

Seventh Day.
26 April 1907.
IMPERIAL COURT
OF APPEAL.
(Mr. Deakin.)

from the particular class of constitutional questions referred to. It is to our interest to have a single Imperial Court instead of the Privy Council. If we cannot obtain it, and must make a choice between the two existing courts, we prefer the House of Lords. In any case we advocate an Imperial Court of Appeal, because we still believe that appeals from Australia are not likely to be much reduced for some time to come. If we wanted any amendment of the constitution we should provide for that ourselves according to the constitution and in no other way.

Sir WILFRID LAURIER : I thought your argument was that you had two Courts of Appeal in Australia at the present time.

Mr. DEAKIN : On one class of case.

Sir WILFRID LAURIER : The object you had in view was to suppress one of them and provide only for one, if I understood your argument aright.

Mr. DEAKIN : In constitutional cases an appeal is still allowed by consent of our High Court, which may refer them on to the Privy Council. If we had an Imperial Court of Appeal instead of the Privy Council it is quite certain that those references would be more encouraged than they are at present. Then, again, public opinion could be better satisfied than it is now in Australia. For both those reasons and others we think the establishment of an Imperial Court of Appeal is very desirable.

Sir JOSEPH WARD : My Lords and Gentlemen, New Zealand is in a slightly different position upon the point referred to by Mr. Deakin. We have no federal High Court. Our position is a very clear and defined one. Our Supreme Court, which sits as a Court of Appeal twice a year at the seat of Government, so far as we are concerned is quite satisfactory. But New Zealand is in favour of an ultimate Court of Appeal in the United Kingdom, whether it be the Privy Council as at present constituted or an Imperial Court of Appeal, as suggested by the Commonwealth resolution. That is why I asked Dr. Jameson what he proposed to set up to take the place of it, and I understood him to say an ultimate Court of Appeal.

Dr. JAMESON : An ultimate Court of Appeal for South Africa only.

Sir JOSEPH WARD : I agree in that. You still believe in appealing ?

Dr. JAMESON : Absolutely.

Sir JOSEPH WARD : There is only one point I want to refer in connection with this, and I do so on information furnished to me from legal authorities in my own country, as I am speaking entirely as a layman. I take the opportunity of mentioning it in the hope that possibly the Home Government might in future be able to see their way to meet an opinion which has been expressed by legal gentlemen in my own country. I am informed one great defect in the Privy Council, as at present constituted, is that though in the case, say of New Zealand, they are deciding according to New Zealand law, yet they have before them only such portion of that law as is presented by counsel. Now in recent times particularly we have been sending counsel