

12 June, 1911.]

IMPERIAL APPEAL COURT.

[7th Day.

Mr. BRODEUR—*cont.*

us this morning that there are a large number of cases where leave has been granted by the Privy Council to appeal from the decision of the Supreme Court. I am sure if we undertook to make change it would probably raise some difficulties or some objections on the part of the Provinces, and for my part in those circumstances I cannot very easily urge any change which would alter the existing situation. We had an idea of the jealousy with which the Provinces regard their rights in that connection when the draft Rules which have been sent to the different Dominions, were, at the request of the Colonial Office, submitted by us to the different Provinces. We found out that the two largest Provinces, Ontario and Quebec, have not, so far, adhered to those Rules. They do not want to make any change, but prefer to let the matter remain as it is to-day; and I suppose that is the reason for their delay in answering the request made as to the alteration of the Rules themselves, though the alterations were not very drastic or of a radical nature.

I may say that the Privy Council has given satisfaction generally in Canada, and the appointment of a Canadian representative has, of course, strengthened that confidence. That change, which has been brought about by the addition of a representative of Canada, has, I think, manifest advantages to the Bar, to the Colonial suitors, and to the Bench also, and similar advantages might accrue to the Judicial Committee from the presence of representatives of other Dominions having knowledge of local laws and conditions. As has been said, various systems of law are in existence in the British Empire. As far as Canada is concerned we have two different systems; one is the British Common Law, which is in force in some Provinces, and we have also in the Province of Quebec a Civil Code based upon the Coutume de Paris and the French Code which is commonly called the Code Napoleon. I may say that any one who has been practising before the Privy Council has been impressed with the great breadth of mind which pervades the members of that court. They have shown profound science in dealing with the principles of the different systems of law—at least as far as we are concerned. I suppose the great opportunities that they have in the British Universities of mastering the different systems of law, and of making a close study of the Roman, French, and English laws, make the members of the Judicial Committee of the Privy Council eminently qualified to administer laws which are so different in character.

As to Canada, there is no part of Canada more pleased with the decisions of the Privy Council than the Province of Quebec. Though the judges of the Privy Council are supposed to be more versed in the British Common Law, they have shown, however, by their decisions, or by their jurisprudence, in regard to the French law, such science, as far as the Province of Quebec is concerned, that litigants prefer sometimes to come before the Privy Council rather than to go before the Supreme Court of Canada.

Judging by the statistics which are now before us, Canada seems to be largely interested in the appeals which come before the Privy Council. I find that in 1910, out of 33 cases 21 came from Canada. In 1909, out of 43 cases 23 came from Canada. In 1908, 16 out of 50 cases came from Canada. In 1907, 21 cases out of 42 came from Canada, and in 1906, 25 out of 55. So you see we are greatly interested in the judgments of the Privy Council. Those statistics also show that there have been more appeals from the decisions of Provincial Courts than from the decisions of the Supreme Court. Some suitors in the Provinces, instead of going to the Supreme Court, come direct to Great Britain, and have their cases decided here by the Privy Council; so it shows, on the whole, that the people are very much satisfied with the existing system.

We had a law passed some years ago authorizing the Canadian Government to refer to the Supreme Court constitutional questions which are constantly arising as to the relative powers of the Provinces and of the Dominion. I am sure that those references would not be acceptable by the Provinces or by the Dominion if it was understood that in all those cases after the judgment of the Supreme Court is rendered we would not have an opportunity of asking leave from the Privy Council to hear the case. I have two cases in mind. There is one case concerning my Department—a question of fisheries—which is now, in virtue of an agreement reached between the Dominion Government and the Provincial Government of British