

7th Day.]

IMPERIAL APPEAL COURT.

[12 June, 1911.]

Viscount HALDANE: It is understood that this final court of appeal for the whole Empire is not merely to be of the strength of the existing one. We have agreed to strengthen it, and propose to add to it as the Lord Chancellor said, two highly picked lawyers.

Mr. FISHER: Two or more, just as you please.

Viscount HALDANE: Strengthening it by the inclusion of additional members in that way, and the quorum in that case becomes five.

THE LAW OF CONSPIRACY.

“That the members of this Conference recommend to their respective Governments the desirableness of submitting measures to Parliament for the prevention of acts of conspiracy to defeat or evade the law of any other part of the Empire; that the Imperial Government make similar representations to the Government of India and the Crown Colonies.”

Mr. FISHER: While we have the Lord Chancellor and others here, I would like to formally move this resolution, and Mr. Batchelor, who is well acquainted with the question will say a word, and perhaps we shall be able to remit that also to you for consideration.

The PRESIDENT: I think so.

Mr. BATCHELOR: The position in Australia stands in this way. All the Dominions have passed laws peculiar to the Dominions, and frequently cases arise where the intention and desire of the Parliaments to enforce the measures which they pass are rendered almost impossible, not by acts of persons within their jurisdiction but outside their jurisdiction. Take, for instance, a case in which the matter arises in Australia. We have laws dealing with the introduction of aliens. We found that stowaways, for instance, were constantly being planked on to the boats and introduced into Australia, and the real persons who were guilty of introducing them into Australia were not within our jurisdiction at all. The stowaways themselves were comparatively innocent victims; the shipowners were also innocent victims. All we could do was to still further punish the stowaways and still further punish the shipowners; but we were not getting at the people who were responsible for their introduction, and really the procurers of those persons to break the laws.

The same thing happens also in the case of tariff matters. We cannot get at the people who are really responsible and who ought to bear the punishment. There are other laws of a similar nature in which the same thing arises and must constantly arise. I understand the position is that no State will enforce the penal laws of another State except by the extradition of fugitive criminals; but in an Empire like ours would it not be worth while to look into the whole question to see whether there is not a possibility of some greater amount of co-operation so as to protect the laws which any self-governing community desires to see imposed? The breaking of the laws sometimes happens altogether outside the jurisdiction. Under these circumstances, if there is any means by which we can bring about some method that would alter the present conditions, it would be very desirable. In a case which was tried in Hong Kong of men who undoubtedly were conspiring to break our laws, whom, had they been in Australia, we could have punished very severely, the Chief Justice of Hong Kong said, during the progress of the case, that no indictment would lie for conspiracy to defraud the steamship company, as there was no attempt to evade payment of fares, and also that a conspiracy to break the laws peculiar to the statute-book of Australia, was not an offence within the jurisdiction of the courts of Hong Kong, and therefore he directed an acquittal. What we should like is that the matter should be referred to a Committee. It is rather a difficult matter to decide in general conference.

The PRESIDENT: Yes, it is highly technical.