

Seventh Day.
26 April 1907.

IMPERIAL COURT
OF APPEAL.
(Sir Robert Bond.)

over the proceedings until the record is lodged, they submitted that the three months now limited between the time of the filing of the Petition for leave to appeal, and the perfecting of the bond obtaining leave is too long, and they suggested two months from the date of the Colonial Judgment should be the time fixed. As regards the expense, their Lordships were of opinion that the costs of appeal are much too high, especially the fees paid in the Privy Council Office.

These were the only two matters that they thought called for their comment, and only feel justified in putting forward their views on the matter.

The LORD CHANCELLOR: My Lords and Gentlemen, I will endeavour to speak to the different points that have been raised in this very interesting and instructive discussion. I think the first thing that must occur to all of us is the diversity of interests that have to be considered and the diversity of conditions that obtain in the different parts of His Majesty's dominions. My view is, and I think we shall all agree in it, that in those circumstances all that can be done is to recognise and act unreservedly, upon the principle of autonomy, that each integral unit of His Majesty's dominions should govern itself in the matter of appeals; that one should not necessarily be the same as any other, but each should govern itself. I can say this, that as far as His Majesty's Government is concerned, we most cordially fall in with that and will do all we fairly can for the purpose of furthering the views of all concerned.

May I say a word with reference to what Mr. Deakin said as to the anomalous position—what Lord Davey called a solecism in law—created by the fact that in a limited class of cases in Australia there may be two courts, each of them by the constitution final in a particular case that they determine, which need not necessarily come to the same conclusion. Of course that is a solecism in law. I am not sure exactly how it arose, but I have some recollection in the House of Commons of the debate and it seems I took part in it, as Mr. Deakin was good enough to quote me, and I seem to have said that it would have been, perhaps, better to leave the constitution of Australia as the Australians had sent it over the water, a sentiment in which I probably keep true to my past views and my present views. But that was not the view adopted. However, this I say, that when Mr. Chamberlain suggested—and, of course, it was accepted by Australia or it never would have been in the Act—that the Australians should accept this view, I am sure he did it in the very best interest, as he believed, of the friendly and close connection between the two countries. I am sure his object was a good one. If anything has gone wrong in regard to that, which I should be very sorry to think, the Australian Parliament has the power under their constitution to alter it themselves if they think fit. I can only say in regard to it, that upon the ground of sentiment I like to sit as an Australian Judge on the Privy Council, and I hope I may not be deprived of the privilege.

In regard to the other points referred to by Mr. Deakin as to the Privy Council, it is quite true that in Mr. Reeve's book, and also in the Greville Memoirs, if I remember rightly, there are references to the ways in which the Courts were made up, which were not satisfactory. The English courts were not altogether satisfactory at that time either. I think we have all made progress generally. We attend to these things a little more closely and better than we did.

Let me say what is the constitution of the Privy Council and the House of Lords respectively. They consist of the same persons, who sit in different places, with this difference that all the persons who can sit in the House