

tutions, endeavour to mould them to the altered state of society and the new phases presented by enlarged intercourse, new discoveries, and consequently more novel and intricate relations; and try to discover whether we have not within the system of jurisprudence of Great Britain and her Colonies, materials from which a tribunal adapted to our necessities, may be modelled, before attempting to experimentalize, or without looking to the neighbouring Republic; evidence of both, I think, is to be found in this Bill.

No doubt in framing the appellate portion, the Judicial Committee of the Privy Council and the Court of Exchequer Chamber were in the draught-man's mind; and I also would adopt these two Courts as the basis: only adhering much more closely to their constitutions than I think has been done.

The Exchequer Chamber, we all know, is a Court of Error for revising the judgments of the three Superior Courts of Law in matters of law, and is holden before the Judges of the two Courts not concerned in the judgment impeached.

The Judicial Committee was constituted by the Imperial Act 3 & 4 Wm. 4, c. 41, the Court of Appeal from the Court of Admiralty in cases of Prize, and from the Colonies; leaving however the Royal prerogative untouched. It is thus composed of the President for the time being, of Her Majesty's Privy Council, the Lord High Chancellor of Great Britain, and such of the members of the Privy Council as shall from time to time hold any of the offices following, that is to say—the office of Lord Keeper or First Lord Commissioner of the Great Seal of Great Britain, Lord Chief Justice or Judge of the Court of Queen's Bench, Master of the Rolls, Vice-Chancellor of England, Lord Chief Justice or Judge of the Court of Common Pleas, Lord Chief Baron or Baron of the Court of Exchequer, Judge of the Prerogative Court of the Lord Archbishop of Canterbury, Judge of the High Court of Admiralty, and Chief Judge of the Court in Bankruptcy, and also all persons, members of the Privy Council who shall have been President thereof, or held the office of Lord Chancellor of Great Britain, or shall have held any of the other offices hereinbefore mentioned; with a proviso that the Crown might appoint any two other persons, being Privy Councillors, to be members of the said Committee.

Thus, we see the first of these Courts is composed wholly of Judges in the daily active discharge of judicial duties—and the latter, almost exclusively of Judges similarly situate, or such with others who have held similar offices.

To assimilate the proposed Court to either of these, in this most important feature of its constitution, section 4, relating to the qualification of Chief Justice and Judges, will have to be materially altered.

Unless the attendance of Judges from the different Superior Courts in the Provinces respectively, is secured, and thereby, as may perhaps be reasonably anticipated, greater legal experience and more diversified legal knowledge and talent obtained, a very dissimilar tribunal will be created.

There is no provision that the Chief Justice, or any one of the Judges who are to form this Court, shall have ever exercised judicial functions, or had a day's judicial experience; but may be selected—the Chief Justice, from Barristers of fifteen years, and the Judges from Barristers of ten years standing; and that too, if the Government should so choose, from any one Province.

This startling departure from the models of the two leading appellate tribunals referred to, as also from the general principle prevailing more or less practically in all the appellate tribunals known to the English Law, including the last and highest Court of the nation, the House of Lords, where law Lords, all of whom have held the highest judicial situations alone decide, and who command the services of the Judges whenever required, presents itself