

PRIVY COUNCIL APOLOGIA

make the plunge. But there would be no disaster. On the contrary, with a good deal of experience of the Privy Council, I do most unhesitatingly assert that the administration of our laws would be improved by ceasing to send our cases to England. Our constitution, for example, would have a chance of development along intelligible lines.

Constitutional Cases.—Sometimes it is said that the appeal to the Privy Council ought to be retained in constitutional cases. On the contrary, it is specially with reference to those cases (by far the most important class) that the appeal should be suppressed. We may say that there are altogether three classes of cases: (1) those involving points which might arise in England; (2) those involving points arising out of laws, customs, or situations peculiar to our own system; and (3) those involving constitutional points. In cases of the first class, English judges are as much at home as are our own. In many of the cases of the second class, they are as helpless as are men in other parts of the world who endeavor to adjust settled conceptions to unfamiliar circumstances. And the insuperable difficulty of their Lordships with reference to cases of the third class—the constitutional cases—is that no amount of study of a system of government can compensate for lack of practical experience of it. I venture to say that if British statesmen could grasp the workings of the federal form of government, many of the mistakes in connection with the Irish question would never have been made. Look, for example, at the last of the Home Rule Bills—now a statute. Partial control of the tariff is given to Ireland! Everybody in the United States and Canada knows what the effect would be. British statesmen do not.

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If we want to know upon what grounds it is argued that Canadians ought to carry their cases to England for final adjudication, we cannot do better than read the defence of the system which their Lordships themselves put forward, when, in 1871, the Austrians were endeavoring to establish a close limit upon appeals. It was as follows:

"It is impossible to 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 Crown of Great Britain, and secures to every subject throughout the Empire the right to redress from the throne. It provides a remedy in many cases not falling within the jurisdiction of the ordinary courts of justice. It removes causes from the influence of local prepossession. It affords the means