there is this, sub-paragraph 7 : "Her Majesty's Government feel that the actual restriction of the power claimed to make further restriction equivalent to the practical abolition of appeal would be specially inopportune at the moment when they are considering the terms of a Bill for enhancing the dignity and promoting the efficiency of the Judicial Committee by practically amalgamating it with the House of Lords and providing for permanent representation of the great Colonies in a new Court which it is proposed to create." In consequence of those statements and their discussion then a Colonial Conference was called in 1901—what would be now termed a subsidiary Conference—for the purpose of considering this special question. Perhaps before referring to that I might call attention, for the sake of those who are sufficiently interested to pursue the course of this question, to the debates which followed in the House of Commons when the Commonwealth Bill was under discussion. There are a series of statements made by the Secretary of State for the Colonies, Mr. Chamberlain, who repeated the proposal for the amalgamation of the Judicial Committee of the Privy Council with the appellate jurisdiction of