

of Lords judicially are entitled to sit in the Privy Council and do sit there; but in the Privy Council, having regard to the fact of past opinions expressed by Colonial Ministers, and to a general feeling that we want, so to speak, to enlarge the scope as much as we can, there are other additional members who are not members of the House of Lords. There are two members of the Privy Council who may be specially appointed, and receive a salary. There are two also who may be appointed without receiving any salary, and without any specific qualification. There are two such persons, distinguished men both of them. In addition to that there is the Act under which five gentlemen may be appointed, and five have been appointed, including Sir Henri Taschereau, Sir Henry De Villiers, Chief Justice Way, and two other distinguished men. I will say a word about that Statute in a moment. Besides that, all those who have held high judicial office, the conditions of which are prescribed, in any part of His Majesty's dominions, if members of the Privy Council, may sit on the Judicial Committee. Therefore it is what may be called in its composition a somewhat cosmopolitan court. My friend the Lord President of the Council delegates to me this part of his duty, namely the summoning of the Privy Councillors for the purpose of hearing these appeals; and I can only say — and you will credit it — that not only myself but all my predecessors (and I am certain it will be the same of my successors, whoever they are) have been most anxious to provide as strong a court, and as good a court, as can be made for the hearing of Colonial appeals, not only appeals from the self-governing states of the British Dominions, but of the Crown Colonies. I hope we are anxious, and always shall be to have as good a court to hear a Fiji appeal, as to hear an appeal from the Dominion of Canada. We are in this difficulty, that we have to man two courts, and I am afraid it is not easy to alter that. We can do it without overwork, and it would be very undesirable that we should have overwork. I think we have full work, and overwork would be very undesirable considering the character of the tribunals of the House of Lords and the Privy Council, and the gravity of the cases which often come to them. What we do is we divide quite impartially, and I can assure Mr. Deakin that in the House of Lords the English appeals are not favoured at the expense of the Australian appeals—not knowingly or consciously favoured. We try to make the best Courts we can. Let me refer to the case which Mr. Deakin referred to. I was not sitting on that case myself, but there were four judges—Lord Halsbury, whom we all recognise in this country to be one of the greatest judges we have ever had, a very great judge, Lord Macnaghten, Sir Arthur Wilson, and Sir Alfred Wills. It would be unbecoming in me to pass panegyrics upon my colleagues and friends, but I should feel myself very uncomfortable if I differed from them on a point of law.

Then there was the case of the eight judges. That was, I think, the only time we have sat with eight for many years, but we did sit as eight because we first sat as four, and I was one of them. The case raised a point which was considered one of very great difficulty, and there was a difference or a sense of extreme difficulty in the case although the sum was not large.

Mr. DEAKIN: It was a New South Wales case affecting, I think, the State land laws.

The LORD CHANCELLOR: Yes, and we got it re-heard by eight judges, because it was found to be so difficult a case. We said, "No, we will not settle it ourselves but get four more judges." We got Lord Halsbury and the whole of the four Law Lords and myself. It was a re-hearing with eight, and then we came to our conclusion which was, I hope, a right conclusion.

Seventh Day.
26 April 1907.

IMPERIAL COURT
OF APPEAL.
(The Lord
Chancellor.)