

not in the form of the decree of the Court, but merely as 'humble advice' to His Majesty to take certain action. It is needless to say that His Majesty always does act on the advice given, but the whole procedure is a curious illustration of the affection of the English constitution for old forms long after the substance has completely changed."

The advice of the Judicial Committee is a statement at length, contained in a single judgment read in open court, of the reasons which determine them in "humbly advising" the King to give effect to their decision. These reasons are not stated in the report to the King; this merely sets forth their conclusion and the method proposed for giving effect to it. If there is any difference of opinion no notice is taken of it in the judgment or in the report to his Majesty. This is not a mere matter of policy. It is one of the "orders to be observed in assemblies of council" made in 1627 and runs thus:—"In voting of any cause the lowest Councillor in place is to begin and speak first, and so it is to be carried by most voices, because every Councillor hath equal vote there; and when the business is carried according to most voices, no publication is afterwards to be made by any man how the particular voices and opinions went:" Anson, *Constitution*, p. 471.

In the case of *Ridsdale v. Clifton* (1877) 2 P.D. 276, Chief Baron Kelly maintained that he had the right to let it be known that he did not agree with the report; this right was disputed by the Lord Chancellor. The action of the Chief Baron led to a voluminous controversy, but by an Order in Council of Feb. 4, 1878, the old order of 1628 was confirmed, and it was directed that the "ancient rule and practice of the Privy Council" should be observed in the Judicial Committee, and that no publication should be made how the particular voices and opinions went.

IV. WHAT WILL BE THE FUTURE STATUS OF THIS TRIBUNAL.

Some change is inevitable. The position of the two great appellate tribunals of the Empire is illogical and inconsistent. Some of the anomalies have been pointed out by Mr. Justice Hodges (in an article to be again referred to) as follows:—"There are at present two tribunals of final appeal, the House of Lords and the Judicial Committee of the Privy Council; the former may be described briefly as the Home, the latter as the Indian and