

the suitor." In the latter observation I concur, and it is only when the people of Canada believe that the substitution of a local court of appeal for the appeal to the Queen in Council would be an advantage, and that the continuance of the appeal to England would be not a benefit, but a grievance, that its abolition is likely to be proposed.

It is said that the "Act would deprive suitors in Canada of a right and a remedy which they have not been slow to use." The bulk of the appeals have proceeded from the province of Quebec. The number, which after all is trifling, is attributed to exceptional reasons, some of which have ceased to exist, while others will be removed by the establishment upon a firm basis of the Supreme Court.

And so on. There is a whole table of the number of appeals:

It is pointed out that the Dominion of Canada has recently been erected on a Federal basis, including several provinces, and that questions of much nicety must arise under such a constitution between the Federal and Provincial Legislatures and judicatures. These it is said are precisely the questions upon which decision of a court of final appeal, not included within the Confederation, would be most impartial and valuable. To this argument I must demur. Upon the question of partiality, if the Canadian judges be partial that is a reason why they should not decide at all; it is not a reason for simply giving an appeal from their decisions; nor can I conceive anything calculated more deeply to wound the feelings of Canadians than an insinuation that impartial decisions are not to be expected from their judges. With reference to the alleged value of decisions of a court "not included in the Confederation," I would observe that with the practical operation of the Federal Constitution of Canada, with the customs any system which may have grown out of its working, with many of the elements which have been found most valuable if not absolutely necessary to a sound decision in that class of cases, a court composed of English judges cannot possibly be thoroughly acquainted. They may indeed learn from the argument in an isolated case the view of a particular counsel upon the matter; but the daily learning and experience which Canadians living under the Canadian constitution acquire, is not theirs, nor can it be effectively instilled into them for the purpose of a particular appeal. I maintain that this training and learning, which can be given only by residents upon the spot, is of such vital consequence as to overbalance the advantages flowing from the probably superior mental capacity of the judges of the London Tribunal.

Now what course may a litigant be expected to take who has recovered judgment for £500 and who learns that his adversary's threatened appeal to the Privy Council will involve, firstly, a delay of between two and three years; secondly an advance of over £500, which he must raise meantime, and upon no part of which can he recover interest; thirdly, an inevitable loss in extra cost of over £112 10 s. altogether independent of the possibility of the success of the appeal, in which case he will lose, besides his claim, over £1,000. It is quite clear that to throw off a large part of a just demand must be better than to resist the appeal, and accordingly I am informed, that this course is expected by those who apply for leave to appeal

in the majority of cases, and that their expectations are realized.

The paper proceeds to observe that Canadians are by no means the only parties to suits in Canadian courts: that every British subject who has invested money or bought property in Canada is equally interested in the administration of justice in these provinces; that these investments have been made in the belief that the rights of British subjects of Canada are protected, not only by the courts of Canada, but by an ultimate appeal to the Queen in Council, and that to abandon this appeal would be to place these rights in entire dependence on the authority of a Canadian judicature. This is in effect a repetition of former arguments already discussed, and it practically presumes that British subjects and foreigners would not receive justice at the hands of the Canadian judges, while it affirms that the Canadians would receive justice at the hands of the British court.

Besides it is to be remembered that the legislative power is after all the controlling power, and that if (which I utterly repudiate) there is danger of injustice being done in Canada to non-resident, that danger is obviously infinitely more likely to accrue from the legislative Acts of a small local popular legislative body than from the solemn judicial decisions of the Supreme Court of Canada. Yet no such danger is apprehended from the more likely source; its apprehension from the less likely source is a baseless imagination.

The paper concludes by an observation that as there is no disposition on the part of the Privy Council to favour frivolous or vexatious appeals, there seems to be no objection to Lord Carnarvon's suggestion that the limit of appealable value may be raised, and suggests its being fixed as in India at £1,000 instead of £500. I have already, pointed out that in the most important province of Canada the limit of appealable value is at present \$4,000; but even this sum is absurd when compared with the costs of appeal as already detailed. A thousand pounds, it is true, is the limit in India, but it is also the limit in Malta and some other small dependencies.

The argument in my memorandum of October, as to the effect of the policy which had been for so many years pursued in Canada and recognized in England is combatted. What I meant to convey as my motion of this policy was that it was a policy of making the judgment of the colonial courts final in all cases in which it was thought to be the interests of the Canadian people that they should be final.

Hon. gentlemen will see that Hon. Mr. Blake, the Minister of Justice, says that whenever the Canadian people thought that cases should be decided with finality in Canada that settled it, and it should not go beyond that. This memorandum further proceeds:

I pointed out that in carrying out that policy, the colonial judgments had been in the great bulk of the cases already made final, and I desired to argue that when the day should arrive in which it was thought for the interest of the Canadian people to make all such judgments final, legislation in that sense would be but the carrying out of the same policy. It is to be observed that the express powers under which these various colonial enactments were