

## 7. UNIFORMITY OF THE LAWS.

If "uniformity of the laws" be a desideratum, we must commence not with the courts, but with the legislatures. In Canada, we have ten of these making diverse laws; in Australia there are six; and in the United Kingdom, although there is but one parliament, there are frequently diverse laws for the three Kingdoms. We cannot have uniformity in the courts until all these legislatures adopt the practice of passing uniform statutes.

But is uniformity-pressure, by the Privy Council, desirable? In the debate on the Australian Commonwealth Bill, Mr. Asquith gave their Lordships credit for acting on precisely contrary principle. He said that it had been their special care to maintain,

"most zealously and scrupulously, the integrity of the different systems of laws;" that they "have prevented, as far as they can, any filtration of ideas from a foreign source of law which might permeate and corrupt another system . . . . You cannot have a uniform interpretation of diverse systems of law."

These observations are specially applicable to constitutional questions; and if we should ever have an Imperial Court of Appeal, with Australian and South African judges taking part in the decision of Canadian constitutional cases, it will be impossible that we shall escape endeavors to make our constitution conform to theirs.

The naïveté of the suggestion that the Privy Council would maintain "the uniformity of the laws of England and her colonies" may be appreciated when we remember that the House of Lords and the Privy Council (practically composed of the same judges) are unable to keep themselves in harmony on such an important question as that of a bank's responsibility to its customer in connection with the payment of an altered cheque (*a*). At the Imperial War Conference of 1918, Sir Robert Borden said:

"And sometimes we have this anomaly, that a decision of the House of Lords which is binding upon English courts, and a decision of the Privy Council which is binding upon the courts of the various Dominions, may not be entirely consistent."

## UNIFORMITY WITH THEMSELVES.

If uniformity be desirable, I am afraid that it will not be from the Privy Council that we shall get it, for, in dealing with Canadian cases, it has exhibited such erratic vacillation as quite disentitles it to be viewed as a consistent authority. Look at a few examples.

(a) See *Marshall v. Colonial Bank*, 1906, A.C. 559; *Macmillan v. The Bank* 145, L. J. 163.