

12 June, 1911.]

IMPERIAL APPEAL COURT.

[7th Day.

Mr. BATCHELOR—*cont.*

led to conflicting judgments as to the law. There ought not to be any possibility of uncertainty as to the law. When an appeal is made to a court supposed to have final powers of jurisdiction, there ought to be no possibility of any conflict in the different parts of the Empire as to what the law means.

Another point I want to put is this, that if the two courts are quite equal in powers, then, of course, there must be a certainty sooner or later of conflict. If they are unequal, if one gives way to the other, one is the inferior court if any heed is paid to the judgments of the other court. Practically they are the same persons at present. The Privy Council is composed of very much the same judges as the House of Lords in practice, with a few additional members; I think that is the present position.

The PRESIDENT: I think that is so.

Mr. BATCHELOR: There seems to be no very great difficulty, one would think, in those circumstances in having one court—in having the court which is now the Judicial Committee of the Privy Council, the court of the Empire, or possibly the other way round. I think it would be generally considered advisable that this supreme court, this final court, should be a court in which there should be some representatives other than the Law Lords, but that point is one that will be raised by the New Zealand resolution. What we are contending for now is that there ought to be one court of final appeal.

There is one point in connection with the Privy Council that it is not in the usual way the decision of a court, but it is the finding of a board—it is the report of a board rather than the finding of a court. I think it is the only court in the Empire, if I mistake not, which does not give individual judgments.

The PRESIDENT: Yes, some people think that is a drawback and others an advantage.

Mr. BATCHELOR: Still, if that is an advantage, and it is the only court of the Empire which does not give individual judgments, then it is rather a reflection on all the rest of the courts of the Empire.

The PRESIDENT: You can put it either way.

Mr. BATCHELOR: It rather suggests that we should bear in mind the fact that if it is generally accepted that it is the proper thing in all the best courts to have individual judgments, that should also follow in the case of the Colonial Court of Appeal.

The PRESIDENT: It has this curious consequence, that you never know whether a judgment of the Privy Council is unanimous or not.

Mr. BATCHELOR: Quite so; you never know whether it is unanimous.

The PRESIDENT: Or to what extent it was dissented from.

Mr. BATCHELOR: Or to what extent it was dissented from; and that is one of the arguments which I think can clearly be used against the report of a court of that nature. Another thing is that I would not suggest for one moment than any one who ever sat or who ever will sit on a court of that kind should act in a slipshod manner, but the fact that there are not individual judgments recorded would not under ordinary circumstances tend to the very close personal study of each member of the court as it would if they had to record individual judgments.

I think, Sir, I need not advance any further points. I believe one of the reasons which has been urged against having one court is that there might be over-work and congestion if you had one court to do the work of the Empire, at least that was suggested at the last Conference. That of course is a question that could be very easily dealt with. There are two courts now, consisting very largely of the same individuals, and if they can meet the over-work that at pre-