

7th Day.]

IMPERIAL APPEAL COURT.

[12 June, 1911.]

Mr. BATCHELOR—*cont.*

sent exists there ought to be no difficulty in uniting the two courts, and calling it one. That cannot be really a practical difficulty. I think we ought to take a step in advance in the direction of Imperial unity in a case of this kind where there are no great difficulties in the way, where no interests will be upset, and where the matter can easily be arranged.

The PRESIDENT: I think it might be convenient to the other Members of the Conference that the Lord Chancellor should at once make a statement, as it might abridge the discussion and concentrate it.

The LORD CHANCELLOR: I will do so with great pleasure. The matter is undoubtedly a very important subject, and I think it is a very difficult subject. I think I had best begin by stating in quite an abbreviated form the nature of the jurisdiction already existing. In the House of Lords the House hears all the appeals from the United Kingdom. I have before me the judicial statistics, and I find that in the last year of which they give a record, which was in 1908, the total appeals disposed of in the House of Lords was 107. The number is increasing, because the average of the preceding five years was 91·8. Those who may sit in the House of Lords are, in theory, every peer, and, for a considerable part of the history of England, every peer did sit if he liked, but for a long time now it has been restricted to the judicial members of the House of Lords, who consist of the Lord Chancellor and four Lords of Appeal, together with any previous Chancellor and any peer who has held high judicial office. In practice, those who sit at the present time, which is a very good illustration of what is common and usual, are the Lord Chancellor and the four Lords of Appeal: we get a good deal of help from Lord Halsbury; we have the advantage of Lord Gorell and Lord Mersey, both distinguished judges in the English Courts. We have assistance from the Lord President of the Court of Session in Scotland, Lord Dunedin, and from Lord Kinnear, who sits also in the Scotch Courts, and Lord Ashborne occasionally comes. I do not think Lord O'Brien, who is the Lord Chief Justice of Ireland, ever has sat in my time, but the Lord Chief Justice of England also helps us. The backbone, so to speak, of our Court in the House of Lords is the Lord Chancellor and the four Lords of Appeal, but a good deal of assistance is voluntarily given by the other Lords I have referred to.

Mr. MALAN: Have you got a fixed quorum to make up the Bench?

The LORD CHANCELLOR: The quorum in the House of Lords is three, but we very seldom sit with less than four, and the practice, as you probably know, during the whole history of England has been that our courts are comparatively small. Four or five judges have decided all the greatest cases in the whole history of England.

Now I come to the Judicial Committee of the Privy Council, and in order to point out what the jurisdiction of that most unique and interesting tribunal is, I have had printed the appeals disposed of by the Judicial Committee of the Privy Council in the years from 1906 to 1910.

The PRESIDENT: You have copies of these.

The LORD CHANCELLOR: If you will kindly look at those statistics at page 10 for the last year, 1910—so that we are really up to date as far as this document is concerned—you will see there a list of nearly all the courts in which the Privy Council has jurisdiction. There are one or two in the United Kingdom, but the jurisdiction, broadly speaking, is a number of courts in India, the Dominion and Colonial Courts, and other courts, which do not belong to the British Empire, like Constantinople. That is the work which they have to do. Would you kindly look and see what the proportion is of the business they have to do? Out of a total of 78 appeals disposed of, 41 came from India. Then come all the other Dominion and Colonial Courts, and the High Court of Australia has 3, the Supreme Court of Canada 10; there were none from the Cape of Good Hope, none from Natal, 1 from Newfoundland, 2 from New South Wales, 2 from New Zealand, 6 from Ontario, 1 from Quebec, 4 from the Transvaal, and 1 from Western Australia.

The PRESIDENT: About half of the 33 seem to come from Canada.