

ceased with it, except in so far as they were finally transferred to the Judicial Committee of the Privy Council, the Committee on Trade and Plantations, and similar bodies which existed by virtue of the special power conferred on them, and no longer as representing the council. As, for example, the members of the Judicial Committee become Privy Councillors because they are appointed as judges. They do not become judges because they are Privy Councillors. If, then, the Privy Council in England, as such, has no judicial functions, it follows that the Privy Council in Canada can have inherited no judicial functions from it. If our Privy Council has any judicial functions, they must be derived from some original authority. But the sections of the B.N.A. Act relating to the executive power, and establishing the Privy Council, make no mention of the judicial powers, which, as we have shown, are not inherent in the council as now existing. Nor do the sections relating to the judicature establish any judicial powers in the Privy Council. Nor have we anything analogous to the Judicial Committee of the Privy Council. The Supreme Court is an independent tribunal, quite distinct and apart from the Judicial Committee, to which it is inferior.

It would seem, therefore, that the Privy Council in Canada has no judicial functions or judicial powers, nor has it ever exercised such powers.

But we have a body, known as the Cabinet, whose members are of the Privy Council. By one of those curious anomalies with which the British Constitution abounds, the Cabinet, though all-powerful, is a body not known to the law or the constitution, though it virtually makes the laws, and is of the very essence of the constitution. In theory, the executive power is lodged not, as might be supposed, in the Governor and Cabinet, but in the Governor and Council. As a committee of Parliament, supported by a majority in Parliament, and responsible to Parliament for all that it does, the Cabinet virtually governs the country. But if, as we have shown, the members of the Cabinet have no judicial power by virtue of their being also members of the Privy Council, *a fortiori* they can have no such power as members of the Cabinet, which is purely a political body.

In a limited sense, it is true that the Cabinet, or the Privy Council, by whichever name it may be called, has judicial powers, as every body or every individual has who has to apply the rules