

N. AUDLEY STREET

GROSVENOR SQUARE,

29th June, 1877

MY LORD,

Although for the reasons I mentioned to your Lordship, I have not put on paper what may be said in answer to the greater part of the memorandum, confidentially submitted from the Privy Council Office upon the subject of the Appeal to the Queen in Council, for the present at any rate, preferring the course to which your Lordship was good enough to agree, that of verbal discussion, yet it has occurred to me since our interview that it might be convenient to your Lordship and not otherwise objectionable, that I should put on paper the details of some of the statistics with which I troubled your Lordship yesterday; in connection with which I may set down some of the views held by members of the profession in Quebec as to the practical working of the Appeal in that Province.

First, as to the costs of the Appeal:—

The fair result of the evidence of Mr. Reeve, pages 20, 21 and 22 of the Minutes of the Select Committee of the House of Lords on appellate jurisdiction, 1872, is that in his view the average party and party costs on each side are £300, to which he would add from 20 to 25 per cent. for the Solicitor and client costs, making the average total expenses £735.

Lattey's Privy Council practice '69, p. 7 gives the ordinary party and party costs of an appeal, where the case is printed in England, at £360 to Appellant, and £320 to Respondent.

Adding 22½ per cent. for costs, as between Client and Solicitor, this would bring the total average up to £833. Both these authorities are general.

With reference to the cost of Appeals from Lower Canada, now Quebec, the Clerk of the Court has furnished for my information a memorandum showing the result in the 19 cases in which judgments were affirmed and costs taxed to Respondent's between 1st January, '71, and 1st January, '76. The aggregate he says, is £7,646, making the average £402. Adding to this in estimating the Appellant's costs, the £40 extra, estimated by Lattey as the excess of Appellant's party and party costs over Respondent's, we find the result £844. Adding 22½ per cent. for extra costs, the total average costs of an Appeal from Lower Canada would appear to be £1,034. But none of these estimates include other extra costs, not infrequently incurred; for costs of opinion as to the propriety of appealing and so forth; nor do they include an allowance for those cases, lately very common, in which Lower Canada Counsel are, owing to their familiarity with the peculiar laws and practice of the Province, specially retained to argue appeals, with fees necessarily very high.