

12 June, 1911.]

IMPERIAL APPEAL COURT.

[7th Day.

Sir JOSEPH WARD—*cont.*

to the Privy Council by way of appeal, in the absence of knowledge of the customs which exist (and it could not be expected to be otherwise) a representative judge from New Zealand, familiar with the customs of the natives and familiar with the laws and the difficulties surrounding them, would be of immense advantage to the Privy Council in fully understanding the position before giving judgment. Therefore, speaking for the people of our country, I think it would be a good thing if we had a system of representation by one of the judges of our Supreme Court upon the Privy Council.

The PRESIDENT : You are speaking to your own resolution now, Sir Joseph ?

Sir JOSEPH WARD : Yes. My resolution can be put afterwards ; I do not propose to debate the matter twice.

The PRESIDENT : You do not want to say anything about the Australian resolution ?

Sir JOSEPH WARD : The two resolutions have been dealt with together, and I cannot do otherwise than deal with them together, as the Lord Chancellor treated them in that way.

The PRESIDENT : Yes, I think he set the example, and it is for the general convenience that they should be so taken.

Sir JOSEPH WARD : Yes, I recognise that they had better be treated in that way, and I do not want to have a double discussion upon it. Another important matter which has been referred to the Privy Council, and upon which a decision has been given, to which exception has been taken by people well qualified to judge, is the question of land transfer in New Zealand. I remember a case perfectly well where a decision of the Privy Council was given interpreting a rule quite contrary to the interpretation that has ever been given to it in New Zealand. Such a decision given upon an important matter like that by the Privy Council here was, and I say it with all respect, looked upon by many people in our country well qualified to judge as a wrong decision. I have no hesitation whatever in saying that if a judge of our Supreme Court had been associated with the Judicial Committee of the Privy Council in that important matter, he could have supplied information to his brother judges which would, to say the least, have been very valuable to them, even although they might have adhered to the same decision.

With regard to the suggestion of merging the Judicial Committee of the Privy Council and the House of Lords, as the Lord Chancellor expressed the view that it was not practicable, I shall, under the circumstances, defer to his statement at once, and I will not attempt to press the proposal for that merger ; but I would urge that in addition to the present members of the Judicial Committee of the Privy Council, there should be a permanent judge for each of the important oversea Dominions—one for Canada, one for Australia, one for South Africa, and one for New Zealand. The Lord Chancellor invited each part of the Empire to judge for itself what kind of tribunal it wished to have, and in response to that invitation I want to state the kind of tribunal I wish for, as far as New Zealand is concerned. The difficulty I see in regard to the suggestion made by the Lord Chancellor that a time should be fixed for the taking of the New Zealand cases, in order that a judge might come over from our country for the purpose of hearing those cases, is that he would be, or might be, coming over to take part in the consideration and decision of a case or cases which had been before him in his judicial capacity in New Zealand. I do not believe the itinerant system of a judge coming over to this country would meet the position of New Zealand in a satisfactory way.

Members of the legal profession, and other gentlemen, too, will see the point I am making ; it would never do to have a Judge coming here to form one of the