

In this, as in all other affairs of state, he does as advised by his Councillors. And thus, for the purposes of what remains to be said, we must assign to "the Privy Council" its more accurate title: "the Judicial Committee of the Privy Council." It is one of the several committees of the Privy Council which have gradually relieved the King of his duties. The Cabinet is another of them. And the Judicial Committee has never ceased to temper its application of the law with a large admixture of kingly, or paternal, solicitude for the well-being of the colonials, qualified, again, by a strong "local prepossession" in favor of British interests. Let us note two of the most important of these manifestations, under the headings of (1) British political control of the colonies; (2) British financial interests(a).

1. *British Political Control of the Colonies.*—Concessions of colonial self-government have always been qualified (1) by the exception of those subjects in which the British people had retained an interest, such as merchant shipping, copyright, etc.; (2) by reservation of the right to refuse assent to bills passed by the Houses of the local legislature; (3) by the right to disallow all bills to which assent may have been given; and (4) by reservation of control over the local judiciary. Colonies were and are permitted to enact such laws only as the British Government approves; final interpretation of those laws is vested in the Judicial Committee; and by these methods political control is maintained.

But is it true that the Judicial Committee ought to be regarded as a political contrivance rather than as an ordinary court of appeal? Undoubtedly it is; for their Lordships, in a memorandum in defence of their jurisdiction, said, in 1875 (*Italics now added*).

"To abolish this controlling power and abandon each colony and dependency to a separate Court of Appeal of its own, would obviously be to destroy one of the most important ties connecting all parts of the Empire in common obedience to the courts of law, and to renounce the last and most essential mode of exercising the authority of the Crown over its possessions abroad (b).

It is for this reason that all attempts to cut down the appellate jurisdiction have been "justly regarded with jealousy" by the British Governments (c); and that stout resistance has been offered both to Canadian(d) and Australian(e) proposals for release.

(a) A third manifestation—the appellate jurisdiction from the Prize Courts—is not relevant to the present discussion, save in so far as it powerfully illustrates the "local prepossession" in favor of British interests. See particularly the recent case of the *Stigstad*.

(b) May's *Constitutional History* (1912), vol. 3, p. 321.

(c) *Ibid.*

(d) Kelth: *Responsible Government in the Dominions*, vol. 3, p. 1365. The Canadian statute abolishing appeals to the Privy Council in criminal cases (51 Vic., c. 43), on the other hand, passed without serious objection.

(e) *Ibid.* pp. 1365-72; Ewart: *The Kingdom of Canada*, pp. 231-6.