

discuss briefly in this article the origin, the present position and the possible future of this great court.

II. THE ORIGIN OF THE JURISDICTION.

The origin of the jurisdiction of the Privy Council is a question upon which learned writers differ widely. Partly by reason of the absence of records, partly by reason of their ambiguity, partly owing to the confusion of names in such materials as we do possess, partly from the fact that the same institution has from time to time performed different functions and in each case under a different name, the history of the Council is involved in great obscurity and perplexity.

The Judicial Committee is a development of the Curia Regis, or Aula Regia, and represents the earliest and most ancient of our Judicial institutions, the origin and parent of all the rest. The Jurisdiction of the King in Council—undoubtedly the earliest exercised by the sovereign—was, according to the best authorities on our legal history, the origin of all the Courts of Justice in the realm; in Sir Matthew Hale's words, the "common mother" of those great Courts, the Chancery, the King's Bench, the Exchequer and the Common Pleas, which for so many ages exercised their jurisdiction, and have now been united in the High Court of Judicature.

This jurisdiction was a necessary consequence of the great fundamental principle of our law and constitution that the sovereign is, over all persons and in all causes within the dominions, supreme, and that it is the first duty of the sovereign to see that justice is administered to all his subjects; the exercise of judicial power is a royal prerogative. In early times when sovereignty was personal, it was laid down that the first duty of the sovereign was to judge. Originally he doubtless really presided, and administered justice. This duty was naturally exercised in council, and hence the jurisdiction of "the King in Council," which was the earliest exercised and still continues to exist: Finlason, p. 1, 2.

We read of "divers councils" with which "for the better discharge of his royal duties, the maintenance of his dignity, and the exertion of his prerogative, the law hath armed the king," but Blackstone tells us that: "The principal council belonging to the sovereign is his Privy Council, which is generally called, by way