

12 June, 1911.]

IMPERIAL APPEAL COURT.

[7th Day.

Sir EDWARD MORRIS: I should just like to say that, in the first place, as regards the Privy Council, we have had practically every satisfaction that could be desired in the matter of appeals from Newfoundland. But, at the same time, if there was a desire for a change on the part of the other Dominions who have very much more work before the Privy Council than we have, I should not consider that I would be justified in voting against any resolution.

Now as to the first resolution, proposed by the Commonwealth of Australia, it would appear to me that as regards the final part of it: "which should also be a Final Court of Appeal for Great Britain and Ireland," after what has been said by the Lord Chancellor it is hardly a practical matter now for us to discuss. It is really more a matter to be taken up by those representing the Imperial Government, as to whether, if any change is to take place, it should affect the English appeals. But as regards the first part of the resolution: "That it is desirable that the judicial functions in regard to the Dominions now exercised by the Judicial Committee of the Privy Council should be vested in an Imperial Appeal Court," there does not appear to me to be any very great objection to it, because after all it is merely a change of name. Instead of calling it, as now, the Judicial Committee of the Privy Council, you would call it an Imperial Appeal Court. The Lord Chancellor asked the question what would the various Dominions prefer? While there can be no possible objection if it can be arranged, for each Dominion to have a representative on the permanent Court of Appeal or on this Judicial Committee of the Privy Council, I entirely agree with Sir Joseph Ward that if the change is to take place, if there is to be any alteration, the new appointees representing the Dominions ought to be permanent in order to make them absolutely independent—not for five years, but for life; and, further, they should be paid in such a way—not alone by salary but for the period of their appointment—that they should have no interest whatever in the matters on which they would be called upon to pass judgment.

As I say, we have probably only an average of one case a year, and up to the present time we have had very great satisfaction indeed; but, as has been suggested by the proposers of both these resolutions, the principle is in harmony with the general sentiment of unification which seems to be in the air, and seems to be largely the motive behind the various resolutions that we have been considering. If there is no very special objection to a remodelling of the Judicial Committee by having permanent representatives of the Dominions upon that committee I should not see any objection to it.

Now it seems to me that the matter was very fully gone into at the Conference in 1901, presided over by Mr. Chamberlain, who was then Colonial Secretary, and in this memorandum of correspondence which has been laid before us, the whole matter is summed up on page 25, signed by all the delegates then present, and it was a unanimous recommendation with the exception of Judge Emerson.

The PRESIDENT: I believe Mr. Fisher has some proposal to make, but before he makes it I should just like to put to you individually, as representing your different Dominions, this proposition which has been put forward by Sir Joseph Ward. Sir Joseph Ward's proposition, you will clearly understand, is this: that each of the Dominions should have permanently, or, at any rate, for a number of years, but permanently during that time, here in London a judge of its own, representing itself, who should sit upon the Judicial Committee, or by whatever title the Imperial Court of Appeal may be styled, to pass judgment not only upon appeals from his own Dominions, but upon appeals from all other parts of the Empire.

Sir JOSEPH WARD: The oversea Dominions.

The PRESIDENT: The oversea Dominions. I think it is very desirable that we should ascertain whether that proposal does or does not commend itself to the other Dominions. What do you say?

Mr. BRODEUR: So far as Canada is concerned, in view of the different systems of law that we have there, as I have already explained, we are perfectly satisfied with the Judicial Committee of the Privy Council as composed. I am afraid