

*Judgment of the Lords of the Judicial Committee  
of the Privy Council on the Petition for Special  
Leave to Appeal of Edith May Hallowell  
Carew, from Her Majesty's Consular Court,  
Japan ; delivered 14th July 1897.*

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Present :

THE LORD CHANCELLOR.

LORD HOBHOUSE.

LORD MORRIS.

SIR RICHARD COUCH.

SIR J. H. DE VILLIERS.

SIR HENRY STRONG.

[*Delivered by the Lord Chancellor.*]

THEIR Lordships are of opinion that this is not a case in which it would be desirable or proper, or within the ordinary course of this Board, to give special leave to appeal.

Their Lordships have no doubt whatever that Her Majesty had full jurisdiction to establish the Court, and to constitute the Court in such a way as the Court has in fact been constituted, namely (*vide* China and Japan Order in Council, 1865), with a Jury of five. In truth the objection, if it were a reasonable and arguable objection, would go to the existence of any Court at all. It is manifest that the language of the Statute (the Foreign Jurisdiction Act, 6 & 7 Vict. c. 94) was intended to remove any doubt which there was, if there was a doubt, as to Her Majesty's jurisdiction to establish Courts by Order in Council under the circumstances of this case. The Statute has placed it beyond doubt, because it uses in terms the phrase, that Her Majesty shall have as ample jurisdiction as though she had obtained the jurisdiction by cession of territory or conquest ; and

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it is familiar law, which cannot now be denied, that a conqueror has a right to impress on conquered territory what system of jurisprudence he pleases. The Statute has removed any doubt which might have been entertained on the subject as to whether such rights extended to the jurisdiction over the Queen's own subjects, and therefore their Lordships are of opinion that the jurisdiction is well founded.

With reference to the other questions which Sir Frank Lockwood attempted to argue, it is only necessary to say that, save in very exceptional cases, leave to appeal in respect of a criminal investigation is not granted by this Board. The rule is accurately stated as follows, in the case to which their Lordships referred in the course of the argument, *re Abraham Mallory Dillett* (12 App. Ca. 459): "Her Majesty will not review or interfere with the course of criminal proceedings unless it is shown that by a disregard of the forms of legal process, or by some violation of the principles of natural justice, or otherwise, substantial and grave injustice has been done." No such case has been made out here, and there are other objections not within the description of objections which this Board will entertain for the purpose of admitting an appeal.

Under these circumstances their Lordships will humbly advise Her Majesty that leave to appeal should not be granted.