

two dissenting judges in the first case are to act in the second? Are they to conceal their real opinion from the sixth judge? Another scheme is that the opinions of the judges of the Superior Court should be counted with those in Appeal. The result of this might be that the judges would be divided four and four, and the three judges in appeal be thus overruled by two. But the Commissioner suggests, that in such a case weight might be given to the judgment in Appeal. How is this to be accomplished without violating the rule as to silence? On what portion of these suggestions the Commissioner intends to insist does not appear, but it is plain they cannot all live together.

For a Court that is not final, the scheme of silence of the minority, besides its manifest dishonesty, misleads the final Court as to the gravity of the question. The result will be universal distrust; and as no one knows whether the case is carried by a bare majority, it will be supposed that all doubtful cases have been so. One of the great advantages of the English system of government over those of the Continental nations of Europe, is its publicity. By avoiding mystery, we escape suspicion. No fact, decisive of the interests of individuals, or of the state, should be permanently concealed.

The difficulty of having the decision of a majority of judges overruled by a minority, is much increased by the three judge system and by raising the quorum in appeal to five judges, and I purpose explaining later how it may be reduced to its smallest expression so far as the Court of Queen's Bench is concerned.

The question of appeal for this Province is one of great difficulty, and we may almost say that we cannot expect ever to have a satisfactory final appeal. The *raison d'être* of the Privy Council is not that given by the Commissioner. It is not founded on the right to petition at all, notwithstanding its forms. It is a recognition of the authority of the Imperial Parliament to legislate for all the Queen's Dominions. Having a right to make the law for them, it follows necessarily that