HAMILTON EVENING TIMES, FRIDAY. FEBRUARY 19 1909.

PRIVY COUNCIL JUDICIAL COMMITTEE

Its Value to the Colonies and to the Empire Considered By WALLACE NESBITT, K.C., in Canadian Courier.

The Judicial Committee of the Privy Council is the court of last resort for all that portion of the British Empire mated outside the United Kingdom. It sits as a committee of advice to the Crown, and its jurisdiction is founded color, at the record property of the right of the matter right of the record property of the right of the matter right of appeal to cases when the matter

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Crown, and its jurisdiction is founded solely on the royal prerogative. From the beginning of our national existence the King has been accustom-ed to act with the advice of the mag-mates or great men of the realm, and at an early period exercised legislative. executive and judicial authority, espec-ially of an appelate character, from the shire and hundred courts. I have been umable to ascertain when appeals to the Privy Council were first instituted, but there is no doubt that from the earliest times petitions for justice were earliest times petitions for justice were presented to the King in Council, es-pecially when the courts were liable to pecially when the courts were liable to be intimidated by an influential suitor, it being an ancient rule of our Con-stitution that the subject who failed to obtain justice in the ordinary courts might in all cases petition to the King to exercise his royal prerogative in his behalf. As the Empire increased, this right has been gradually extended to all the King's subjects. Those residing in the United Kingdom have apparently found the custom of presenting their pe-titions to the King in Parliament the most convenient, and this practice is now confirmed by statute, the House of Lords being the court of last re-sort for the United Kingdom. The King's subjects beyond the seas, on the other hand, found that their peti-tions were more speedily heard if ad-densed to the King in Courcil which tions were more speedily heard if ad-dressed to the King in Council, which has thus gradually become the tribundressed to the King in Council, which has thus gradually become the tribun-al of final appeal for India and the Col-onies. The statutes which have been enacted from time to time regulating the power and procedure of the Council are of a most interesting character and clearly reflect the popular opinion of the day. One of the most interesting is that of 24 Henry VIII. passed in 1532, which provides

that of 24 Henry VIII. passed in issue, which provides "That appeals in such cases as have been used to be pursued to the See of Rome, shall not be from henceforth tak-en, but within this realm." The power thus conferred upon the Council of hearing appeals in all cases was greatly abused, and by Statute I. CHARLES I.

Chapter 10, passed in the year 1646, it is enacted that neither His Majesty nor Privy Council have any jurisdic-tion or power to draw into question any Chapter 10. tion or power to draw into question any matter of any of the subjects of this Kingdom, but that the same ought to be tried in ordinary courts of law, thus transferring the appelate authority of the King in the United Kingdom from the Council to the Parliament or House of Lords. It will be noticed that the words of this statute do not apply to the King's subjects outside the United Kingdom, and in the same year we find mention made in the records of the Council of proceedings in a matter from Council of proceedings in a matter from the Island of Guernsey. The Council was put on its present basis and the Judicial Committee formed by Statute 3 and 4, William IV., 1833, and by sub-sequent statutes invisition by the

3 and 4, William IV., 1833, and by subsequent statutes jurisdiction has been given to the Judicial Committee in matters within the United Kingdom in Ecclesiastical, Admiralty and Patent cases. Owing to the great expansion of our Empire, which is mainly due to the ac-quisition of new territory, the laws administered by this council are of the most diverse and complex character, and the judicial enquiry entered into by it, of the most cosmopolitan description. most cosmopolitan description. d down by most eminent author-It is had down by most eminent author-ity that all territory which is newly ac-quired, whether by conquest, colonisa-tion or peaceful annexation, is acquired for the benefit of the Grown. If an untoo or peaceful annexation, is acquired for the benefit of the Crown. If an un-inhabited country is discovered and peo-pled by English subjects, they are sup-posed to possess themselves of it for the benefit of their sovereign, and car-ry with them such portions of the Eng-lish common law as are necessary and applicable to their situation. In the case of possessions acquired by conquest or annexation, the sovereign, unless he has limited his prerogative by the arti-cles of capitulation or treaty, has the inherent power to make new laws for the conquired territory, but until he sees fit to do so the laws in force in the newly acquired territory at the time of the capitulation or annexation, remain in force and equally affect all persons and property. It has been the almost universal custom of our Empire to re-frain from interfering with the laws and institution which have been in force in those countries which have been added to it. As an illustration of the extent antries which have been added to it. As an illustration of the extent of jurisdiction.

SOVEREIGN TO HEAR those appeals. Ae a general rule, legis-lation has been passed restricting the right of appeal to cases when the matter in controversy exceeds a vertain value. If the matter is not of sufficient im-portance to comply with the regulation in force in the particular territory in which the suit is instituted, an applica-tion may be made to the Council itself for special leave to appeal. The appli-cation is made by way of petition, which must set out the facts of the case, the portion of the judgments in the courts below which are said to be erroneous, and the reasons upon which counsel base and the reasons upon which counsel base the application. The statements conterized in the petition must be charac-terized by the utmost frankness and good faith, and a prima facie case must be made out. The second

terized by the utmost frankness and good faith, and a prima facie case must be made out. The committee in grant-ing the petition will be greatly influ-enced by the wishes of the colony as expressed by its legislation. The exer-cise of the prerogative will not be re-commended except in cases of general importance, and will only be granted (1) where constitutional questions cre in controversy, (2) where there is an im-portant point of hw involved and the amount in controversy is large. The Privy Council, in deference to the wishes of our government, have laid down the rule in criminal cases that they will not interfere to grant special leave unless the clearest injustice has been done. Two cases of recent years excited great in-terest. In Riel's case, where, following the Northwest rebellion, Riel was con-victed of high treason, leave to appeal was refused. In Gaynor and Green's case, where the United States were peti-tioner's, leave to appeal was granted, and upon the argument being heard an order

It is not customary to cite authorities in the case. Indeed, it is not considered to be in good taste, as owing to the

great learning and vast experience of the

MEMBERS OF THE BOARD.

The mean and the second they are usually familiar with such as

the Commonwealth of Australia Consti-tution Bill. The various criticisms were well answered by Mr. Faber, who has been Registrar of the Privy Council for nine years. Any person interested should consult that memorandum. The court, of course, is only human, and, like all other things, must some-times make mistakes, but as a general rule its decisions disclose a depth of learning and breadth of character which are not surpassed by those of any other forum in the world. Being far removed from the cause of litigation, their judg-ments are not affected or tainted with local spirit or prejudice. It is unfortu-nate that it sometimes happens that they are misunderstood by even learned mem-bers of our legal profession. Their Lord-ships do not, as a rule, <u>CITE AUTHORITIES</u> in their written decisions, which some

in their written decisions, which some-times lead one to suppose that they have been overlooked. As they con-stantly decide matters of the very greatest importance, it occasionally had that their decisions do not com happens themselves to popular opinion, but it eannot be otherwise in any court of last resort. The Council's most vehement tannot be otherwise in any court of last resort. The Council's most vehement detractors have never denied the un-doubted ability and eminence of those brilliant statesmen and lawyers, who have taken part in its decisions and dis-pensed justice for the entire Empire. Among these I may mention Lord Brougham, Lord Westbury, the late Lord St. Leonards, Lord Selborne, Lord Gairns, Lord Watson, Lord Herschell, Lord Halsbury, the present Chancellor Lord Loreburn, Lord Macnaghten, and Lord Indley. Lord Lindley. So much for the criticisms referred to

So much for the criticisms referred to, On the question of its political import-ance the Privy Council itself, in 1871, in a memorandum, said: "The appellate jurisdiction of Her Ma-jesty in Council exists for the benefit of the colonies, and not for that of the mother country; but it is impossible to overlook the fact that this jurisdiction is part of Her Maiesty's prerogative. overlook the fact that this jurisdiction is part of Her Majesty's prerogative and which has been exercised for the benefit of the colonies since the date of their settlement. It is still a powerful link between the colonies and the Crowr of Great Britain, and secures to every subject theorement the Frencis the result. subject throughout the Empire the righ to claim redress from the Throne. I was refused. In Gaynor and Green's case, where the United States were peti-tioners, lave to appeal was granted, and upon the argument being heard an order dinary courts of justice. It removes Government. Where, however, the local legislature does not prohibit the appeal, the appel-lant proceeds to the Privy Council as of right, and no leave is necessary. The first step in the appeal is the printing of the record, which contains the pleadings, the judgments delivered by the courts below, and such parts of the evidence as may be necessary for the determination of the matters in dis-pute. Each counsel then prepares his case, which should contains, and a short state-ment of the facts relied on by counsel in support of his evatentions, and a memorandum of the points to be argued It is not customary to cite authorities in the case, Indeed, it is not considered to be in good taste, as oving to the

rities liered beyond the seas, all matters whatever the e of the seas, all matters whatever in which all have a voice. To abolish this controlling power and abaidon each colony and dependency to a separate colony and depend of its own, would obvi-ously destroy one of the most important ties connecting all parts of the Empire evi in a common obsdience to the courts of treet. biver-sential mode of exercising the author-ity of the Crown over its possessions so the At the date of the Australian debate,



St. Catharines.

advancement of all. "In international relations, I think that the great feature of the growth of the last century has been the mutual recognition of the fact that instead of being normally to the inter-pressed, it is normally to the inter-ests of each nation to see another de-uplifted. I believe that the move-ment which you to-day initiate is of the utmost importance to this hemi-portance to the world at large." (Special Despatch to the Times.) St. Catharines, Ont., Feb. 18.—Craiz Bros., who are boring a well for the Kinleith Paper Co., to obtain water re-quired in the manufacture of a special brand of paper, last night, struck a flow of natural gas at a depth of 300 feet. The drill had just penetrated the struck. The gas-was ginted and shot into the air a column of five feet high. It is not known whether it is obtainable in paying quantities.

J. WOODS, Barber, 401 Barton East. ial meeting of the Niagara At a social meeting of the Niagara District Branch of the Canadian Man-H. HOWE, Association, held in ufacturers'

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SIR FREDERICK POLLOCK.

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which in Toronto in 1905, stated that, is there is a foronto in 1905, stated that, is the in the operation of the tour which here is the policy of the tour which is the policy of the tour which here is the policy of th the law and facts involved in each case. There has been some discussion looking the form the courts of the grover on the growth the resistence of the courts of the grover to legis and limit the right of the subject the form the court is a reflection on the ability may limit the right of the subject to the foot of the subject on the some of the foot of the subject on the some discussion looking towards abolishing the Judicial Committee met. If we should now examine the actual working of this Council, we find that the signer and limit the right of the subject on the some form the resistence of the court is a reflection on the ability and law of the court is a reflection on the ability and law of the some resistors of the courts of the growther with a the some discussion looking the source of the courts of the growther with the right of the subject to court is a reflection to the ability and law the some form the debate in the House of Commons of England on the debate in the House of Commons of England on the source of the source of the subject was fully discussed on the occasion of the debate in the House of Commons of England on the source of the source of the subject was fully discussed on the occasion of the debate in the House of Commons of England on the source of the source of

quash a conviction on to death. The next of beating a servant to death. The next case concerned the question of the pedi-gree of an Indian Rajah, and the right of succession to his vast estate, in which Sir Robert Finlay, ex-Attorney-General of England, was opposed to distinguish-ed members of the Indian Bar, several Parsee lawyers acting as junior counsel on either side. On the next day, a dis-pute involving the title to a Cobalt min-ing claim was heard, and in the after-neon a question as to the title of a piece of foreshore in the eastern part of gree of an inclusion happin, and the right of succession to his vast estate, in which Sir Robert Finlay, ex. Attorney General of England, was opposed to distinguish-ell members of the Indian Bar, several Parsee lawyers acting as junior counsel on either side. On the next day, a dis-pute involving the title to a Cobalt min-ing claim was heard, and in the after-neon a question as to the title of a piece of foreshore in the eastern part of Quebee was disposed of. I have seen their Lordships dispose of five petitions for special leave to appeal one morning in less than an hour, and these petitions originated from places as distant from eme another as Gibraltar, India, the Straits Settlements, and Canada, and apparently with a full appreciation of the law and facts involved in each case. I supposed the petitions had been care-

to this great unknown being, the Privy Council. It cannot be doubted that it is one of the strongest links which bind the Em-pire together. The fire of patriotism burns in our colonies with a pure, clear flame which is the wonder of the world. In South Africa, men from Canada, New Zealand and Australia fought side by side with men from England, Ireland and Seotland, under one flag. With the copious out-pouring of their blood they sealed our Empire together. In the words of a great orator: "Their blood has flowed in the same stream and drenched the same field;

Canadian Power Companies et Falls Used Dynamite.

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A Soft, Velvety Skin

advancement of all

ents.

Welland House last evening, R. Hob-son, of Hamilton, President of the As-sociation, delivered an address. G. E. Walsh, manager of the freight depart-ment, and R. W. Breadner, manager of the tariff department, also spoke on the work of their own department. Niagara, Falls, N. Y., Feb. 18.-The am in the upper river broke to-day send tons of ice and a great volu er Niagara Falls. The pow the Canadian side had looser work of their own departments. T was a very representative attendance CRESOLENE ANTISEPTIC TABLETS

mpanies on the Canadian side may lowers to be pack by a liberal use of dynam id the change in the wind and milder w ter, combined with the blasting in break te beavy wall of ice that dammed up ater a mile above the falls. The por mpanies say the crisis is past and indust tablishments which have been crippied i perating normally. No one dared vent on the lee bound river bed to-day, in an pation of a break up, so there were no idents. SORE THROATS AND COUGHS They combine the germicidal value of Cresolen-with the southing properties of slippery ein and lico fice. Your druggist or from us, loc in stamps LERMINO, MILES Co., Limited, Agente, Montreal, 400 ----

THE MAURETANIA.

BROKER SUSPENDED. New York, Feb. 18.–Wm. H. Lamp-recht, board member of the New York Stock Exchange for the firm of Lamp-recht Bros. & Co., stock brokers of Cleve-land, was to day suspended by the Stock Exchange. The failure of the Lamprecht firm, which had branch of-fices in New York, Pittsburg, Youngs-town, Ohio, and Akron, Ohio, was an-nounced ten days ago. Newport, R. I., Feb. 18.—A new week thatic record esemed well within the the big Mauretania turbiner to-day t 8 a. m. she was reported by wirele poroaching Nantucket lightship in fine ter and tranquil seas, and with New bout ten hours' steaming distance revious wirelss reports have shown is ship has averaged above 30 knots an elip has averaged above 30 knots an distance that she was maintaining her ace. away own that an hour

DUKE OF ABRUZZI.

Paris, Feb. 18.-The Duke of the Abruzzi is at present in Paris incognito CASTORIA as Signor Negremo. He is buying a medical outfit, to be used on his ap-proaching expedition to the Himalaya The Kind You Have Always' Bought Mountains Bears the Char H. Flitchers 77,000 For Hamilton.

What a vast improvement could be nade in the health of this large number of people if all of them used Laxa-Food. Those who are using it attest this fact. Was Typhoid Fever.

Was lypnoid rever. Montreal, Feb. 18.— The Provincial Board of Health have diagnosed the mysterious illness at Laprairie as a form of typhoid fever. About fifty cases are at present under treatment. One man has more opportunities for being a hero in a novel than a hun-dred have in real life.

Is produced by using Jersey Balm. Thou-sands of bottles have been sold in Hamilton and no toilet preparation has given such universal satisfaction. It softens and whitens the skin, prevents tan, freckles and pimples, and is a per-fect cure for chapped hands, roughness of the skin, etc. Sold only at Gerrie's drug store, 32 James street north. Price i 25 cents. dred have in real life.

Hamilton to Burlington-6.10, 7.10, 8.10, 9.10 10.10, 11.10 a. m., 12.10, 1.10, 2.10, 8.10, 4.10, 6.10, 6.10, 7.10, 8.10, 9.10, 10.10 11.10 p. m. Hamilton to Oakville-6.10, 8.10, 10.10 a. m., 12.10, 2.10, 3.10, 5.10, 5.140 p. m. Barton East. WEST BOUND A. ZIMMERMAN, Druggist, Barton and Wentworth, also Vic-toria Avenue and Cannon. J. Burlington to Hamilton-6.00, 7.10, 8.16, 9.18, 10.10, 11.10 a. m., 12.10, 1.10, 2.10, 3.10, 4.13, 5.19, 6.10, 7.10, 8.10, 9.10, 10.10 p. m. Oakville to Hamilton-7.40, 9.40, 11.40 a. m., 1.40, 3.40, 4.40, 9.40 p. m. H. E. HAWKINS, Druggist, East Avenue and Barton SUNDAY SERVICE. EAST BOUND This Hamilton to Burlington-8-10, 9-10, 10, 10, 11, 10 a.m., 12:10, 1:10, 2:10, 3:10, 4:10, 5:10, 6:10, 7:10, 8:10, 9:10 p.m. Hamilton to Oakvillo-8:10, 10:10 a.m., 12:10, 2:10, 5:10, 5:10 p.m. WEST BOUND. A. GREIG, Newsdealer, 10 York Street. JAMES MITCHELL, Confectioner, Vork Street Burlington to Hamilton-8.10, 9.10, 10.10, 11.10 a. m. 12.10, 1.10, 2.10, 3.1v, 4.10, 5.10, 6.10, 7.10, 8.10, 10.10 p. m. Oakville to Hamilton-9.30, 11.40 a. m., 1.40, 4.40, 6.40, 9.40 p. m. MRS. SHOTTER, Confectioner, 244 York Street. NEW TROY LAUNDRY, 357 York Street. HAMILTON & DUNDAS RAILWAY. LEAVE DUNDAS. King St. West-5.55, 7.05, 7.55, 8.55, 9.55, 10.55, 11.55 a.m., 12.55, 1.55, 2.55, 4.56, 5.55, 6.55, 7.55, 9.15, 10.15, 11.05 p.m. LEAVE HAMILTON. WOTTON, 376 York Street. T. S. M'DONNELL, 374 King Street West. Terminal Station-6.15, 7.15, 8.15, 9.15, 10.15, 11.15 a. m., 12.15, 1.15, 2.15, 3.15, 4.15, 5.15, 6.15, 7.15, 8.15, 9.30, 10.30, 11.15 p. m. M. WALSH, 244 King Street West. 6 16. 7.15. 8.15. 9.30, 10.30, 11.15 p. m. SUNDAY SERVICE. Leave King St. West, Dundas-8.35, 9.65, 11.35, a. m. 1.20, 2.20, 3.20, 4.20, 5.20, 6.20, 7.20, -30, 9.05, 10.06 p. m. Leave Terminal Station, Hamilton-9.15, 11.00 a. m., 12.40, 1.26, 2.30, 3.30, 4.30, 5.30, 5.20, 7.5%, 3.09, 9.15, 10.16 p. m. D. T. DOW, 172 King Street West. JOHN MORRISON, Druggist, 112 Main Street West. A. F. HOUSER, Confectioner, 114 James Street South. HAMILTON, GRIMSBY & BEAMS. VILLE ELECTRIC RAILWAY. WEEK DAY SERVICE ROBT. GORDON, Confectioner, 113 John Street South. Leave Hamilton-7.10, 8.10, 9.10, 10.10, 11.10 a m. 12.10, 1.10, 2.10, 3.10, 4.10, 5.10, 6.10, 7.10 8.10, 9.10, 11.10 p. m. Leave Beamsville-6.15, 7.15, 8.15, 9.15, 10.15, 11.15 a m. 12.15, 1.15, 2.15, 3.15, 4.15, 5.15, 6.15, 7.15, 8.15, 9.40. BURWELL GRIFFIN, Queen and Charlton Avenue. MRS. SECORD, Locke and Canada. SUNDAY TIME TABLE. Leave Hamilton -9.10, 10.10, 11.10 a. m., 12.45 2.10, 3.10, 4.10, 6.10, 6.10, 7.10, 9.10, Leave Beamsville-7.15, 3.15, 9.15 a. m. 12.15, 1.15, 2.15, 3.15, 4.15, 5.15, 6.15, 7.15, 8.15. CANADA RAILWAY NEWS CO., G. T. R. Station. H. BLACKBURN, News Agent, T., H. & B. Station. BRANTFORD & HAMILTON ELEC. TRIC RAILWAY. IHIC KALLWAY.
 Leave Hamilton-6.30, 745, 900, 10.20 a. m., 12 00, 1.20, 3.00, 4.30, 6.00, 7.15, 9.00, 12.00 p. m. Leave Brantford-6.20, 7.46, 9.00, 6.20 a. m., 11.00, 1.30, 3.00, 4.30, 6.00, 7.15, 9.00, 1.300 p. m. SUNDAY SERVICE.
 Leave Hamilton-9.00, 10.30 a. m., 12.00, 1.30, Leave Frantford-9.00, 10, 30 a. m., 12.00, 1.30, 5.00, 4.30, 6.00, 7.30, 9.00 p. m. J. R. WELLS, Old Country News Stand, 197 King Street East. It will pay you to use the Want Col-umn of the Times. BUSINESS TELE-PHONE 368.

RAILWAY.

EAST BOUND