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SELECTED SPEECHES
AND DOCUMENTS ON
BRITISH
COLONIAL POLICY
1763–1917

Oxford University Press, Amen House, London E.C.4
GLASGOW NEW YORK TORONTO MELBOURNE WELLINGTON
BOMBAY CALCUTTA MADRAS CAPE TOWN
Geoffrey Cumberlege, Publisher to the University

SELECTED SPEECHES AND DOCUMENTS ON BRITISH COLONIAL POLICY 1763-1917

Edited by

ARTHUR BERRIEDALE KEITH



Geoffrey Cumberlege

OXFORD UNIVERSITY PRESS

London New York Toronto

Selected Speeches and Documents on British Colonial Policy *was first published in* The World's Classics *in two volumes in 1918, reprinted in 1933, and re-issued in one volume in 1948.*

R. ID. No. 000295 35

PRINTED IN GREAT BRITAIN

PREFACE

THE main object of these volumes is to trace by a series of speeches and documents the growth of the system of responsible government in the British Colonies, the gradual formation of powerful federations from groups of separate and rival colonies, the development of their local autonomy, and the process by which schemes of imperial federation have been laid aside in favour of the conception of the equal partnership in the Empire of units retaining and developing their legislative and administrative independence, but firmly resolved by frequent and frank consultation to co-operate in the carrying into effect of their common ideals of freedom, justice, and peaceful economic development.

For a full understanding, however, of the growth of responsible government it is necessary to examine the origin of representative government in Canada. The Royal Proclamation of 1763, had it ever come into effective operation, would have provided Canada with a constitution similar to that of the New England colonies. But the French inhabitants of the territories ceded by their King, unaccustomed to representative institutions, were

bitterly opposed to the introduction of a political system which carried with it the most grave disabilities on Roman Catholics, and the growing bitterness of relations between the imperial and the local legislatures in America rendered the Imperial Government unwilling to see representative government effectively established in Canada. The Quebec Act of 1774, therefore, revoked the promise of an Assembly made in 1763, and placed power in the hands of a nominee Council. The gratification caused to the French was, however, disproportionate to the indignation created among the English settlers, who petitioned earnestly for the revocation of the Act, while the New England States regarded the action of the King and Parliament as a menace to themselves, and the Declaration of Independence includes in its charges that of "abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies." Concession was impracticable in the period of war, but the maintenance of a non-representative system became still less possible when the termination of that war saw a large increase of the population of Canada as the result of the influx of loyalists from the United States, and representative government was conferred in 1791, simultaneously with the division of the territory into the two provinces of Upper and Lower Canada, the former subject to English, the latter to French civil law.

Though the Constitutional Act of 1791 con-

ceded representative government, the British Administration were convinced by the events of the revolt of the United States that imperial control must be firmly maintained: hence nearly fifty years of strife between the executive and the legislature, complicated by differences of interest between the two provinces. For both problems Lord Durham essayed a solution. He was the last man to underrate the importance of imperial control, but he held that in the past imperial interests had been misconceived, and that it was perfectly possible, by the concession to the local legislature of the control of the executive, to permit the colonies to enjoy full autonomy in domestic concerns, while preserving to the Imperial Government supremacy over all matters of real imperial interest. The advantages of a plan which relieved Downing Street of the painful business of constant interference in local affairs which it could not understand attracted successive Colonial Secretaries: the system by 1855 was applied to all the British colonies in Eastern North America, in 1855–6 it became effective in New Zealand, New South Wales, Victoria, Tasmania, and South Australia; it was accorded to Queensland when that colony was carved out of New South Wales in 1859, and extended to Western Australia in 1890, as soon as the European population was sufficient to permit of its application. Resort was had to this expedient in the Cape of Good Hope in 1872, and, somewhat prematurely, in Natal in 1893; and the success of the grant of responsible government in Canada was the direct justification for the concession of this form of administration to

the Transvaal in 1906 and to the Orange River Colony in 1907. Appropriately enough this year, which saw the extension of the principle of responsible government to the only remaining British Crown Colony with a large European population, witnessed the creation of a new term to designate such a Colony, the Colonial Conference of that year adopting the name Dominion as the technical designation of such a territory.

As complete as was for the time being Lord Durham's solution of the difficulties arising from the independence of the executive government, was his failure to devise a solution of the difficulties arising from the jealousy of the French and British provinces. The plan of union was based on the fundamental miscalculation that the French element in the Canadian population as such was bound to gradual extinction. The transfer, however, of responsibility for local affairs to the Canadians themselves minimised the dangers caused by this miscalculation, and the formation of the federation of Canada in 1867 provided a means for the free development of both the British and the French elements of the population. Federation, however, not merely solved an internal problem of the first magnitude: it greatly strengthened the position of the British colonies in North America in regard to the United States, in which feeling against the United Kingdom ran high as a result of the attitude of a section of the British and Canadian public towards the War of Secession, and it enabled Canada to undertake the control of the vast areas in the west which were still in the hands of the Hudson's Bay Company. The impor-

tance of the external factor in the formation of the Canadian federation can best be gauged when it is remembered that it was not until 1900 that the colonies of Australia found it possible, despite the many obvious attractions of federation, to agree to the establishment of the Commonwealth, and that the final movement which produced federation was in no small degree influenced by the recognition of the emergence of a new great Power in the Pacific. Federation seemed also an ideal solution for the difficulties of South Africa, with its division of races, but the effort to frame a federal constitution failed for causes in the main economic, producing instead a unified constitution.

The growth in importance of the colonies, in large measure as the result of federation, has coincided with a steady development of the conception of local autonomy, until in all matters in which no imperial interests are involved the Governor of a Dominion occupies towards the Ministry a position closely analogous to that of the King in relation to the Cabinet of the United Kingdom. The parallelism of the two positions is not, however, complete. The power of the Crown is more restricted than that of the Governor, but its influence is far greater. The prestige of royalty, the long tenure of office by the sovereign, and the influence of tradition combine to secure for the King a degree of consideration and confidence from the Cabinet and the Prime Minister which is rarely accorded to any Governor of a Dominion by his Ministry. On the other hand, this relation

is rendered possible and maintained only by the rigid application of the rule that, save in the narrow sphere of the bestowal of honour, the King shall accept the advice of his Ministers in all matters of the exercise of his powers. In the Dominions no such rule has yet been accepted: even in matters wholly of internal interest the Governor may refuse ministerial advice if he thinks fit, provided that he can find other Ministers to accept office and to assume responsibility for his action *ex post facto*. The position is anomalous; it tends to make every Prime Minister chary of reposing full confidence in a Governor who may at some future time assume an attitude of antagonism towards him, and the inconveniences to which it may give rise are clearly illustrated by the case of the dispute between the Governor of Tasmania and his Ministers in 1914.

While the development of the internal autonomy of the Dominions, though it has naturally advanced far beyond the limits immediately contemplated by Lord Durham, has been in substantial accord with the principles laid down by him, yet events of the last seventy years have proved that a separation between local and imperial interests is impossible, and that in the long run the Imperial Government cannot undertake to exercise control over any steps taken by a Dominion Government within the bounds of its own territories, a principle strikingly illustrated by the case of the deportations of labour leaders from South Africa without warrant of law by the Union Government in 1914, as explained by Mr. Harcourt in the House of Commons on Febru-

ary 12, 1914. But, in addition, the war of 1914 has evoked a clear consciousness in the Dominions themselves that in the ultimate issue they cannot accept as permanent any position of subordination within the Empire, but must attain in theory and in effect a position equal with that of the United Kingdom. On the mode in which that position is to be attained no unanimity of view is yet apparent. One opinion, represented by Sir Joseph Ward at the Imperial Conference of 1911, and faintly echoed by Mr. Massey at the Imperial War Conference of 1917, contemplates the possibility of a federation for the limited purposes of foreign policy and naval defence only: the other opinion, which so far has found much wider support in Canada, Australia, South Africa, and Newfoundland, aims rather at securing a partnership of nations united by effective consultation, but not by legal bonds. Such a partnership has not of course as yet been effectively obtained. "Whatever we may say," General Smuts argued at the Conference of 1917, "and whatever we may think, we are subject provinces of Great Britain. That is the actual theory of the Constitution, and in many ways, which I need not specify to-day, that theory still permeates practice to some extent," and the same statesman made it clear that the two problems to be considered in the reconstruction after the war were the improvement of the status of the Dominions and the establishment of effective consultation, which indeed was strongly urged by Mr. Harcourt in 1912 before the outbreak of war had awakened the

Dominion Governments to the urgency of the problem.

General Smuts was careful to make it clear that the inferiority of the Dominions to the United Kingdom was much more serious in theory than in practice, but the inferiority exists and is substantial in character. In international law the British Empire forms a single unity, which is represented by the Imperial Crown acting on the advice of the Cabinet of the United Kingdom, which is responsible to the Parliament of the United Kingdom alone. The Parliaments of the Dominions are essentially subordinate legislatures: their legislation must respect the subject position of the Dominions, is limited to strictly territorial limits, is subject to disallowance by the Crown on the advice of the Imperial Government, and is liable to be overridden by imperial enactments. Save only in the case of certain classes of constitutional questions in Australia, an appeal lies from the decisions of their highest courts to the Judicial Committee of the Privy Council. The chief officer of the executive government is appointed by the King on the advice of the Imperial Government, and normally is not a native of the Dominion which he is selected to govern. In practice, of course, these marks of inferiority are largely neutralized. The Dominions, indeed, cannot make war or peace, conclude treaties, or accredit or receive ambassadors, but full control over all commercial treaties and effective representation of their interests abroad have been secured to them. Dominion legislation is rarely refused assent, or overridden, and then only in matters such

as merchant shipping in which Dominion and imperial interests are inextricably involved. The appeal to the Privy Council could be abolished if the Dominions were agreed in desiring its disappearance, and will doubtless disappear, unless effect is given to the alternative conception urged by Mr. Chamberlain in 1900 of the creation of a truly imperial court which would hear appeals from the United Kingdom also and on which the Dominions would be fully represented. The Governor has steadily tended to become a constitutional monarch, and his position could be deprived of any independent political authority if the Dominions so desired. It would be possible, therefore, and doubtless it is desirable, that these signs of a subject condition should disappear, but there remains for solution the real problem of devising a method by which the Dominions may share effectively in the control of foreign policy, without resort to federation, to which public opinion in the Dominions is in the main strongly opposed, and which is certainly not within the bounds of practical politics at the present time.

A. BERRIEDALE KEITH

1918

CONTENTS

PART ONE

PAGE

Preface v

I. The Origin of Representative Government in Canada

1. The Royal Proclamation of October 7, 1763 3
2. Considerations on the Expediency of procuring an Act of Parliament for the Settlement of the Province of Quebec, by Baron Maseres, afterwards Attorney-General of Quebec, 1766 12
3. Petition of divers of the French Inhabitants of the Province of Quebec to the King's Majesty, December 1773 . . . 31
4. Lord Mansfield's Judgement in Campbell *versus* Hall, 1774 35
5. The Quebec Act, 1774 53
6. Petition for the Repeal of the Quebec Act, November 12, 1774 66
7. Declaration of Independence of the United States, July 4, 1776 70
8. Lord Sydney to Lord Dorchester, September 3, 1788 76
9. Lord Dorchester to Lord Sydney, November 8, 1788 81
10. Right Hon. W. W. Grenville to Lord Dorchester, October 20, 1789 86
11. Lord Dorchester to the Right Hon. W. W. Grenville, February 8, 1790 . . . 95
    Chief Justice Smith to Lord Dorchester, February 5, 1790 101
12. Right Hon. H. Dundas to Lord Dorchester, September 16, 1791 106

II. The Deadlock in Canada and the Grant of Responsible Government

PAGE

1. Extracts from Lord Durham's Report on the Affairs of British North America . . 113
2. Lord John Russell to the Right Hon. C. Poulett Thomson, October 11, 1839 . . 173
3. The Earl of Elgin and Kincardine to Earl Grey, April 30, 1849 179
4. Earl Grey to the Earl of Elgin and Kincardine, May 18, 1849 191

III. Responsible Government in Australasia

1. Report of Committee for Trade and Plantations of Privy Council on proposed Australasian Constitution, May 1, 1849 . . 197
2. Right Hon. Sir John S. Pakington to Sir Charles Fitzroy, December 15, 1852 . . 215
3. The Officer administering the Government of New Zealand to the Duke of Newcastle, June 9, 1854 226
4. Right Hon. Sir George Grey, Bart., to the Officer administering the Government, December 8, 1854 238

IV. The Federation of Canada

1. The Quebec Resolutions, October 10, 1864 . 245
2. Right Hon. Edward Cardwell to Viscount Monck, December 3, 1864 . . . 264
3. Hon. John Macdonald's Speech in the Canadian Parliament, February 6, 1865 . . . 269
4. Right Hon. Edward Cardwell to Viscount Monck, June 17, 1865 329

V. The Commonwealth of Australia

Right Hon. J. Chamberlain's Speech on the Introduction of the Constitution Bill, House of Commons, May 14, 1900 . . . 337

CONTENTS

PART TWO

VI. The Union of South Africa

PAGE

1. Right Hon. Winston Churchill's Speech on the Transvaal Constitution, House of Commons, December 17, 1906 . . . 3
2. The Earl of Crewe's Speech on the South Africa Bill, House of Lords, July 27, 1909 . . 25

VII. The Autonomy in Internal Affairs of the Self-governing Dominions

I. The Canadian Policy of Protection:
1. The Duke of Newcastle to Right Hon. Sir Edmund Head, Bart., August 13, 1859 51
2. Right Hon. Sir Edmund Head, Bart., to the Duke of Newcastle, November 11, 1859 57

II. The Jesuits' Estates Act of Quebec:
Lord Stanley of Preston to Lord Knutsford, August 8, 1889 . . . 84

III. The Nomination of Additional Members to the Upper House of New Zealand:
1. The Earl of Glasgow to Lord Knutsford, August 8, 1892 . . . 92
2. The Marquis of Ripon to the Earl of Glasgow, September 26, 1892 . 101

IV. The Sale of the Newfoundland Government Railway:
Right Hon. Joseph Chamberlain to Sir H. H. Murray, March 23, 1898 . 105

V. The Deportation of Labour Leaders from South Africa:
Right Hon. L. Harcourt, House of Commons, February 12, 1914 . . 109

PAGE

VI. The Dispute between the Governor of Tasmania and his Ministers as to the Dissolution of Parliament:

1. The Governor to Mr. Earle, April 3, 1914 126
2. Mr. Earle to the Governor, April 7, 1914 126
3. The Governor to Mr. Earle, April 8, 1914 133
4. Address of the House of Assembly, April 8, 1914 135
5. Right Hon. L. Harcourt to Right Hon. Sir W. Ellison-Macartney, June 5, 1914 136

VIII. The Relations of the Dominions to Foreign Powers

I. The Appointment of a High Commissioner for Canada:

1. Right Hon. Sir M. Hicks Beach, Bart., to the Marquis of Lorne, November 1, 1879 143
2. The Marquis of Lorne to the Right Hon. Sir M. Hicks Beach, December 24, 1879 150

II. The Negotiation of separate Commercial Treaties for the Dominions:

1. The Marquis of Ripon to the Governors, June 28, 1895 156
2. Right Hon. Sir E. Grey, Bart., to H.M. Chargé d'Affaires at Paris, July 4, 1907 165

III. The Newfoundland Fisheries Dispute:
The Earl of Elgin to Sir W. Macgregor, September 19, 1907 167

IV. The Participation of the Dominions in future Hague Conventions:
Right Hon. Sir E. Grey's Speech at the Imperial Conference of 1911 . . 182

IX. The Unity of the Empire

PAGE

1. The Address from the Parliament of Canada on Home Rule for Ireland, 1882:
   The Marquis of Lorne to the Earl of Kimberley, May 16, 1882 193
   The Earl of Kimberley to the Marquis of Lorne, June 12, 1882 196
2. Memorandum by Sir Julius Vogel on the Federation of the British Empire, February 24, 1885 197
3. Right Hon. Joseph Chamberlain's Speech at the first meeting of the Colonial Conference of 1897 208
4. The Admiralty Memorandum on Imperial Defence, presented to the Colonial Conferference of 1902 230
5. Right Hon, H. H. Asquith's Address at the first meeting of the Imperial Conference of 1911 240
6. Imperial Federation:
   Right Hon. Sir J. Ward's Speech at the Imperial Conference of 1911 . . 247
   General Botha's Criticism . . . 297
   Mr. Asquith's Criticism 301
7. The Naval Agreement of 1911 . . . 304
8. The Naval Policy of Canada:
   Right Hon. R. L. Borden, Canadian House of Commons, December 5, 1912 . . 308
9. Imperial Co-operation in Defence and Foreign Policy:
   Right Hon. L. Harcourt to the Governor-General of Australia, etc., December 10, 1912 339
10. The Imperial Naval Squadron:
    Right Hon. Winston Churchill's Speech, House of Commons, March 17, 1914 . 343
11. Right Hon. Sir Wilfrid Laurier's Speech on the Participation of Canada in the war with Germany, Canadian House of Commons, August 19, 1914 . . . 357

PAGE

12. The Resolutions of the Economic Conference of the Allies, Paris, June 1916 . . 368

13. The Imperial War Cabinet and the Imperial War Conference:
Speeches by the Right Hon. Sir Robert Borden, W. F. Massey, General J. C. Smuts, Sir Edward Morris, and Sir Satyendra Sinha at the Imperial War Conference, 1917 376

Index 405

I

THE ORIGIN OF REPRESENTATIVE GOVERNMENT IN CANADA

1. THE ROYAL PROCLAMATION OF OCTOBER 7, 1763

GEORGE R.

WHEREAS We have taken into our Royal Consideration the extensive and valuable Acquisitions in America, secured to our Crown by the late Definitive Treaty of Peace concluded at Paris, the 10th Day of February last; and being desirous that all our loving Subjects, as well of our Kingdom as of our Colonies in America, may avail themselves with all convenient Speed, of the great Benefits and Advantages which must accrue therefrom to their Commerce, Manufactures, and Navigation, We have thought fit, with the Advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving Subjects, that we have, with the Advice of our Said Privy Council, granted our Letters Patent, under our Great Seal of Great Britain, to erect, within the Countries and Islands ceded and confirmed to Us by the said Treaty, Four distinct and separate Governments, styled and called by the Names of Quebec, East Florida, West Florida and Grenada, and limited and bounded as follows, viz.

First.—The Government of Quebec bounded on the Labrador Coast by the River St. John, and from thence by a Line drawn from the Head of that River through the Lake St. John, to the South End of the Lake Nipissim; from whence

the said Line, crossing the River St. Lawrence, and the Lake Champlain, in 45 Degrees of North Latitude, passes along the High Lands which divide the Rivers that empty themselves into the said River St. Lawrence from those which fall into the Sea; and also along the North Coast of the Baye des Chaleurs, and the Coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the Mouth of the River St. Lawrence by the West End of the Island of Anticosti, terminates at the aforesaid River of St. John.

Secondly.—The Government of East Florida, bounded to the Westward by the Gulph of Mexico and the Apalachicola River; to the Northward by a Line drawn from that Part of the said River where the Chatahouchee and Flint Rivers meet, to the source of St. Mary's River, and by the course of the said River to the Atlantic Ocean; and to the Eastward and Southward by the Atlantic Ocean and the Gulph of Florida, including all Islands within Six Leagues of the Sea Coast.

Thirdly.—The Government of West Florida, bounded to the Southward by the Gulph of Mexico, including all Islands within Six Leagues of the Coast, from the River Apalachicola to Lake Pontchartrain; to the Westward by the said Lake, the Lake Maurepas, and the River Mississippi; to the Northward by a Line drawn due East from that Part of the River Mississippi which lies in 31 Degrees North Latitude, to the River Apalachicola or Chatahouchee; and to the Eastward by the said River.

Fourthly.—The Government of Grenada, comprehending the Island of that Name, together with

the Grenadines, and the Islands of Dominico, St. Vincent's and Tobago.

And to the End that the open and free Fishery of our Subjects may be extended to and carried on upon the Coast of Labrador, and the adjacent Islands, We have thought fit, with the Advice of our said Privy Council, to put all that Coast, from the River St. John's to Hudson's Streights together with the Islands of Anticosti and Madelaine, and all other smaller Islands lying upon the said Coast, under the Care and Inspection of our Governor of Newfoundland.

We have also, with the Advice of our Privy Council, thought fit to annex the Islands of St. John's and Cape Breton, or Isle Royale, with the lesser Islands adjacent thereto, to our Government of Nova Scotia.

We have also, with the advice of our Privy Council aforesaid, annexed to our Province of Georgia all the Lands lying between the Rivers Alatamaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling our said new Governments, that our loving Subjects should be informed of our Paternal care, for the Security of the Liberties and Properties of those who are and shall become Inhabitants thereof, We have thought fit to publish and declare, by this our Proclamation, that We have, in the Letters Patent under our Great Seal of Great Britain, by which the said Governments are constituted, given express Power and Direction to our Governors of our said Colonies respectively, that, so soon as the State and Circumstances of the said Colonies will admit thereof,

they shall, with the Advice and Consent of the Members of our Council, summon and call General Assemblies within the said Governments respectively, in such Manner and Form as is used and directed in those Colonies and Provinces in America which are under our immediate Government; and We have also given Power to the said Governors, with the Consent of our said Councils, and the Representatives of the People so to be summoned as aforesaid, to make, constitute, and ordain Laws, Statutes, and Ordinances for the Public Peace, Welfare, and good Government of our said Colonies, and of the People and Inhabitants thereof, as near as may be agreeable to the Laws of England, and under such Regulations and Restrictions as are used in other Colonies; and in the mean Time, and until such Assemblies can be called as aforesaid, all Persons inhabiting in or resorting to our said Colonies may confide in our Royal Protection for the Enjoyment of the Benefit of the Laws of our Realm of England; for which Purpose We have given Power under our Great Seal to the Governors of our said Colonies respectively to erect and constitute, with the Advice of our said Councils respectively, Courts of Judicature and Public Justice within our said Colonies for hearing and determining all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England, with Liberty to all Persons who may think themselves aggrieved by the Sentences of such Courts, in all Civil Cases, to appeal, under the usual Limitations and Restrictions, to Us in our Privy Council.

We have also thought fit, with the advice of our Privy Council as aforesaid, to give unto the Governors and Councils of our said Three new Colonies upon the Continent, full Power and Authority to settle and agree with the Inhabitants of our said new Colonies or with any other Persons who shall resort thereto, for such Lands, Tenements and Hereditaments, as are now or hereafter shall be in our Power to dispose of; and them to grant to any such Person or Persons upon such Terms, and under such moderate Quit-Rents, Services and Acknowledgments, as have been appointed and settled in our other Colonies, and under such other Conditions as shall appear to us to be necessary and expedient for the Advantage of the Grantees, and the Improvement and Settlement of our said Colonies.

And whereas We are desirous, upon all occasions, to testify our Royal Sense and Approbation of the Conduct and Bravery of the Officers and Soldiers of our Armies, and to renew the same, We do hereby command and impower our Governors of our said Three new Colonies, and all other our Governors of our several Provinces on the Continent of North America, to grant without Fee or Reward, to such reduced Officers as have served in North America during the late War, and to such Private Soldiers as have been or shall be disbanded in America, and are actually residing there, and shall personally apply for the same, the following Quantities of Lands, subject, at the Expiration of Ten Years, to the same Quit-Rents as other Lands are subject to in the Province within which they are granted, as also

subject to the same Conditions of Cultivation and Improvement; viz.

To every Person having the Rank of a Field Officer	5,000 Acres.
To every Captain	3,000 Acres.
To every Subaltern or Staff Officer	2,000 Acres.
To every Non-Commission Officer	200 Acres.
To every Private Man	50 Acres.

We do likewise authorize and require the Governors and Commanders in Chief of all our said Colonies upon the Continent of North America to grant the like Quantities of Land, and upon the same Conditions, to such reduced Officers of our Navy of like Rank as served on board our Ships of War in North America at the times of the Reduction of Louisbourg and Quebec in the late War, and who shall personally apply to our respective Governors for such Grants.

And whereas it is just and reasonable, and essential to our Interest, and the Security of our Colonies, that the several Nations or Tribes of Indians with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession of such Parts of our Dominions and Territories as, not having been ceded to or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds, —We do therefore, with the Advice of our Privy Council, declare it to be our Royal Will and Pleasure, that no Governor or Commander in Chief in any of our Colonies of Quebec, East Florida, or West Florida, do presume, upon any Pretence whatever, to grant Warrants of Survey, or pass any Patents for Lands beyond the Bounds of their

respective Governments, as described in their Commissions; as also that no Governor or Commander in Chief in any of our other Colonies or Plantations in America do presume for the Present, and until our further Pleasure be known, to grant Warrants of Survey, or pass Patents for any Lands beyond the Heads or Sources of any of the Rivers which fall into the Atlantic Ocean from the West and North West, or upon any Lands whatever, which, not having been ceded to or purchased by Us as aforesaid, are reserved to the said Indians, or any of them.

And We do further declare it to be Our Royal Will and Pleasure, for the Present as aforesaid, to reserve under our Sovereignty, Protection, and Dominion, for the use of the said Indians, all the Lands and Territories not included within the Limits of our said Three new Governments, or within the Limits of the Territory granted to the Hudson's Bay Company, as also all the Lands and Territories lying to the Westward of the Sources of the Rivers which fall into the Sea from the West and North-West as aforesaid;

And We do hereby strictly forbid, on Pain of our Displeasure, all our loving Subjects from making any Purchases or Settlements whatever, or taking Possession of any of the Lands above reserved, without our especial Leave and Licence for that Purpose first obtained.

And We do further strictly enjoin and require all Persons whatever who have either wilfully or inadvertently seated themselves upon any Lands within the Countries above described, or upon any other Lands which, not having been ceded

to or purchased by Us, are still reserved to the said Indians as aforesaid forthwith to remove themselves from such Settlements.

And whereas great Frauds and Abuses have been committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians; In order, therefore, to prevent such Irregularities for the Future, and to the end that the Indians may be convinced of our Justice and determined Resolution to remove all reasonable Cause of Discontent, We do, with the Advice of our Privy Council, strictly enjoin and require, that no private Person do presume to make any Purchase from the said Indians of any Lands reserved to the said Indians, within those Parts of our Colonies where We have thought proper to allow Settlement; but that, if at any Time any of the said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name, at some public Meeting or Assembly of the said Indians, to be held for that Purpose by the Governor or Commander in Chief of our Colony respectively, within which they shall lie; and in case they shall lie within the Limits of any Proprietary Government, they shall be purchased only for the Use and in the Name of such Proprietaries, comformable to such Directions and Instructions as We or they shall think proper to give for that Purpose; And We do, by the Advice of our Privy Council, declare and enjoin, that the Trade with the said Indians shall be free and open to all our Subjects whatever, provided that every Person who may incline to Trade with the said

Indians do take out a Licence for carrying on such Trade from the Governor or Commander in Chief of any of our Colonies respectively where such Person shall reside, and also give Security to observe such Regulations as We shall at any time think fit, by ourselves or by our Commissaries to be appointed for this Purpose, to direct and appoint for the Benefit of the said Trade:

And We do hereby authorize, enjoin, and require the Governors and Commanders in Chief of all our Colonies respectively, as well those under our immediate Government as those under the Government and Direction of Proprietaries, to grant such Licences without Fee or Reward, taking especial Care to insert therein a Condition, that such Licence shall be void, and the Security forfeited in case the Person to whom the same is granted shall refuse or neglect to observe such Regulations as We shall think proper to prescribe as aforesaid.

And We do further expressly enjoin and require all Officers whatever, as well Military as those Employed in the Management and Direction of Indian Affairs, within the Territories reserved as aforesaid for the Use of the said Indians, to seize and apprehend all Persons whatever, who standing charged with Treason, Misprisions of Treason, Murders, or other Felonies or Misdemeanours, shall fly from Justice and take Refuge in the said Territory, and to send them under a proper Guard to the Colony where the Crime was committed of which they stand accused, in order to take their Trial for the same.

Given at our Court at St. James's the 7th Day of October 1763, in the Third Year of our Reign.

2. CONSIDERATIONS ON THE EXPEDIENCY OF PROCURING AN ACT OF PARLIAMENT FOR THE SETTLEMENT OF THE PROVINCE OF QUEBEC

(By Baron Maseres, afterwards Attorney-General of Quebec)

The difficulties that have arisen in the government of the province of Quebec, and which are likely still to occur in it, notwithstanding the best intentions of those who are entrusted by his Majesty with the administration of affairs there, are so many and so great that the Officers, whom his Majesty has been pleased of late to nominate to the principal departments in that government, cannot look upon them without the greatest uneasiness and apprehension, and despair of being able to overcome them without the assistance of an Act of Parliament to ground and justify their proceedings. Two nations are to be kept in peace and harmony, and moulded, as it were, into one, that are at present of opposite religions, ignorant of each other's language, and inclined in their affections to different systems of laws. The bulk of the inhabitants are hitherto either French from old France, or native Canadians, that speak only the French language, being, as it is thought, about ninety thousand souls, or, as the French represent it in their Memorial, ten thousand heads of families. The rest of the inhabitants are natives of Great Britain or Ireland, or of the British Dominions in

North America, and are at present only about six hundred souls; but, if the province is governed in such a manner as to give satisfaction to the inhabitants, it will probably every day increase in number by the accession of new settlers for the sake of trading and planting, so that in time they may equal or exceed the number of the French. The French are almost uniformly Roman Catholics: there were only three Protestant families amongst them at the time of the conquest of the province; and probably that number is not much increased among them, as no endeavours have been used for their conversion. But, what is more to be lamented, is that they are violently bigoted to the Popish religion, and look upon all Protestants with an eye of detestation. This unhappy circumstance has been, and is still likely to be, a ground of enmity and disunion between the old and new inhabitants. The French insist, not only upon a toleration of the public worship, but on a share in the administration of Justice, as jury-men and justices of the peace, and the like, and on a right, in common with the English, of being appointed to all the offices of the government. The English, on the contrary, affirm, that the laws of England made against the Papists ought to be in force there, and consequently that the native Canadians, unless they think proper to turn Protestants, ought to be excluded from all those offices and various branches of power, and in some degree they seem to be supported in this opinion by a part of the governor's commission; I mean, that part which enables him to call and constitute a general assembly of the freeholders

and planters of the province: for it is there expressly provided, that no person elected to serve in such an assembly, shall sit and vote there till he has subscribed the declaration against Popery prescribed by the statute 25 Car. 2 which would effectually exclude all the Canadians.

The grounds upon which the French demand a toleration of the Catholic religion, are partly the reasonableness of the thing itself, they being almost universally of that religion, and partly the stipulation made on that behalf in the fourth article of the definite treaty of peace, and which is expressed in these words:

> His Britannic Majesty on his side agrees to grant the liberty of the Catholic religion to the inhabitants of Canada; he will consequently give the most effectual orders that his new Roman Catholic subjects may profess the worship of their religion, according to the rites of the Romish Church, as far as the laws of Great Britain permit.

These last words, 'as far as the laws of Great Britain permit,' render the whole stipulation in favour of this toleration very doubtful; for it may reasonably be contended, that the laws of England do not at all permit the exercise of the Catholic religion.

For in the first place, these words seem to refer to some degree of toleration of the Catholic religion, already actually subsisting in some part of the British dominions, and by virtue of the laws of Great Britain; and if so, they convey no right to any toleration at all, because no degree of toleration is already actually allowed by the laws of Great Britain in any part of the British dominions.

2ndly. Supposing these words not to refer to any toleration of the Catholic religion now actually subsisting by virtue of the laws of Great Britain, but to mean only such a degree of toleration as (though it does not actually subsist in any of the British dominions by the virtue of the laws of Great Britain, yet) may subsist without a breach of the laws of Great Britain, yet still there will be great reason to think that the laws of Great Britain do not permit this toleration in any degree. For in the first place, the stat. of 1 Eliz. cap. i. for restoring the supremacy in ecclesiastical matters to the Crown, expressly extends to all the Queen's future dominions, as well as to those belonging to the Crown at the time of making the act. The words of the 16th section are as follows:

> Be it enacted, &c. that no foreign prince, person, prelate, &c. spiritual or temporal, shall at any time hereafter use or exercise any manner of power or jurisdiction, spiritual or ecclesiastical, within this realm, or within any other your Majesty's dominions, or countries, that now be, or *hereafter shall be*, but shall be clearly abolished out of this realm, and all other your highness's dominions for ever.

And in the next section, all this ecclesiastical jurisdiction or supremacy, is united and annexed for ever to the Crown. It is clear therefore, that the King is, by the laws of Great Britain, supreme head of the Church in the province of Quebec, as well as in England itself. Now it is the very essence of Popery, that the Pope, and not the King, is supreme in all spiritual matters. Consequently this essential article of Popery cannot, by virtue of the stipulation in the definite treaty, be

tolerated; but all appeals to the Pope, all exercises of ecclesiastical authority in Quebec, by the Pope, or his legates, or any other person commissioned by him, all nominations to benefices, or to the bishoprick of the province (which is a power the Pope has hitherto exercised, at least, so far as to approve the bishop before he entered upon the functions of his office) must now be illegal and void.

But this act goes a great deal further; for it requires all ecclesiastical persons whatsoever, and likewise all lay-persons holding temporal offices, or employed in the service of the Crown, and doing homage for them, to take the oath of supremacy to the Queen, or her successors, under pain of losing their benefices, or temporal offices, &c., and this not only in the realm of England, but in any of the Queen's highness's dominions. So that by this part of the act, all the Canadian clergy, and a great part of the laity, might be required to take the oath of supremacy, which it is well known the most moderate Catholics cannot take, it being contrary to the fundamental article of their religion; for the difference between the moderate Catholics and the more furious and zealous Papists, who are mostly guided by the Jesuits, consists principally in this circumstance, that the latter ascribe to the Pope an unlimited power in temporal as well as spiritual matters, and affirm that he may depose kings, and absolve subjects from their allegiance, and do other the like extravagant mischiefs; whereas the former deny his temporal, and acknowledge only his spiritual supremacy.

It is true indeed, this oath of supremacy is taken away by the stat. 1 Will. cap. 8. But another

shorter oath of supremacy, containing a mere denial of the Spiritual, or Ecclesiastical power of the Pope, or any other foreign prince, and which is therefore equally contrary to the sentiments of all Roman-Catholics, is appointed to be taken in its stead, and by the same persons, and under the same penalties, as before.

It appears therefore, from the statute 1 Eliz. cap. i. alone, without considering any other of the laws against Popery, that the exercise of the Popish religion cannot be tolerated in the province of Quebec, consistently with the laws of England; and consequently that it cannot be tolerated there at all by virtue of the stipulation of the definitive treaty above-mentioned, because that stipulation has an express reference to the laws of England.

Further by the text next in the statute-book, or stat. 1 Eliz. cap. ii. for the uniformity of common-prayer and service, it is enacted,

> That every minister of a parish-church, &c. within this realm of England, Wales, and marches of the same, or *other the Queen's dominions*, shall be bound to use the book of common-prayer, and shall use no other service, under pain of incurring certain heavy penalties.

By this act, the mass is prohibited in all parish-churches in all her Majesty's dominions.

This act does not indeed say expressly, as the former does, that it shall extend to all her Majesty's dominions that hereafter shall be, as well as those that at present are, belonging to the Crown of England. But there is reason to believe it meant so; or, at least there is room for doubt. And if it does mean so, the mass is prohibited by it in the province of Quebec.

Upon these reasons we may conclude that the exercise of the Catholic religion cannot consistently with the laws of Great Britain, be tolerated in the province of Quebec.

Yet that it should be tolerated is surely very reasonable, and to be wished by all lovers of peace and justice and liberty of conscience.

By what authority then shall it be tolerated? this is the only question that remains. Shall the King alone undertake to tolerate it? will it be advisable that he should exercise, though for so good an end, a power of dispensing with the laws? will it not give room to a thousand censures and odious reflections and comparisons? The authority of Parliament seems to be a much safer foundation to establish this measure upon, in a manner which neither the new English inhabitants of the province can contest, nor the French Catholics suspect to be inadequate.

The next great difficulty that occurs, is the settlement of the laws, by which the province of Quebec is for the future to be governed. The law upon this subject seems to be this: 1st, that the laws of the conquered continue in force till the will of the conqueror is declared to the contrary; this follows from the necessity of the case, since otherwise the conquered provinces would be governed by no laws at all. 2ndly, that after the declaration of the will of the conqueror, the conquered are to be governed by such laws as the conqueror shall think fit to impose, whether those are the old laws by which they have been governed before, or the laws by which the conquerors are governed themselves, or partly one, and partly

the other, or a new set of laws different from both. 3rdly, That by the conqueror is to be understood the conquering nation, that is, in the present case, the British nation; that consequently by the will of the conqueror is to be understood the will of the British nation, which in all matters relating to legislation is expressed by the King and Parliament, as in all matters relating to the executive power it is expressed by the King alone; that therefore the Parliament only have a power to make laws for the province of Quebec, or to introduce any part of the laws of Great Britain there, or to delegate such a power of making or introducing laws to any other hands, notwithstanding, it may happen that in fact such a power may inadvertently have been delegated to the governor and council of the province by a private instruction of the King alone. For if the contrary doctrine were true, that the King alone had the whole legislative power in the province of Quebec, it would follow, that not only all the conquered Canadians, but all the new English settlers there, would become slaves or subjects to an absolute and arbitrary government, the moment they set their foot there. The King might introduce the severest laws, the most cruel punishments, the inquisition, the rack, and the wheel, and might make all his subjects there, both old and new, tenants at will of their lands and other property, and tax them in any degree whensoever he thought fit. He might keep a standing army there, without consent of Parliament, and raise money to pay them by his own authority, and with such an army, a prince of James II's

disposition might oppress the liberties of the other adjoining colonies, or even of Great Britain itself. These are dreadful consequences, but follow clearly from such a doctrine; for which reason the doctrine itself ought not to be maintained. The other opinion, that the conquered people, when once ceded to the Crown of Great Britain, are thereby admitted to be British subjects, and immediately entitled to participate of the liberties of other British Subjects, and are therefore to be governed according to the rules of the limited monarchy of Great Britain, by which the executive power is vested solely in the King, but the power of making laws and raising taxes in the King and Parliament, is a much safer and more reasonable opinion.[1]

It is therefore to be wished, that an Act of Parliament might be obtained that at once declared what laws should take place in the province of Quebec, whether the laws of the conquered, or the laws of Great Britain, or some of the laws of the conquered, and some of the laws of Great Britain; or whether any other laws should be introduced there, more peculiarly fitted to the circumstances of the province; and if any, then what laws should be so introduced: or, if this detail be thought too troublesome for the Parliament to enter upon, and their informations concerning the state of the province should be

[1] This view cannot be regarded as legally sound; the authority of the Crown over conquered territory is absolute, and can be exercised without the intervention of Parliament; see Lord Mansfield's Judgement, below, pp. 42–47.

deemed to be as yet too imperfect to enable them to go through such a business with propriety, then it is to be wished that an Act of Parliament may be obtained, by which such a legislative power of making laws and ordinances for the good government of the province might be delegated to the governor and council, as has been already exercised by them by virtue of an instruction from the King alone. By such a delegated parliamentary authority, they may enquire into the state of the Canadian laws and customs already in force there, and may revise them and reduce them into writing, and enact such of them as shall be found beneficial to the province, and fit to be continued; and may introduce such part of the laws of England, as they shall think to be for the advantage of the province; and likewise, as occasion offers, make such other new laws and regulations as shall be necessary for the good government of it: And in so doing they will have a due regard to the heads of advice suggested by Mr. Attorney Yorke, and to such other intimations and instructions as the government shall think proper to communicate to them. And lest this legislative power should be abused or injudiciously executed by the governor and council, there might be a clause in the Act of Parliament directing them to transmit these several laws and ordinances to the King and Privy Council in England, to be by his Majesty in council allowed or disallowed, as his Majesty shall see cause. Only they should be in force till disallowed, and, if not disallowed within a certain time, as for instance two years, they should then be in force for ever,

unless repealed by act of Parliament. Laws and ordinances founded on such a parliamentary authority will easily find obedience from the people, which it is to be feared no others will; and the judges of the province will carry them into execution with ten times as much spirit and confidence as if they were doubtful of their legal validity.

Suppose a criminal in Canada to be guilty of an offence that is capital by the laws of England, but is not so by the laws of Canada that have hitherto been received (a supposition that is no way difficult as the criminal law of England abounds with capital offences) in what manner shall such a man be punished, unless there is a parliamentary declaration determining the punishment that shall attend his crime? Could any lesser authority warrant the infliction of death for such a crime? Or would any judge choose, though he should be sure of never being called to account for it, to pass such a sentence without the highest authority? But if the punishments of crimes be settled by authority of Parliament, whether immediately by the Parliament itself, or mediately by ordinances made by the governor and council of the province, by virtue of a legislative authority communicated to them by act of Parliament, the judges will be under no other difficulty what punishments to inflict upon the several criminals, that come before them, than they are in Great Britain itself.

Some persons are of opinion, that the laws of Great Britain do at once take place in a conquered province, without authoritative introduction of them, either by the King, or Parliament.

But this opinion seems destitute of foundation, and is sufficiently refuted by the advice of the learned Mr. Yorke, his Majesty's attorney-general, who has advised that the Canadians should be permitted to retain their own laws, relating to inheritances and the alienation of their real estates, which would be impossible without an act of Parliament for that purpose, if the whole system of the laws of England did *ipso facto* become the law of the province upon its being conquered, or ceded to the Crown. Indeed, the whole system of the laws of England, taken in the gross, and without a selection, would be by no means a blessing to the Canadians. The game-laws, the poor-laws, the fictions and the subtleties in various sorts of actions and conveyances, the niceties arising from the doctrine of uses, and the tedious and operose instruments founded on them, would really be a great misfortune to them; and from their novelty and strangeness, would be thought to be a much greater. This doctrine therefore of the instant validity of the whole mass of the laws of England throughout the conquered Province cannot be true. And if the whole system of those laws is not valid there, then certainly no part of them can be so. For if they are, then who shall distinguish which of them are valid there and which are not?

It may therefore be concluded, as at first, that none of the laws of England are valid in the conquered province *ipso facto* by virtue of the conquest, or cession, without a positive introduction there by a sufficient authority: and this sufficient authority seems, for the reasons already

mentioned, to be only the Parliament of Great Britain.

The next great difficulty that calls loudly for the interposition of Parliament, is the low state of the revenue of the province of Quebec. Under the French government this revenue amounted to about thirteen thousand pounds per annum, but is now sunk to less than three thousand. The cause of this is the change in the course of trade, by which means it falls out, that those taxes which produced the principal part of the revenue, now, though still in force, produce nothing at all. The principal of those taxes was a duty upon French wines, which were imported there from old France in great quantities. This single duty produced 8000l. a year; now it produces nothing, because no wines are allowed to be imported there from old France. Nor would it be replaced by an increase of the consumption of Spanish or Portuguese wines, supposing the tax might be construed to extend to those wines; for the Canadians do not like them, and will not drink them. From a like cause, another duty which formerly made a considerable part of the public revenue, which was a duty upon French brandies imported from old France, and French rums imported from the French West-India Islands, now produces nothing at all. From these causes the revenue is sunk so low that it is insufficient to defray the expense of the civil government, though the establishment of it is so very moderate. It is therefore become necessary, either for the treasury of England to issue a sufficient annual Sum to make good the salaries

of the several officers of the government, or that some new tax should be imposed upon the inhabitants, in aid of those which by reason of these accidents have failed, sufficient for all the purposes of the government. If this latter method should be adopted, it is presumed that the authority of Parliament will be the proper power to have recourse to, that there may be no colour or pretence for contesting the legality of the taxes so imposed. This power also the Parliament may exercise, either immediately itself by imposing a tax upon the province of Quebec this very session, before the Parliament rises, or it may delegate to the governor and council a power to impose such taxes as they shall find necessary for the support of the government, subject, as above, to the disallowance of the King and Privy Council, in order to prevent abuses, and with proper causes of restriction and appropriation of the money so raised, in order to prevent a misapplication of it, either by the officers of the province, or at home.

If the Parliament should think proper itself to lay a tax upon the Province, information has been received from persons well acquainted with the state and trade of the province, that British spirits should be the commodity that could best bear a duty, and would produce the best revenue; that there are annually imported into the province about 250,000 gallons of these spirits, and that they might bear a duty of threepence a gallon without hurting the trade, but not more; and this would produce about 3000l. a year.

The malicious and desperate enemies of an

upright and popular Administration, may perhaps traduce such a measure as inconsistent with their late indulgent conduct with respect to the other American colonies in the late repeal of the Stamp Act. But the difference of the cases is too striking to make such a calumny in the least degree formidable. The other American colonies have internal legislatures of their own, who have been permitted, ever since their first establishment, to be the assessors of all their internal taxes; and, as they had not abused this privilege with which they had been so long indulged, and further, as their exercising this privilege seemed to be no way prejudicial to the mother-country, it seemed to have been a harsh and ungracious measure in the Parliament, by the advice of the late ministry, to revive and exert a dormant and inherent right of taxing them; which however the whole Parliament, excepting a very few members of both houses, have highly declared themselves to be possessed of. But the Canadians have no such internal legislature, no such usage of taxing themselves by representatives of their own choosing. Unless therefore they have the singular privilege of not being liable to be taxed at all, they must be liable to be taxed either by the King alone, or by the King and Parliament; and the milder of these two opinions is, that they are taxable by the King and Parliament. Those therefore who should promote the taxing them by authority of Parliament, would act like the truest friends to civil liberty, and with the same spirit of mildness and moderation that conducted them in the repeal of the Stamp Act.

If it should be said, that the province of Quebec ought to have an assembly in the same manner as the other American colonies, and that the taxes ought to be imposed by the consent of such an assembly, it will be sufficient for the present purpose, and to support the measure here suggested of taxing them by authority of Parliament, to answer, that as yet no such assembly has been constituted; and till an assembly is erected, whether that time be short or long, the safest and mildest method of imposing taxes is to do it by authority of Parliament.

As to the erecting an assembly in the province, it is a measure which probably will not for some years to come be found expedient. If an assembly were now to be constituted, and the directions in the governor's commission, above alluded to, were to be observed, by which none of the members elected there are to be permitted to sit and vote in the assembly till they have subscribed the declaration against Popery, it would amount to an exclusion of all the Canadians, that is, of the bulk of the settled inhabitants of the province. An assembly so constituted, might pretend to be a representative of the people there, but in truth it would be a representative of only the 600 new English settlers, and an instrument in their hands of domineering over the 90,000 French. Can such an assembly be thought just or expedient, or likely to produce harmony and friendship between the two nations? Surely it must have a contrary effect.

On the other hand, it might be dangerous in these early days of their submission, to admit the

Canadians themselves to so great a degree of power. Bigoted, as they are, to the Popish religion, unacquainted with, and hitherto prejudiced against the laws and customs of England, they would be very unlikely for some years to come, to promote such measures, as should gradually introduce the Protestant religion, the use of the English language, of the spirit of the British laws. It is more probable they would check all such endeavours, and quarrel with the governor and council, or with the English members of the assembly, for promoting them. Add to this, that they are almost universally ignorant of the English language, so as to be absolutely incapable of debating in it, and consequently must, if such an assembly were erected, carry on the business of it in the French language, which would tend to perpetuate that language, and with it their prejudices and affections to their former masters, and postpone to a very distant time, perhaps for ever, that coalition of the two nations, or the melting down the French nation into the English in point of language, affections, religion, and laws, which is so much to be wished for, and which otherwise a generation or two may perhaps effect, if proper measures are taken for that purpose. And further it may be observed, that the Canadians themselves do not desire an assembly, but are contented to be protected in the enjoyment of their religion, liberties, and properties, under the administration of his Majesty's governor and council. If, to give a proper stability to this mode of government, it is carried on by authority of Parliament, and is properly superintended, as no

doubt it will be, by the wisdom of his Majesty's Privy Council, they will think themselves extremely happy under it. The persons who most desire the immediate constitution of an assembly, are some of the six hundred English adventurers, who probably are ambitious of displaying their parts and eloquence in the characters of leading Assemblymen.

But if an assembly is to be constituted, even this too had better be done by act of Parliament than by the King's single authority, as it is no less than severing from the general body of his Majesty's dominions a particular part of them, with respect to the purposes of making laws and imposing taxes. Could the King, if he thought proper, and a particular county of England was to desire it of him, sever that county from the rest of England, and no longer summon any of its members to Parliament, but instead thereof constitute a little Parliament in that county itself, that should make laws and lay taxes for the inhabitants of that single county? It is presumed that he could not: and the erecting an assembly in a conquered province is an act of much the same nature. It is true indeed, that some of the American charters and assemblies owe their rise to this authority: but this was in the reign of the Stuarts, who were fond of extending their prerogative; and, on account of the inconsiderableness of the colonies at that time, these things were then unnoticed; so that they do not prove the strict legality of the practice. Since that time these charters have been put in practice by the colonies, and acquiesced in by the mother-

country, and in some measure recognized in Parliament; and this usage, acquiescence and recognition, are in truth their best support.

But if an assembly is to be constituted, in which the Catholics or Canadians are to be admitted (as in justice and reason they ought to be, if any assembly at all is to be erected), the authority of Parliament seems to be still more necessary to give validity to such a measure.

For the reasons that have been just now mentioned, it seems evident, that the measure of erecting an assembly in the province of Quebec is somewhat premature. How soon it will become expedient and proper, experience only can shew. But in the meantime, however short that time may be, it seems necessary to have recourse to the authority of Parliament for settling the government of the province, and removing the difficulties that obstruct the settlement in the three great articles of Religion, Law, and Revenue. It is therefore the humble request of all the gentlemen who have lately been appointed to the principal offices in the government of Quebec, to his Majesty's Ministers of State, that they would use their influence and endeavours to procure such an Act of Parliament as they shall upon the whole matter think to be necessary, to remove the difficulties that have been stated, and to enable the said gentlemen to administer the government of that province in the several departments, with security to themselves, and advantage to the province.

3. PETITION OF DIVERS OF THE FRENCH INHABITANTS OF THE PROVINCE OF QUEBEC TO THE KING'S MAJESTY, WHICH WAS SIGNED ABOUT THE MONTH OF DECEMBER, 1773, AND PRESENTED TO THE KING ABOUT FEBRUARY, 1774.

SIR,

YOUR most obedient and faithful new subjects in the province of Canada take the liberty to prostrate themselves at the foot of your throne, in order to lay before you the sentiments of respect, affection, and obedience towards your august person, with which their hearts overflow, and to return to your Majesty their most humble thanks for your paternal care of their welfare.

Our gratitude obliges us to acknowledge, that the frightful appearances of conquest by your Majesty's victorious arms did not long continue to excite our lamentations and tears. They grew every day less and less as we gradually became more acquainted with the happiness of living under the wise regulations of the British empire. And even in the very moment of the conquest, we were far from feeling the melancholy effects of restraint and captivity. For the wise and virtuous general who conquered us, being a worthy representative of the glorious sovereign who entrusted him with the command of his armies, left us in possession of our laws and customs; the free

exercise of our religion was preserved to us, and afterwards was confirmed by the treaty of peace; and our own former countrymen were appointed judges of our disputes concerning civil matters. This excess of kindness towards us we shall never forget. These generous proofs of the clemency of our benign conqueror will be carefully preserved in the annals of our history; and we shall transmit them from generation to generation to our remotest posterity. These, Sir, are the pleasing ties by which, in the beginning of our subjection to your Majesty's government, our hearts were so strongly bound to your Majesty; ties which can never be dissolved, but which time will only strengthen and draw closer.

In the year 1764, your Majesty thought fit to put an end to the military government of this province, and to establish a civil government in its stead. And from the instant of this change we began to feel the inconveniences which resulted from the introduction of the laws of England, which till then we had been wholly unacquainted with. Our former countrymen, who till that time had been permitted to settle our civil disputes without any expense to us, were thanked for their services, and dismissed; and the militia of the province, which had till then been proud of bearing that honourable name under your Majesty's command, was laid aside. It is true indeed we were admitted to serve on juries; but at the same time we were given to understand, that there were certain obstacles that prevented our holding places under your Majesty's government. We were also told that the laws of England were to

take place in the province, which, though we presume them to be wisely suited to the regulation of the mother-country for which they were made, could not be blended and applied to our customs without totally overturning our fortunes, and destroying our possessions. Such have been ever since the era of that change in the government, and such are still at this time, our just causes of uneasiness and apprehension; which however we acknowledge to be rendered less alarming to us by the mildness with which your Majesty's government has been administered.

Vouchsafe, most illustrious and generous sovereign, to dissipate these fears and this uneasiness, by restoring to us our ancient laws, privileges, and customs, and to extend our province to its former boundaries. Vouchsafe to bestow your favours equally upon all your subjects in the province, without any distinction! Preserve the glorious title of sovereign of a free people: a title which surely would suffer some diminution, if more than an hundred thousand new subjects of your Majesty in this province, who had submitted to your government, were to be excluded from your service, and deprived of the inestimable advantages which are enjoyed by your Majesty's ancient subjects. May heaven, propitious to our wishes and our prayers, bestow upon your Majesty a long and happy reign! May the august family of Hanover, to which we have taken the most solemn oaths of fidelity, continue to reign over us to the end of time!

We conclude by entreating your Majesty to grant us, in common with your other subjects, the

rights and privileges of citizens of England. Then our fears will be removed, and we shall pass our lives in tranquillity and happiness, and shall be always ready to sacrifice them for the glory of our prince and the good of our country.

We are, with the most profound submission,
Your Majesty's most obedient, most loyal,
and most faithful,
subjects,
FR. SIMONNET, &c., &c.

4. LORD MANSFIELD'S JUDGEMENT IN CAMPBELL *v.* HALL, 1774

THE CASE OF THE ISLAND OF GRENADA; IN RELATION TO THE PAYMENT OF FOUR AND ONE-HALF IN THE HUNDRED OF GOODS IMPORTED THEREFROM; BETWEEN ALEXANDER CAMPBELL, ESQ., PLAINTIFF, AND WM. HALL, ESQ., DEFENDANT, IN THE COURT OF KING'S BENCH, BEFORE LORD CHIEF-JUSTICE MANSFIELD: 15 GEORGE III, A.D. 1774

November 28

THE unanimous judgement of the Court was this day given by Lord Mansfield, as follows:

This is an action brought by the Plaintiff, Alexander Campbell, who is a natural-born subject of Great Britain, and who, upon the third of May, 1763, purchased lands in the island of Grenada; and it is brought against the defendant, William Hall, who was collector for his Majesty at the time of levying the imposts, and of the action brought, of a duty of four and a half per cent. upon goods exported from the island of Grenada. The action is to recover a sum of money, which was levied by the defendant and paid by the plaintiff, as for this duty of four and a half per cent., upon sugars, which were exported

from the island of Grenada, from the estate and by the consignment of the plaintiff.

The action is an action for money had and received; and it is brought upon this ground, namely, that the money was paid to the defendant without consideration, the duty for which he received it not having been imposed by lawful or sufficient authority to warrant the same.

And it is stated in the special verdict[1] that the money is not paid over, but continues in the defendant's hands, by consent of the Attorney-General, for his Majesty, in order that the question may be tried.

The special verdict states Grenada to have been conquered by the British arms from the French King in 1762; that the island was ceded by capitulation; and that the capitulation upon which it surrendered was by reference to the capitulation upon which the island of Martinico had been surrendered on the 7th of February, 1762.

The special verdict then states some articles of that capitulation, particularly the fifth, which grants that Grenada should continue to be governed by its own laws till his Majesty's pleasure be known. It next states the sixth article, where, to a demand of the inhabitants of Grenada requiring that they, as also the religious orders of both sexes, should be maintained in the property of their effects, moveable and immoveable, of what nature soever, and that they should be preserved in their privileges, rights, honours, and

[1] This refers to the verdict of the jury before which the case had been tried and which rendered a special verdict setting forth the facts in the case.

exemptions, the answer is that the inhabitants, being subjects of Great Britain, will enjoy their properties and the same privileges as in the other his Majesty's Leeward Islands.

Then it states another article of the capitulation, namely, the 7th article, by which they demand that they shall pay no other duties than what they before paid to the French King; that the capitation tax shall be the same, and that the expenses of the courts of justice, and of the administration of government should be paid out of the King's demesne: in answer to which they are referred to the answer I have stated, as given in the foregoing article; that is, being subjects they will be entitled in like manner as the other his Majesty's subjects in the British Leeward Islands.

The next thing stated in the special verdict is the treaty of peace signed on the 10th of February, 1763; and it states the part of the treaty of peace by which the island of Grenada is ceded, and other articles which are not material.

The next material instrument which they state is a proclamation under the Great Seal, bearing date the 7th of October, 1763, reciting thus:

Whereas it will greatly contribute to the settling of our said islands of which Grenada is one, that they be informed of our love and paternal care for the liberties and rights of those who are, or shall be inhabitants thereof; we have thought fit to publish and declare by this our proclamation, that we have by our letters patent under our Great Seal of Great Britain, whereby our said Governments are constituted, given express power and direction to our governors of our said colonies respectively, that so soon as the state and

circumstances of the said colonies will admit thereof, they shall, with the advice and consent of our said council, call and summon general assemblies, in such manner and form as is used in the other colonies under our immediate government. And we have also given power to the said governors, with the advice and consent of our said council and assembly of representatives as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare and good government of our said colonies and the inhabitants thereof, as near as may be agreeable to the laws of England, and under such regulations and restrictions as are used in our other colonies.[1]

Then follow letters patent under the Great Seal, or rather a proclamation of the 26th of March, 1764, whereby the King recites, that he had ordered a survey and division of the ceded islands, as an invitation to all purchasers to come and purchase upon certain terms and conditions specified in that proclamation.

The next instrument stated in the verdict is the letters patent bearing date the 9th of April, 1764. In these letters there is a commission appointing General Melville Governor of the island of Grenada, with power to summon an assembly as soon as the situation and circumstances of the island would admit; and to make laws in all the usual forms with reference to the manner of the other assemblies of the King's Provinces in America.

The Governor arrived in Grenada on the 14th of

[1] See the Proclamation of 1763, p. 3. This is a paraphrase of the section quoted; see p. 5, and, below, p. 49.

December, 1764; before the end of 1765, the particular day not stated, an assembly actually met; but before the arrival of the Governor at Grenada, indeed, before his Commission, and before his departure from London, there is another instrument upon the validity of which the whole question turns, which instrument contains letters patent under the Great Seal, bearing date the 20th of July, 1764, and reciting that in Barbadoes, and in all the British Leeward islands, a duty of four and a half per cent. was paid upon goods exported; and reciting further:

Whereas it is reasonable and expedient, and of importance to our other sugar islands, that the like duties should take place in our said island of Grenada; we have thought fit, and our royal will and pleasure is, and we do hereby, by virtue of our prerogative royal, order, direct, and appoint that an impost or customs of four and a half per cent. in specie, shall, from and after the 29th day of September next ensuing the date of these presents be raised and paid to us, our heirs and successors, for and upon all dead commodities of the growth or produce of our said island of Grenada that shall be shipped off from the same, in lieu of all customs and impost duties hitherto collected upon goods imported and exported into and out of the said island, under the authority of his Most Christian Majesty, and that the same shall be collected, &c.;

then it goes on with reference to the island of Barbadoes, and the other Leeward islands.

The jury find that in fact such duty of four and a half per cent. is paid to his Majesty in all the British Leeward islands. And they find several Acts of Assembly which are relative to the several islands, and which I shall not state, as

they are public, and every gentleman may have access to them.

These letters patent of the 20th of July, 1764, with what I stated in the opening, are all that is material in this special verdict.

Upon the whole of the case this general question arises, being the substance of what is submitted to the Court by the verdict: 'Whether these letters patent of the 20th of July, 1764, are good and valid to abrogate the French duties, and in lieu thereof to impose this duty of four and a half per cent., which is paid by all the Leeward islands subject to his Majesty.'

That the letters are void has been contended at the bar, upon two points: (1) That although they had been made before the Proclamation of the 7th of October, 1763, the King by his prerogative could not have imposed them; and (2) that, although the King had sufficient authority before the 7th of October, 1763, he had divested himself of that authority by the Proclamation of that date.

A great deal has been said, and authorities have been cited relative to propositions in which both sides exactly agree, or which are too clear to be denied. The stating of these will lead us to the solution of the first point.

I will state the propositions at large:

1. A country conquered by the British arms becomes a dominion of the King in the right of his crown, and therefore necessarily subject to the legislative power of the Parliament of Great Britain.

2. The conquered inhabitants once received

into the conqueror's protection become subjects; and are universally to be considered in that light, not as enemies or aliens.

3. Articles of capitulation, upon which the country is surrendered, and treaties of peace by which it is ceded, are sacred and inviolate, according to their true intent and meaning.

4. The law and legislation of every dominion equally affects all persons and property within the limits thereof, and is the true rule for the decision of all questions which arise there. Whoever purchases, sues, or lives there, puts himself under the laws of the place, and in the situation of its inhabitants. An Englishman in Ireland, Minorca, the Isle of Man, or the Plantations, has no privilege distinct from the natives while he continues there.

5. The laws of a conquered country continue in force until they are altered by the conqueror. The justice and antiquity of this maxim are incontrovertible; and the absurd exception as to pagans mentioned in Calvin's case, shows the universality and antiquity of the maxim. That exception could not exist before the Christian era, and in all probability arose from the mad enthusiasm of the Crusades. In the present case the capitulation expressly provides and agrees that they shall continue to be governed by their own laws, until his Majesty's pleasure be further known.

6. If the King has power (and when I say 'the King,' I mean in this case 'the King without the concurrence of Parliament') to alter the old and to make new laws for a conquered country

—this being a power subordinate to his own authority as a part of the supreme legislature and parliament—he can make none which are contrary to fundamental principles, he cannot exempt an inhabitant from the laws of trade, or the authority of Parliament, or give him privileges exclusive of his other subjects; and so in many other instances that might be put.

The present Proclamation is an Act of this subordinate legislative power. If it had been made before the 7th of October, 1763, it would have been made on the most reasonable and equitable grounds, putting the island of Grenada as to duties on the same footing as the other islands.

If Grenada paid more duties, the injury would have been to her; if less, it must have been detrimental to the other islands; nay, it would have been carrying the capitulation into execution, which gave the people of Grenada hopes that, if any new duties were laid on, their condition would be the same as that of the other Leeward islands.

The only question which remains on this first point then is, whether the King of himself had power to make such a change between the 10th of February, 1763, the day the treaty was signed, and the 7th of October, 1763.

Taking the above propositions to be granted, he has a legislative power over a conquered country, limited to him by the constitution, and subordinate to the constitution and parliament. It is left by the constitution to the King's authority to grant or refuse a capitulation. If he refuses, and puts the inhabitants to the sword, or ex-

terminates them, all the lands belong to him; and, if he plants a colony, the new settlers share the land between them, subject to the prerogative of the conqueror. If he receives the inhabitants under his protection and grants them their property, he has power to fix such terms and conditions as he thinks proper. He is entrusted with making peace at his discretion; and he may retain the conquest, or yield it up, on such condition as he pleases. These powers no man ever disputed, neither has it hitherto been controverted that the King might change part or the whole of the law or political form of government of a conquered nation.[1]

To go into the history of conquests made by the Crown of England.

The alteration of the laws of Ireland has been much discussed by lawyers and writers of great fame at different periods of time; but no man ever said the change was made by the Parliament of England; no man, unless perhaps Mr. Molyneux, ever said the King could not do it. The fact, in truth, after all the researches that have been made, comes out clearly to be as laid down by Lord Chief Justice Vaughan, that Ireland received the laws of England by the charters and commands of Henry II, King John, Henry III, and he adds an *et cetera* to take in Edward I, and the successors of the princes named. That the charter of 12 King John was by assent of a parlia-

[1] For the rights of the British Crown over annexed territory see Keith, *The Theory of State Succession*, pp. 29–32.

ment of Ireland, he shows clearly to be a mistake. Whenever the first parliament was called in Ireland, that change in their constitution was without an act of the parliament of England, and therefore must have been derived from the King.

Mr. Barrington is well warranted in saying that the 12th of Edward I, called the 'Statute of Wales,' is certainly no more than a regulation made by the King as conqueror, for the government of the country, which, the preamble says, was then totally subdued; and, however for purposes of policy he might think fit to claim it as a fief appertaining to the realm of England, he could never think himself entitled to make laws without assent of parliament to bind the subjects of any part of the realm. Therefore as he did make laws for Wales without assent of parliament, the clear consequence is that he governed it as a conquest; which was his title in fact, and the feudal right was but a fiction.

Berwick, after the conquest of it, was governed by charters from the crown, till the reign of James I, without interposition of parliament.

Whatever changes were made in the laws of Gascony, Guyenne, and Calais must have been under the King's authority; if by act of parliament, that act would be extant, for they were conquered in the reign of King Edward III; and all the acts from that reign to the present time are extant; and in some acts of parliament there are commercial regulations relative to each of the conquests which I have named; none making any change in their constitution and laws, and

particularly with regard to Calais, which is alluded to as if its laws were considered as given by the Crown. Yet as to Calais, there was a great change made in the constitution: for the inhabitants were summoned by writ to send burgesses to the English parliament; and, as this was not by act of parliament, it must have been by the sole act of the King.

Besides the garrison there are inhabitants, property, and trade at Gibraltar; the King, ever since that conquest, has from time to time made orders and regulations suitable to the condition of those who live, trade, or enjoy property in a garrison town.

Mr. Attorney-General[1] has alluded to a variety of instances, several within these twenty years, in which the King has exercised legislation over Minorca. In Minorca, it has appeared lately, there are and have been for years back a great many inhabitants of worth and a great trade carried on. If the King does it there as coming in the place of the King of Spain, because their old constitution continues (which by the by is another proof that the constitution of England does not necessarily follow a conquest by the King of England) the same argument applies here; for before the 7th of October, 1763, the constitution of Grenada continued, and the King stood in the place of their former sovereign.

After the conquest of New York, in which most of the old Dutch inhabitants remained, King Charles II changed its constitution and political form of government, and granted it to the Duke

[1] Edward Thurlow.

of York, to hold from his crown under all the regulations contained in the letters patent.

It is not to be wondered that an adjudged case in point is not to be found; no dispute ever was started before upon the King's legislative right over a conquest; it never was denied in a court of law or equity in Westminster-hall, never was questioned in parliament. Lord Coke's report of the arguments and resolutions of the judges in Calvin's case lays it down as clear (and that strange extra-judicial opinion, as to a conquest from a pagan country, will not make reason not to be reason, and law not to be law as to the rest). The book says, that 'if a King'—I omit the distinction between a Christian and an infidel kingdom, which as to this purpose is wholly groundless, and most deservedly exploded—

> If a King comes to a kingdom by conquest, he may, at his pleasure, alter and change the laws of that kingdom; but until he doth make an alteration of those laws the ancient laws of that kingdom remain; but if a King hath a kingdom by title of descent, then, seeing that by the laws of that kingdom he doth inherit the kingdom, he cannot change those laws of himself without consent of parliament.

It is plain that he speaks of his own country where there is a parliament. Also,

> if a King hath a kingdom by conquest, as King Henry the Second had Ireland, after King John had given to them, being under his obedience and subjection, the laws of England for the government of that country, no succeeding King could alter the same without parliament.

Which is very just, and it necessarily includes

that King John himself could not alter the grant of the laws of England.

Besides this, the authority of two great names has been cited, who took the proposition for granted. And though opinions of counsel, whether acting officially in a public charge or in private, are not properly authority on which to found a decision, yet I cite them;—not to establish so clear a point, but to show that, when it has been matter of legal enquiry, the answer it has received, by gentlemen of eminent character and abilities in the profession, has been immediate and without hesitation, and conformable to these principles. In 1722, the assembly of Jamaica refusing the usual supplies, it was referred to Sir Philip Yorke, and Sir Clement Wearg, what was to be done if they should persist in this refusal. Their answer is—'If Jamaica was still to be considered as a conquered island, the King had a right to levy taxes upon the inhabitants; but, if it was to be considered in the same light as the other colonies, no tax could be imposed upon the inhabitants, but by an assembly of the island, or by an act of parliament.' The distinction in law between a conquered country and a colony they held to be clear and indisputable; whether, as to the case before them of Jamaica, that island remained a conquest or was made a colony, they had not examined. I have, upon former occasions, traced the constitution of Jamaica as far as there are books or papers in the offices; I cannot find that any Spaniard remained upon the island so late as the Restoration; if any, they were very few. A gentleman to whom I

put the question on one of the arguments in this cause, said he knew of no Spanish names among the white inhabitants of Jamaica; but there were amongst the negroes. The King, I mean Charles the Second, after the Restoration invited settlers by proclamation, promising them his protection. He made grants of land. He appointed at first a governor and council only; afterwards he granted a commission to the governor to call an assembly. The constitution of every province immediately under the King has arisen in the same manner; not by the grants, but by commissions, to call assemblies. And therefore, all the Spaniards having left the island, or having been killed or driven out of it, Jamaica from the first settling was an English colony, who under the authority of the King planted a vacant island, belonging to him in right of his crown; like the cases of the islands of St. Helena and St. John, mentioned by Mr. Attorney-General.

A maxim of constitutional law, as declared by all the judges in Calvin's case, and which two such men in modern times as Sir Philip Yorke and Sir Clement Wearg took for granted, will acquire some authority, even if there were anything which otherwise made it doubtful; but on the contrary no book, no saying of a judge, no, not even an opinion of any counsel, public or private, has been cited; no instance is to be found in any period of our history where it was ever questioned.

The counsel for the plaintiff undoubtedly laboured this point from a diffidence of what

might be our opinion on the second question. But upon the second point, after full consideration, we are of opinion that before the letters patent of the 20th of July, 1764, the King had precluded himself from an exercise of the legislative authority which he had before by virtue of his prerogative over the island of Grenada.

The first and material instrument is the proclamation of the 7th of October, 1763. See what it is that the King there says, and with what view he says it; how and to what he engages himself and pledges his word:

> Whereas it will greatly contribute to the speedy settling our said new governments, that our loving subjects should be informed of our paternal care for the security of the liberties and properties of those who are, and shall become, inhabitants thereof; we have thought fit to publish and declare by this our proclamation, that we have in the letters patent under our Great Seal of Great Britain, by which the said governments are constituted, given express power and direction to our governors of our said colonies respectively, that, so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our council, summon and call general assemblies.

And then follows the directions for that purpose. And to what end? 'To make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of our said colonies,' of which this of Grenada is one, 'and of the people and inhabitants thereof, as near as may be agreeable to the laws of England.' With what view is the promise given? To invite settlers; to invite subjects. Why? The reason

is given. They may think their liberties and properties more secure when they have a legislative assembly than under a governor and council only. The governor and council depending on the King, he can recall them at pleasure, and give a new frame to the constitution; but not so of the other, which has a negative on those parts of the legislature which depend on the King. Therefore that assurance is given them for the security of their liberty and properties, and with a view to invite them to go and settle there after this proclamation that assured them of the constitution under which they were to live.[1]

The next act is of the 26th of March, 1764, which, the constitution having been established by proclamation, invites further such as shall be disposed to come and purchase, to live under the constitution. It states certain terms and conditions on which the allotments were to be taken, established with a view to permanent colonization and the increase and cultivation of the new settlement. For further confirmation of all this, on the 9th of April, 1764, three months before the impost in question was imposed, there is an actual commission to Governor Melville, to call an assembly as soon as the state and circumstances of the island should admit. You will observe in the proclamation there is no legislature reserved to be exercised by the King, or by the governor and council under his authority, or in

[1] The arguments of the judgement are precisely those which were urged by the British in Canada in support of the repeal of the Quebec Act.

any other method or manner, until the assembly should be called: the promise imports the contrary; for whatever construction is to be put upon it (which perhaps it may be somewhat difficult to pursue through all the cases to which it may be applied) it apparently considers laws then in being in the island, and to be administered by courts of justice; not an interposition of legislative authority between the time of the promise and of calling the assembly.[1] It does not appear from the special verdict when the first assembly was called; it must have been in about a year at farthest from the governor's arrival, for the jury find he arrived in December, 1764, and that an assembly was held about the latter end of the year 1765. So that there appears to have been nothing in the state and circumstances of the island to prevent calling an assembly.

We therefore think that, by the two proclamations and the commission to Governor Melville, the King had immediately and irrevocably granted to all who were or should become inhabitants, or who had or should have property, in the island of Grenada—in general to all whom it might concern—that the subordinate legislation over the island should be exercised by an assembly, with the consent of the governor and council, in like manner as in the other provinces under the King.

Therefore, though the right of the King to have

[1] The same consideration applied to Canada, and, therefore, as it was held inexpedient (cf. pp. 27–30) to summon an assembly, recourse to Parliament was necessary to authorize legislation by a Council (below, pp. 62, 63).

levied taxes on a conquered country, subject to him in right of his crown, was good, and the duty reasonable, equitable, and expedient, and, according to the finding of the verdict, paid in Barbadoes and all the other Leeward islands; yet by the inadvertency of the King's servants in the order in which the several instruments passed the office (for the patent of the 20th of July, 1764, for raising the impost stated, should have been first), the order is inverted, and the last we think contrary to and a violation of the first, and therefore void. How proper soever the thing may be respecting the object of these letters patent of the 26th of July, 1764, it can only now be done, to use the words of Sir Philip Yorke and Sir Clement Wearg, 'by the assembly of the island, or by an act of the Parliament of Great Britain.'

The consequence is, judgement must be given for the plaintiff.

5. THE QUEBEC ACT

AN ACT FOR MAKING MORE EFFECTUAL PROVISION FOR THE GOVERNMENT OF THE PROVINCE OF *Quebec* IN *North America* (14 GEORGE III, c. 83).

Preamble

WHEREAS his Majesty, by his Royal Proclamation, bearing Date the Seventh Day of October, in the Third Year of His Reign, thought fit to declare the Provisions which had been made in respect to certain Countries, Territories, and Islands in *America*, ceded to his Majesty by the definitive Treaty of Peace, concluded at *Paris* on the Tenth Day of *February*, one thousand seven hundred and sixty-three: And whereas, by the Arrangements made by the said Royal Proclamation, a very large Extent of Country, within which there were several Colonies and Settlements of the Subjects of *France*, who claimed to remain therein under the Faith of the said Treaty, was left, without any Provision being made for the Administration of Civil Government therein; and certain Parts of the Territory of *Canada*, where sedentary Fisheries had been established and carried on by the Subjects of *France*, Inhabitants of the said Province of *Canada*, under Grants and Concessions from the Government thereof, were

annexed to the Government of *Newfoundland*, and thereby subjected to Regulations inconsistent with the Nature of such Fisheries: May it therefore please Your most Excellent Majesty that it may be enacted; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same.

The Territories, Islands, and Countries in North America, *belonging to* Great Britain, *annexed to the Province of* Quebec

That all the Territories, Islands, and Countries in *North America*, belonging to the Crown of Great Britain, bounded on the South by a Line from the Bay of *Chaleurs*, along the High Lands which divide the Rivers that empty themselves into the River *Saint Lawrence* from those which fall into the Sea, to a Point on Forty-five Degrees of Northern Latitude, on the Eastern Bank of the River *Connecticut*, keeping the same Latitude directly West, through the Lake *Champlain*, until, in the same Latitude, it meets the River *Saint Lawrence*; from thence up the Eastern Bank of the said River to the Lake *Ontario*; thence through the Lake *Ontario*, and the River commonly called *Niagara*; and thence along by the Eastern and South-eastern Bank of Lake *Erie*, following the said Bank, until the same shall be intersected by the Northern Boundary, granted by the Charter of the Province of *Pennsylvania*, in

case the same shall be so intersected; and from thence along the said Northern and Western Boundaries of the said Province, until the said Western Boundary strike the Ohio: But in case the said Bank of the said Lake shall not be found to be so intersected, then following the said Bank until it shall arrive at that Point of the said Bank which shall be nearest to the North-western Angle of the said Province of Pennsylvania, and thence by a right Line, to the North-western Angle of the said Province; and thence along the Western Boundary of the said Province, until it strike the River *Ohio*; and along the Bank of the said River, Westward, to the Banks of the *Mississippi*, and Northward to the Southern Boundary of the Territory granted to the Merchants Adventurers of *England*, trading to *Hudson's Bay*; and also all such Territories, Islands, and Countries, which have, since the Tenth of *February*, One thousand seven hundred and sixty-three, been made Part of the Government of *Newfoundland*, be, and they are thereby, during His Majesty's pleasure, annexed to, and made Part and Parcel of the Province of *Quebec*, as created and established by the said Royal Proclamation of the Seventh of *October*, One thousand seven hundred and sixty-three.

Not to affect the Boundaries of any other Colony

Provided always, That nothing herein contained, relative to the Boundary of the Province of *Quebec*, shall in anywise affect the Boundaries of any other Colony.

Nor to make void other Rights formerly granted

Provided always, and be it enacted, That nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any Right, Title, or Possession, derived under any Grant, Conveyance, or otherwise howsoever, of or to any Lands within the said Province, or the Provinces thereto adjoining; but that the same shall remain and be in Force, and have Effect, as if this Act had never been made.

Former Provisions made for the Province to be null and void after May 1, 1775

And whereas the Provisions, made by the said Proclamation, in respect to the Civil Government of the said Province of *Quebec* and the Powers and Authorities given to the Governor and other Civil Officers of the said Province, by the Grants and Commissions issued in consequence thereof, have been found, upon Experience, to be inapplicable to the State and Circumstances of the said Province, the Inhabitants whereof amounted, at the Conquest, to above Sixty-five thousand Persons professing the Religion of the Church of *Rome*, and enjoying an established Form of Constitution and System of Laws, by which their Persons and Property had been protected, governed, and ordered, for a long Series of Years, from the First Establishment of the said Province of *Canada*; be it therefore further enacted by the Authority aforesaid, That the said Pro-

clamation, so far as the same relates to the said Province of *Quebec*, and the Commission under the Authority whereof the Government of the said Province is at present administered, and all and every the Ordinance and Ordinances made by the Governor and Council of *Quebec* for the Time being, relative to the Civil Government and Administration of Justice in the said Province, and all Commissions to Judges and other Officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the First Day of *May*, One thousand seven hundred and seventy-five.

Inhabitants of Quebec *may profess the Romish Religion, subject to the King's Supremacy as by Act I Eliz.*

And, for the more perfect Security and Ease of the Minds of the Inhabitants of the said Province, it is hereby declared, That his Majesty's Subjects, professing the Religion of the Church of *Rome* of and in the said Province of *Quebec*, may have, hold, and enjoy, the free Exercise of the Religion of the Church of *Rome*, subject to the King's Supremacy, declared and established by an Act, made in the First Year of the Reign of Queen *Elizabeth*, over all the Dominions and Countries which then did, or thereafter should belong, to the Imperial Crown of this Realm; and that the Clergy of the said Church may hold, receive, and enjoy, their accustomed Dues and Rights, with respect to such Persons only as shall profess the said Religion.

Provision may be made by His Majesty for the Support of the Protestant Clergy

Provided nevertheless, That it shall be lawful for his Majesty, his Heirs or Successors, to make such Provision out of the rest of the said accustomed Dues and Rights, for the Encouragement of the Protestant Religion, and for the Maintenance and Support of a Protestant Clergy within the said Province, as he or they shall, from Time to Time, think necessary and expedient.

No Person professing the Romish *Religion obliged to take the Oath of Elizabeth; but to take, before the Governor, &c., the following Oath.*

Provided always, and be it enacted, That no Person, professing the Religion of the Church of *Rome*, and residing in the said Province, shall be obliged to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*, or any other Oaths substituted by any other Act in the Place thereof; but that every such Person who, by the said Statute is required to take the Oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following Oath before the Governor, or such other Person in such Court of Record as his Majesty shall appoint, who are hereby authorised to administer the same; *videlicet*,

The Oath

I A. B. do sincerely promise and swear, That I will be faithful, and bear true Allegiance to His

Majesty King GEORGE, *and him will defend to the utmost of my Power, against all traiterous Conspiracies, and Attempts whatsoever, which shall be made against his Person, Crown, and Dignity; and I will do my utmost Endeavour to disclose and make known to his Majesty, his Heirs and Successors, all Treasons, and traiterous Conspiracies, and Attempts, which I shall know to be against him, or any of them; and all this I do swear without any Equivocation, mental Evasion, or secret Reservation, and renouncing all Pardons and Dispensations from any Power or Person whomsoever to the Contrary.*

So Help me God.

Persons refusing the Oath to be subject to the Penalties by Act I Eliz.

And every such Person, who shall neglect or refuse to take the said Oath before mentioned, shall incur and be liable to the same Penalties, Forfeitures, Disabilities, and Incapacities, as he would have incurred and been liable to for neglecting or refusing to take the Oath required by the said Statute passed in the First Year of the Reign of Queen *Elizabeth*.

His Majesty's Canadian *Subjects (religious Orders excepted) may hold all their Possessions, &c., and in Matters of Controversy, Resort to be had to the Laws of* Canada *for the Decision.*

And be it further enacted by the Authority aforesaid, That all his Majesty's *Canadian* Subjects, within the Province of *Quebec*, the religious

Orders and Communities only excepted, may also hold and enjoy their Property and Possessions, together with all Customs and Usages relative thereto, and all other their Civil Rights, in as large, ample, and beneficial Manner, as if the said Proclamation, Commissions, Ordinances, and other Acts and Instruments, had not been made, and as may consist with their Allegiance to his Majesty, and Subjection to the Crown and Parliament of *Great Britain*; and that in all Matters of Controversy, relative to Property and Civil Rights, Resort shall be had to the laws of *Canada*, as the Rule for the Decision of the same; and all Causes that shall hereafter be instituted in any of the Courts of Justice, to be appointed within and for the said Province, by his Majesty, his Heirs and Successors, shall, with respect to such Property and Rights, be determined agreeably to the said Laws and Customs of *Canada*, until they shall be varied or altered by any Ordinances, that shall, from Time to Time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the Time being, by and with the Advice and Consent of the Legislative Council of the same, to be appointed in Manner herein-after mentioned.

Not to extend to Lands granted by his Majesty in common Soccage. Owners of Goods may alienate the same by Will, &c., if executed according to the Laws of Canada

Provided always, That nothing in this Act contained shall extend, or be construed to extend,

to any Lands that have been granted by his Majesty, or shall hereafter be granted by his Majesty, his Heirs and Successors, to be holden in free and common Soccage.

Provided also, That it shall and may be lawful to and for every Person that is Owner of any Lands, Goods, or Credits, in the said Province, and that has a Right to alienate the said Lands, Goods, or Credits, in his or her Life-time, by Deed of Sale, Gift, or otherwise, to devise or bequeath the same at his or her Death, by his or her last Will and Testament; any Law, Usage, or Custom, heretofore or now prevailing in the Province, to the Contrary hereof in any-wise notwithstanding; such Will being executed, either according to the Laws of Canada, or according to the Forms prescribed by the Laws of *England*.

Criminal Law of England *to be continued in the Province*

And whereas the Certainty and Lenity of the Criminal Law of *England*, and the Benefits and Advantages resulting from the Use of it, have been sensibly felt by the Inhabitants, from an Experience of more than Nine Years, during which it has been uniformly administered; be it therefore further enacted by the Authority aforesaid, That the same shall continue to be administered, and shall be observed as Law in the Province of *Quebec*, as well in the Description and Quality of the Offence as in the Method of Prosecution and Trial, and the Punishments and Forfeitures thereby inflicted, to the exclusion of every other

Rule of Criminal Law, or Mode of Proceeding thereon, which did or might prevail in the said Province before the Year of our Lord One thousand seven hundred and sixty-four; any Thing in this Act to the Contrary thereof in any Respect notwithstanding; subject nevertheless to such Alterations and Amendments as the Governor, Lieutenant-Governor, or Commander in Chief for the Time being, by and with the Advice and Consent of the legislative Council of the said Province, hereafter to be appointed, shall, from Time to Time, cause to be made therein, in Manner herein-after directed.

His Majesty may appoint a Council for the Affairs of the Province; which Council may make Ordinances, with Consent of the Governor

And whereas it may be necessary to ordain many Regulations for the future Welfare and good Government of the Province of *Quebec*, the Occasions of which cannot now be foreseen, nor, without much Delay and Inconvenience, be provided for, without intrusting that Authority, for a certain Time, and under proper Restrictions, to Persons resident there: And whereas it is at present inexpedient to call an Assembly; be it therefore enacted by the Authority aforesaid, That it shall and may be lawful for his Majesty, his Heirs and Successors, by Warrant under his or their Signet or Sign Manual, and with the Advice of the Privy Council, to constitute and appoint a Council for the Affairs of the Province of *Quebec*, to consist of such Persons resident there, not exceeding Twenty-three, nor less than

Seventeen, as his Majesty, his Heirs and Successors, shall be pleased to appoint; and, upon the Death, Removal, or Absence of any of the Members of the said Council, in like Manner to constitute and appoint such and so many other Person or Persons as shall be necessary to supply the Vacancy or Vacancies; which Council, so appointed and nominated, or the major Part thereof, shall have Power and Authority to make Ordinances for the Peace, Welfare, and good Government, of the said Province, with the Consent of his Majesty's Governor, or, in his Absence, of the Lieutenant-Governor, or Commander in Chief for the Time being.

The Council are not impowered to lay Taxes, Publick Roads or Buildings excepted

Provided always, That nothing in this Act contained shall extend to authorise or impower the said legislative Council to lay any Taxes or Duties within the said Province, such Rates and Taxes only excepted as the Inhabitants of any Town or District within the said Province may be authorised by the said Council to assess, levy, and apply, within the said Town or District, for the Purpose of making Roads, erecting and repairing publick Buildings, or for any other Purpose respecting the local Convenience and Oeconomy of such Town or District.

Ordinances made to be laid before his Majesty for his Approbation

Provided also, and be it enacted by the Authority aforesaid, That every Ordinance so to be

made, shall, within Six Months, be transmitted by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, and laid before his Majesty for his Royal Approbation; and if his Majesty shall think fit to disallow thereof, the same shall cease and be void from the Time that his Majesty's Order in Council thereupon shall be promulgated at *Quebec*.

Ordinances touching Religion not to be in Force without his Majesty's Approbation

Provided also, that no Ordinance touching Religion, or by which any Punishment may be inflicted greater than Fine or Imprisonment for Three Months, shall be of any Force or Effect, until the same shall have received His Majesty's Approbation.

Provided also, That no Ordinance shall be passed at any Meeting of the Council where less than a Majority of the whole Council is present, or at any Time except between the First Day of *January* and the First Day of *May*, unless upon some urgent Occasion, in which Case every Member thereof resident at *Quebec*, or within Fifty Miles thereof, shall be personally summoned by the Governor, or, in his Absence, by the Lieutenant-governor, or Commander in Chief for the Time being, to attend the same.

Nothing to hinder his Majesty to constitute Courts of Criminal, Civil, and Ecclesiastical Jurisdiction

And be it further enacted by the Authority aforesaid, That nothing herein contained shall

extend, or be construed to extend, to prevent or hinder his or their Letters Patent under the Great Seal of *Great Britain*, from erecting, constituting, and appointing, such Courts of Criminal, Civil, and Ecclesiastical Jurisdiction within and for the said Province of *Quebec*, and appointing, from Time to Time, the Judges and Officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the Circumstances of the said Province.

All Acts formerly made are hereby inforced within the Province

Provided always, and it is hereby enacted, That nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of *Quebec*, any Act or Acts of the Parliament of *Great Britain* heretofore made, for prohibiting, restraining, or regulating, the Trade or Commerce of His Majesty's Colonies and Plantations in *America*; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said Colonies and Plantations, shall be, and are hereby declared, to be, in Force, within the said Province of *Quebec*, and every Part thereof.

FINIS

6. PETITION FOR THE REPEAL OF THE QUEBEC ACT

To the Honourable the Commons of Great Britain in Parliament Assembled

The humble Petition and Memorial of his Majesty's ancient Subjects the Seigneurs, Freeholders, Merchants, Traders, and others settled in his Majesty's Province of Quebec,

Sheweth,

That, under the sanction of his Majesty's royal proclamation, bearing date the seventh day of October, in the year of our Lord one thousand seven hundred and sixty-three, which graciously promises to all persons inhabiting in, or resorting to, this province, his royal protection for the enjoyment of the benefit of the laws of the realm of England, until assemblies should be called therein, they did come and settle themselves in this province, having entrusted their own properties, as well as very considerable sums of their friends, in goods and merchandize, from Great Britain, and entrusted the same into the hands of the Canadians, as well for the purpose of internal trade in the province, as for outsets in carrying on the traffic of furs and peltries in the Indian countries and fisheries below Quebec, many of them having purchased lands and houses, and been employed in agriculture, and the ex-

portation of grain and other produce to foreign markets, to the great benefit and emolument of the said province, which has flourished chiefly by the industry and enterprising spirit of the said subjects, who, under the protection of British laws, and by the assistance of annual supplies of British manufactures, and other goods and merchandize obtained upon credit from the merchants of Great Britain, have been enabled to carry on at least four parts in five of all the imports and exports which are principally made in British bottoms, the latter consisting of furs, peltries, wheat, fish, oil, potash, lumber, and other country produce: and for the more convenient carrying on the said trade and commerce, they have built wharfs and store-houses at a very great expense, insomuch that the property, real and personal, now in British hands, or by them entrusted to Canadians at a long credit, is one half of the whole value of the province, exclusive of the wealth of the different communities; which your petitioners have in part set forth in the humble petition to his most excellent Majesty, dated at Quebec the thirty-first day of December, which was in the year of our Lord one thousand seven hundred and seventy-three, humbly praying, that he would be graciously pleased to require his governor or commander in chief to call a general assembly, in such manner, and of such constitution and form, as to his Majesty's royal wisdom should seem best adapted to secure the peace, welfare, and good government of this province. Wherefore with deep concern they observe, that in certain examinations taken before your honour-

able house, the British subjects here have been grossly abused and misrepresented, as well as to their numbers as in their importance in this province. For the number of the new subjects has, we humbly conceive, been greatly exaggerated, it being, by the last computation, about seventy-five thousand; whereas, by an enumeration of the British subjects, they amount at this time to upwards of three thousand souls, besides many that we cannot immediately ascertain that are dispersed in the Indian countries carrying on traffic with the savages, besides the merchants and traders with their families settled at Detroit and its dependencies, and at the fisheries below Quebec. And whereas an act of parliament has lately passed, entituled, '*An act for the making more effectual provision for the government of the province of Quebec in North America*,' which is said to have been passed upon the principles of humanity and justice, and at the pressing instance and request of the new subjects, signified to his Majesty by an humble petition setting forth their dislike to the British laws and form of government, and praying, in the name of all the inhabitants and citizens of the province, to have the French institutes in their stead, and a total abolition of trials by jury, together with a capacity of holding places of honour and trust in common with his Majesty's ancient subjects. We crave leave to inform your honourable house, that the said petition was never imparted to the inhabitants in general (that is) the freeholders, merchants, and traders, who are equally alarmed with us at the Canadian laws being to take place, but was

in a secret manner carried about and signed by a few of the seigneurs, chevaliers, advocates, and others in their confidence, at the suggestions, and under the influence of their priests; who, under colour of French laws, have obtained an act of parliament which deprives his Majesty's ancient subjects of all their rights and franchises, destroys the Habeas Corpus act, and the inestimable privilege of trial by juries, the only security against the venality of a corrupt judge, and gives unlimited power to the governor and council to alter the criminal laws; which act has already struck a damp upon the credit of the country, and alarmed all your humble petitioners with the just apprehensions of arbitrary fines and imprisonment, and which, if it takes place, will oblige them to quit the province, or, in the end, it must accomplish their ruin, and impoverish or hurt their generous creditors, the merchants in Great Britain, &c. To prevent which, your petitioners most humbly pray that the said act may be repealed or amended, and that they may have the benefit and protection of the English laws, in so far as relates to personal property; and that their liberty may be ascertained according to their ancient constitutional rights and privileges heretofore granted to all his Majesty's dutiful subjects throughout the British empire.

And your petitioners, as in duty bound, will ever pray.

QUEBEC, 12*th Nov.* 1774.

7. DECLARATION OF INDEPENDENCE

By the Representatives of the United States of America in Congress Assembled

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown, that

mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world :—

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing, with manly firmness, his invasions on the rights of the people.

He has refused for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the danger of invasion from without and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others (that is, with the Lords and Commons of Britain) to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation; for quar-

tering large bodies of armed troops among us: for protecting them, by mock trial, from punishment for any murders which they should commit on the inhabitants of these states; for cutting off our trade with all parts of the world: for imposing taxes on us without our consent: for depriving us, in many cases, of the benefits of trial by jury: for transporting us beyond the seas to be tried for pretended offences: for abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies: for taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments: for suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against

their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in General Congress assembled, appealing to the Supreme Judge of the World for the rectitude of our intentions, do, in the name

and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, Free and Independent States; that they are absolved from all allegiance to the British crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved; and that, as Free and Independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other, our lives, our fortunes, and our sacred honour.

8. LORD SYDNEY TO LORD DORCHESTER

WHITEHALL 3*d Sepr.* 1788.

MY LORD,

Your Lordship will have seen, by the proceedings which took place in Parliament in the course of the last Session, the Arguments which were made use of on the Introduction of the Petition brought by Mr. Lymburner from Quebec, for a Change of the present Constitution of the Province, and the reasons which occurred to His Majesty's Ministers for avoiding any decision upon that very important subject.

It will, however, be absolutely necessary that it should be resumed very shortly after the next meeting, and it will, of course, be a matter of great importance to His Majesty's Servants, that they should be previously prepared to enter into a full discussion of the business, and to propose such arrangements as may be found to be expedient for removing every just and reasonable cause of complaint that may exist among His Majesty's Subjects, of any description whatsoever, who are Inhabitants of that Province.

The variety of applications which have from time to time been transmitted from thence upon this business, of so opposite a tendency to each other, render it extremely difficult to fix upon

any Arrangements calculated to satisfy all the Parties interested in, or connected with it; His Majesty's Servants however, are desirous to give the matter a full consideration and that they may be the better enabled to form a competent judgment of the steps advisable to be taken, they are solicitous of obtaining from Your Lordship a full and impartial account of the different Classes of Persons who desire a Change of Government, as well as of those who are adverse to the Measure, specifying, as nearly as it can be ascertained, the Proportion of Numbers and Property on each side in the several Districts; and, That your Lordship at the same time should state in what manner, either the interests or influence of the latter, might be affected by any alteration, and what is the Nature and grounds of their apprehensions from the Introduction of a greater Portion of English Law, or of a System of Government more comformable to that established in other British Colonies.

In particular, They wish to be informed from what Causes the objection of the old Canadian Subjects to an House of Assembly chiefly arises: Whether, from its being foreign to the Habits and Notions of Government in which they have been educated, or from an apprehension that it would be so formed as to give an additional Weight to the New Subjects, and lead to the introduction of Parts of the English Law which are obnoxious to them; or, from an idea that being invested with a Power of Taxation, it would eventually subject their Property to Burthens from which they are at present exempted; In like manner,

whether the Objections which appear to exist to a farther Introduction of Trial by Jury, arise either from Prejudices against the Nature and Mode of such a decision, or from the difficulty of finding Jurors properly qualified, and the inconvenience to Individuals of the necessary Attendance; or from the Notion of this species of Trial being necessarily coupled with Modes of Proof and Rules of Law, different from those to which they are accustomed.

Though several of these points have already been noticed by Your Lordship in some of your Letters to me, and in the Papers which accompanied them, yet His Majesty's Servants do not think that they are sufficiently explicit to enable them to form a decided opinion.

The anxiety of His Majesty's Servants to be perfectly informed with regard to all these matters as soon as possible has induced them to send out an Extraordinary Packet Boat, and they are in hopes of receiving from Your Lordship upon her return, a full communication of the Sentiments entertained upon these several heads of inquiry, and which communication they wish to be made in a manner that may be proper to be laid before Parliament, at the next meeting.

I find, upon an examination of the Plans transmitted by Your Lordship's predecessor, that the most considerable part of the disbanded Troops and Loyalists who have become settlers in the Province since the late War, have been placed upon Lands in that part of it which lie to the Westward of the Ceders, and beyond those Lands (excepting only Detroit and its Neighbourhood)

which are granted in Seigneurie; as these People are said to be of the number desirous of the Establishment of the British Laws. It has been in Contemplation to propose to Parliament a division of the Province, to commence from the Boundary Line of the Seigneurie granted to Monsieur De Longueil, and to take in all the Country to the Southward and Westward in the manner described in the enclosed paper. But, before they take any step towards the execution of this measure, they are desirous of receiving the advantage of Your Lordship's opinion how far it may be practicable or expedient; or, whether any other line or mode of separation would be preferable. Your Lordship will however understand, that it is the King's intention that the New Settlers in that part of the Province who now hold their Lands upon Certificates of Occupation, shall, at all events, be placed upon the same footing in all respects, as their Brethren in Nova Scotia and New Brunswick, by having their Lands granted to them in free and Common Soccage, with a Remission of Quit Rents for the first Ten Years; and Instructions will be prepared accordingly, as soon as Your Lordship's opinion upon the plan aforementioned shall be obtained.

With a view to the execution of the Plan in question, it will be necessary for you to consider. previously to your Report upon it, what sort of Civil Government ought to be formed for its internal arrangement, and whether the Number and description of the Inhabitants and other Circumstances are such as do, or do not, make

the immediate Establishment of an Assembly within this district, practicable and advisable. At all events it will be natural, as the greatest Part of these New Settlers are attached to the English Laws, that that System should be introduced as the General Rule, with such Exceptions or Qualifications as particular and local Circumstances may appear to require; At the same time Your Lordship will attend to the situation to which the Old Canadian Settlers at Detroit would be reduced, provided it may be found expedient, in consequence of the Information which the King's Servants expect to receive from Your Lordship (and by which you will understand they mean in a great degree to be guided), to resist the Application for any Change of the Constitution of the remaining part of the Province; and Your Lordship will also consider, in case of such a determination, in what part of the Province within the reserved limits, the Settlers at Detroit, if they should desire to be removed, might be accommodated with Lands the best suited to their advantage.

I am, &c.

SYDNEY.

9. LORD DORCHESTER TO LORD SYDNEY

QUEBEC *8th November* 1788.

MY LORD,

The Province of Quebec consists at present of seven districts or counties; Quebec and Montreal in the central parts, Gaspe at and near the mouth of the Saint Lawrence, and the country, west of Point au Boudet, divided into the four districts of Luneburg, Mecklenburg, Nassau, and Hesse. The Canadians, or new subjects, occupy the districts of Quebec and Montreal, and some are also to be found in the districts of Gaspe, and Hesse. The three districts of Luneburg, Mecklenburg, and Nassau, are inhabited only by the loyalists, or old subjects of the Crown. The Commerce of the country being chiefly carried on by the English occasions a considerable mixture of inhabitants in the towns of Quebec and Montreal, nearly in the proportion of one British to two Canadians. Some of the former are also settled at Three Rivers, Terrebone, William Henry, Saint Johns, and the entrance of Lake Champlain, and a small number are dispersed among the Canadians in the country parishes; the fur trade has collected some hundreds at Detroit, as the fisheries have at the Bay of Chaleurs, and other

parts of the district of Gaspe. The proportions of British and Canadians in the two districts of Quebec and Montreal, exclusive of the towns, may be about one to forty, in the same districts, inclusive of the towns, one to fifteen, in the district of Hesse one to three, in the district of Gaspe two to three, and in the whole province, taken together, about one to five.

A change of the laws and form of government, by the introduction of an Assembly, is chiefly promoted by the commercial part of the community, in the towns of Quebec and Montreal. The Canadian Habitants, or farmers, who may be styled the main body of the freeholders of the country, having little or no education, are unacquainted with the nature of the question, and would, I think, be for, or against it, according to their confidence in the representations of others. The clergy do not appear to have interfered. But the Canadian gentlemen in general are opposed to the measure; they object to the introduction of a body of new laws, to the extent and tendency of which they are strangers; they express apprehensions of much disquietude among the people from the introduction of an assembly, and conceive that the low state of learning and knowledge in the country would lay them open to the pursuit and adoption of wrong measures, and to dangers, which a more enlightened people would not be exposed to. The fear of taxation, I take for granted, is among the motives of those, who are adverse to the change, and would no doubt strongly influence the sentiments of the common people, if they should come to consider the merits

of the question. The objections, which appear to exist to a farther introduction of the trial by jury, arise partly from prejudice, and partly from an idea, that the choice would be narrow, and render it difficult to find jurors totally disinterested.

In addition to these observations, it may be proper to mention, that the population of this country is chiefly confined to the margin of the waters from the western side of the Gulf of Saint Lawrence in the district of Gaspe, to the settlements at and above Detroit, a chain of not less than eleven hundred miles; and that, though the ancient settled parts of the districts of Quebec and Montreal, from Kamaraska to Point au Boudet (comprehending about three hundred and seventy miles of the above line), may find no great burthen in the expense of a representation, it may be otherwise with the inhabitants newly set down in Gaspe, Luneburg, Mecklenburg, Nassau, and Hesse, and that the inconveniencies and charges of assembling, from parts so distant, would be increased by the nature of the climate, which renders the roads for several months in the year difficult, if not impracticable.

A division of the province, I am of opinion, is by no means advisable at present, either for the interests of the new, or the ancient districts, nor do I see an immediate call for other regulations than such as are involved in the subject of the general jurisprudence of the country. Indeed it appears to me, that the western settlements are as yet unprepared for any organization, superior to that of a county. This has lately been given

to them, and will, I trust, answer their present wants, if I except Hesse, whose commercial and complicated affairs call for a particular provision, now under the consideration of a Committee of the Council. But though I hold a division of the province at present inexpedient, yet I am of opinion, that no time should be lost in appointing a person of fidelity and ability, in the confidence of the loyalists, to superintend, and lead them, and to bring their concerns with despatch to the knowledge of government, under the title of Lieutenant Governor of the four western districts above named.

Should a division of the province notwithstanding be determined by the wisdom of his Majesty's Council, I see no reason, why the inhabitants of those western districts should not have an Assembly, as soon as it may be organized without detriment to their private affairs, nor against their having so much of the English system of laws, as may suit their local situation and condition. But in this case particular care should be taken to secure the property and civil rights of the Canadian settlers at Detroit, who, I am convinced, would not choose to emigrate, though good lands might be given them in the lower parts of the province. But, should they choose to move, it would be attended with much inconvenience, as would their being left insulated, and attached to the district of Montreal.

With respect to proper limits for the new government, in the event of a separation, I would recommend those described in the annexed paper, which will comprehend all the settlements of the

loyalists on the River Saint Lawrence above Point au Boudet, and those also lately laid out for them on the south side of the Uttawas river.

DORCHESTER.

10. RT. HON. W. W. GRENVILLE TO LORD DORCHESTER

WHITEHALL, 20*th Octr.* 1789.

MY LORD,

It having been determined to bring under the consideration of Parliament early in the next Session the propriety of making farther provision for the good government of the Province of Quebec, I enclose to your Lordship the draft of a Bill prepared for this purpose.

His Majesty's Servants are desirous, before this Plan shall be proposed to Parliament, to avail themselves of such observations upon it as your Lordship's experience and local knowledge may suggest. It is probable that Parliament may not meet till towards the end of January next, and that there will therefore be full time for me to receive your Lordship's answer to this despatch with such remarks as may occur to you on the proposed Bill, and with such information as may be necessary to enable me to supply those particulars of detail which are now left in blank.

Your Lordship will observe that the general object of this plan is to assimilate the Constitution of that Province to that of Great Britain, as nearly as the difference arising from the manners

of the People and from the present Situation of the Province will admit.

In doing this a considerable degree of attention is due to the prejudices and habits of the French Inhabitants who compose so large a proportion of the community, and every degree of caution should be used to continue to them the enjoyment of those civil and religious Rights which were secured to them by the Capitulation of the Province, or have since been granted by the liberal and enlightened spirit of the British Government.

This consideration has had a great degree of weight in the adoption of the plan of dividing the Province of Quebec into two Districts which are to remain as at present under the administration of a Governor General, but are each to have a Lieutenant Governor and a separate Legislature.

The King's Servants have not overlooked the reasons urged by your Lordship against such a separation, and they feel that while Canada remained under its present form of Government great weight would have been due to those suggestions; but when the resolution was taken of establishing a Provincial Legislature, to be constituted in the manner now proposed, and to be chosen in part by the People, every consideration of policy seemed to render it desirable that the great preponderance possessed in the Upper Districts by the King's ancient Subjects, and in the lower by the French Canadians, should have their effect and operation in separate Legislatures; rather than that these two bodies of People should be blended together in the first formation of the

new Constitution, and before sufficient time has been allowed for the removal of ancient prejudices, by the habit of obedience to the same Government, and by the sense of a common interest.

With respect to the intended Boundaries of these Provinces a blank is left in the Bill in order that your Lordship may, with the assistance of the Surveyor General, who is now in Quebec, consider of such a description of those Boundaries as may be sufficiently intelligible and certain, so as to leave no room for future difficulties on that subject. The division between the two Provinces is meant to be the same as is mentioned to your Lordship in Lord Sydney's Letter of 3rd Septr. 1788, with the alteration suggested by your Lordship in your Letter of the 8th November following.

There will, however, be a considerable difficulty in the mode of describing the Boundary between the District of Upper Canada and the Territories of the United States, as the adhering to the Line mentioned in the Treaty with America would exclude the Posts which are still in his Majesty's Possession, and which the infraction of the Treaty on the part of America has induced His Majesty to retain, while on the other hand the including them by express words within the Limits to be established for the Province by an Act of the British Parliament would probably excite a considerable degree of resentment among the Inhabitants of the United States, and might perhaps provoke them to measures detrimental to our Commercial Interests. Possibly the best solution for this difficulty might be to describe the Upper District by some general words such as "All the

Territories, &c., &c., &c., possessed by and subject to his Majesty, and being to the West or South West of the Boundary Line of Lower Canada, except such as are included within the present Boundaries of the Government of New Brunswick."

In settling this point of the Boundaries it will also be a question, whether the Fishing Settlement in Gaspe may not with advantage be annexed to the Government of New Brunswick rather than to be left as a part of that of Lower Canada under the system now proposed to be established particularly as the local Circumstances of that District might render a representation of it in an Assembly at Quebec extremely difficult if not impracticable.

The Legislature in each of the Two Provinces is intended, as your Lordship will observe from the draft of the Bill, to consist of his Majesty represented by his Governor, or Lieutenant Governor, a Legislative Council, and a House of Assembly.

It is intended to separate the Legislative from the Executive Council, and to give to the Members of the former a right to hold their Seats during their Life and good Behaviour, provided they do not reside out of the Province, or attach themselves to any Oath of allegiance or Obedience to the United States, or to any other Foreign Power.

It is the King's farther intention to confer upon the Persons whom he shall distinguish by calling them to his Legislative Council some mark of Honour, such as a Provincial Baronetage either personal to themselves, or descendible to their Eldest Sons, in lineal Succession.

A great accession of wealth to the Provinces might probably induce his Majesty at a future period to raise the most considerable of these Persons to a higher degree of Honour, but this could certainly not be done with propriety under the present Circumstances.

The Object of the regulations is both to give to the Upper branch of the Legislature a greater degree of weight and consequence than was possessed by the Councils in the old Colonial Governments, and to establish in the Provinces a Body of Men having that motive of attachment to the existing form of Government, which arises from the possession of personal or hereditary distinctions.

It will be very necessary that great attention should be paid to the choice of those Persons who are to be placed in this situation in the first instance, and of those whom his Majesty may be advised from time to time to add to that number; and as your Lordship's long knowledge of the Province and of the Individuals who compose the higher classes of the Community, must render your Lordship more particularly competent to such a Selection, I must desire that your Lordship will consider this point with that degree of attention to which its importance entitles it, and that you will state to me the names of those Persons whom you may think fit objects of the King's favour in this respect, in each of the Two Provinces intended to be formed.

In the draft of the Bill which I enclose, a blank is left for that which is to be fixed as the smallest number of which the Councils are respectively

to be composed. It is certainly desirable that this number should not be made too large in the first instance, as it would be easy for his Majesty to add to it whenever it may be found expedient, while on the other hand the calling improper Persons to the Council, in order to make up the number required by the Bill, would under the system now proposed be productive of permanent inconvenience and mischief to his Majesty's Government.

Of this point also your Lordship must unquestionably be the best Judge, and I shall be anxious to learn your Sentiments upon it. My present idea, founded, however, rather on conjecture than on any satisfactory information, would be that the Legislative Council in Upper Canada should not consist of less than six Members, and in Lower Canada of not less than Twelve; and that the selection of these Persons should be made with a view to increasing the number by some addition at no very distant period, as a mark of his Majesty's favour to those Persons whose Conduct may be found to entitle them to it.

Your Lordship will also state to me for His Majesty's information, the number and names of those Persons whom you may think proper to recommend to his Majesty for Seats in the Executive Council.

It is by no means intended that the Members of the Legislative Council should be excluded from this Body, or that it should on the other hand be wholly composed of Persons of this description. It may be advisable that some of the Persons named to the Executive Council in one of the

Districts, should also be admitted to the same distinction in the other.

In providing for the establishment of a House of Assembly in each of the Two Provinces, the first question of detail which occurs is that of the Numbers of which these Bodies should consist, and of the manner in which they should be elected; particularly with respect to the division of the Provinces into Counties or Districts, and to the relative proportion of Representation to be allowed to the Towns.

The decision of these points must necessarily depend on local knowledge: They are therefore left in blank in the Draft of the Bill, and I must desire your Lordship's opinion upon them. I am not sufficiently informed whether the present Division of the Counties would be well adapted to the Object in question, or whether a subdivision into Parishes or Districts would be more desirable.

I enclose for your Lordship's information a Paper delivered to me by Mr. Lymburner, containing a Plan of Representation for the Province; but as far as I am at all enabled to form an Opinion on the Subject, that plan appears to me to be liable to great objection. I also transmit a plan for the same purpose framed by the Board of Trade in 1765.[1]

The next point to be considered is the Qualifications of the Electors, and of the Persons to be elected in each of the Provinces. This is also

[1] This date should be 1769, the date being given in the enclosure mentioned.

in great measure a point of local detail, depending on the condition and circumstances of the different Classes of the Inhabitants of the Provinces; and on which his Majesty's Servants are therefore desirous of receiving your Lordship's Opinion. In the margin of the Bill which I now transmit, I have marked the suggestions which have been made to me on this Subject; but I do not feel myself enabled, without farther information, to form any satisfactory Opinion upon them.

The remaining Clauses of the Bill do not seem to require much particular discussion in this Letter; Your Lordship will observe by the 27th Clause, that it is intended to continue all the existing Laws of the Province until they shall be repealed or varied by the Legislatures of the respective Provinces. An exception is however made and there is a Clause left in blank for the insertion of such Commercial Regulations, if any, which it may be thought expedient to introduce, as exceptions to the Canadian Laws, respecting Property and Civil Rights, previous to investing the Assembly in Lower Canada with a right to negative all future changes which may be proposed.

This is a point which is now under the consideration of his Majesty's Law Servants, but as it is probable that I shall receive your Lordship's answer to this dispatch before it may be necessary to come to a final decision on this Subject, I shall be glad to be furnished with any suggestions which may occur to your Lordship upon it, as likely to conduce to the advancement and security of the

Commercial Interest of this Kingdom, and that of the Province as connected with it.

The Clause enabling Persons to commute the holding of their Lands into free and common Soccage is conformable to what your Lordship has recommended with respect to the Upper Districts, and it seems a measure of good policy to extend the same principle to the lower parts of the Province, as far as the prejudices of the French Inhabitants will allow.

I should wish to know your Lordship's sentiments with respect to the time which might be most convenient for the commencement of this new System, supposing the Bill to be passed in the next Session of Parliament.

I am, etc.

W. W. GRENVILLE.

11. LORD DORCHESTER TO THE RT. HON. W. W. GRENVILLE

QUEBEC, *8th February*, 1790.

SIR,

I received the triplicate of your dispatch No. 2 on the 20th of last month, and avail myself of the first opportunity to submit to his Majesty's Ministers such observations on the proposed Bill, as occur to me in the moment.

The enclosed Draft comprehends the corresponding alterations, engrafted upon the Bill, transmitted in your letter.

The attainment of a free course of Justice throughout every part of his Majesty's possessions, in the way least likely to give umbrage to the United States, appears to me very desirable. For this reason the Boundaries of the two proposed Provinces are described by a precise Partition line only of the Country of Canada, with the Addition of such general words, as I hoped might include the Territories subject to, or possessed by, his Majesty, to the southward of the forty fifth degree of North Latitude on the side of Lake Champlain, as well as on the side of Oswego, Niagara, Detroit, and Michilimakinac, corresponding as nearly as could be, with the idea expressed in your letter. But upon consulting the Chief Justice, relative to the operation

of this description of the Boundary, I find that he does not think it will answer the desired end.

The District of Gaspe it seems best for the present to leave annexed to the Province of Lower Canada, on account of its commercial connection with this province, and because, notwithstanding its distance, the communication of it with Quebec by water is easier than its access to the seat of the Government of New Brunswick, in the present condition of that province; the more so, as the difficulty of a representation from that District in an Assembly at Quebec is greatly diminished, by the opening left in the Bill for non-residents of any district being elected Representatives thereof.

But the Bay of Chaleurs being subject to different Governments, particularly during the present uninhabited state of that part of New Brunswick, gives an opportunity to ill disposed persons to elude the control of the law, to the detriment of the Fisheries, and good order; a clause to remedy this Evil is therefore enclosed, which, if approved of, may be introduced into the Bill, as an addition to the second clause.

Many advantages might result from an hereditary Legislative Council, distinguished by some mark of honour, did the condition of the country concur in supporting this dignity; but the fluctuating state of Property in these Provinces would expose all hereditary honours to fall into disregard; for the present therefore it would seem more advisable to appoint the members during life, good behaviour, and residence in the province. The number for Upper Canada to be not less than

seven, and for Lower Canada not less than fifteen, to be increased by His Majesty, as the wealth and population of the Country may require. To give them as much consequence as possible, in the present condition of the Province, they should be selected from among the men of property, where talents, integrity, and a firm attachment to the Unity of the Empire may be found. I shall take the first opportunity of communicating the names of such persons, as appear to me the fittest objects of this description.

The House of Assembly for Upper Canada might consist of not less than Sixteen, and that for Lower Canada of not less than thirty members, or nearly double in number to the Legislative Councils, to be augmented also in proportion to the Population of the Country.

As far as I can judge at present it might be advisable to give the Towns of Quebec and Montreal in Lower Canada, a representation of four members each, and two to the Town of Three Rivers, dividing the Country Parishes thereof into twenty Circles, to send one member each. In Upper Canada the four districts of Luneberg, Mecklenburg, Nassau, and Hesse, to furnish four members each, and hereafter to be subdivided into as many Circles and Towns, as their condition may require. But the present time is too short to enter into a more minute detail, for which reason it is proposed to fix only the smallest number of Members in the Bill, and to leave the actual subdivision and apportionment, necessary for an equal representation, to be ascertained by the Lieutenant Governors, with the advice of the

Executive Councils of the respective Provinces, under authority for that purpose from His Majesty.

The qualification of Electors, and persons to be Elected, as to birth, has been extended to inhabitants of the Provinces before and since the conquest, because they may be considered upon an equal footing with the natives, and to foreigners naturalized, because an accession to the Province of light and property from abroad is desirable, and not likely to injure the King's interest, under the guards proposed.

The disqualifications of Persons, attainted for Treason, and Felony, Deserters from the Militia when called out into service, and Bankrupts, until the full payment of their debts, have been added to the fourteenth clause, as a check to these evils, and from a persuasion, that persons of that description are not entitled to any political honours or consequence.

On the expediency of inserting any commercial regulations, as exceptions to the Laws of Canada, previous to investing the Assembly in Lower Canada with a right to negative all future changes, I regret that the complicated and professional nature of the subject, prevents my forming any other than a general opinion, that whatever regulations of this sort shall be thought proper to be adopted, should be enacted specially, unfolded to the people, and not introduced in bulk, and by general description.

The introduction of a Soccage Tenure I think necessary in the upper country, and advisable in every part of the province, and this free of Quit-

rents from all holding no more than one thousand acres, as recommended in my letter to Lord Sydney No. 18. And the Quitrent, which it may be judged proper to lay on large Tracts, should be given up to the Provincial Governments for their Support, that all seeds of discord between Great Britain and her Colonies may be prevented. And independent of this important consideration perhaps the true principle of economy is rather to obviate the necessity of sending money abroad, than to bring home any from Quitrents or Duties of any Kind.

I take for granted, that the benefits, arising to the subject, from a change of the tenure in Fief to that in Common Soccage, are meant to run throughout, as from the King to His Tenant, so from the latter to all his Under-tenants, at the time of change; otherwise the advantages will be confined to a few, and an interest created unfriendly to the improvement of the country. Some alterations have been made in the clause relative to this point, with a view of clearing doubt upon the subject.

The commencement of the operation of the Act, as to every part, excepting only the issuing the Writs of Election, and calling together the Houses of Assembly of the respective Provinces, has been fixed at such time, as may be declared by His Majesty, with the advice of His Privy Council, not later than Six months after the notification of the Act in this Country, which I think will allow time sufficient for all necessary arrangements, as to these points.

But for the Convocation of the Assemblies a

more distant period appears to be necessary, for the reasons above stated. As soon as the proper plans for their organization shall have been prepared, His Majesty may order the Assemblies to be convened, as soon as convenient, previous to the first of January, 1792, as suggested in the thirty first clause of the Bill, to which is likewise added a proposal for the temporary Government of the two Provinces in the interval, by the Lieutenant Governors, and Legislative Councils thereof, according to the model of the Quebec Bill.

Should this be approved, the Royal indulgence of returning to England for a few months on my private Affairs, would give me an opportunity to lay before His Majesty's Ministers all further explanations in my power on this subject.

Before I conclude, I have to submit to the wisdom of His Majesty's Councils, whether it may not be advisable to establish a General Government for His Majesty's Dominions upon this Continent, as well as a Governor General, whereby the united exertions of His Majesty's North American Provinces may more effectually be directed to the general interest, and to the preservation of the Unity of the Empire.

I enclose a copy of a letter from the Chief Justice, with some additional clauses, upon this subject, prepared by him at my request, together with this draught of another proposed addition to the Bill, to provide for the trial of foreign treason and murder, as also a copy of his letter respecting the operation of the Boundary, as described in the Bill, with his idea of the Addition necessary to give free scope to our Courts of

Justice. The clause above referred to under the letter B was also prepared by him at my request.

I am, etc.

DORCHESTER.

[ENCLOSURE]

Chief Justice Smith to Lord Dorchester

QUEBEC, *5th February*, 1790.

MY LORD,

The clause enclosed for the Trial of extra-provincial offences appears to me to be necessary to encourage that spirit of Enterprize, which leads our people in the Fur Trade to explore the Depths of this Continent, and has carried them almost over to the Eastern shores of the Pacific Ocean. This Commerce, elsewhere wearing out, by the increased Population of the northeastern parts of the ancient Continent, will soon become the monopoly of our nation. I have couched it in terms least likely of any that occur to me, to excite the Jealousy of our Neighbours.

The Bill with the other additions for the intended Reforms in this Country, left to be supplied by Your Lordship's local Experience, greatly improves the old model of our colonial Governments; for even those called the Royal Provinces, to distinguish them from the Proprietary and chartered Republics of the Stuart Kings had Essential Faults, and the same general tendency.

Mr. Grenville's plan will most assuredly lay a

foundation for two spacious populous and flourishing Provinces, and for more to grow out of them; and compose, at no remote period, a mass of Power very worthy of immediate attention.

I miss in it however, the expected Establishment to put what remains to Great Britain of Her Ancient Dominions in North America, under one general direction, for the united interest and safety of every Branch of the Empire.

The Colonies of England were flourishing Colonies. It was the natural effect of the connection, the Character of the People, and the Genius of the English Constitution. Ours will be so too. But that prosperity may be their ruin. And I trust in God that the wisdom, which is dictating the new Arrangements for us, will perfect its work, by a system to prevent our repeating the Folly, that has plunged the several parts of the Continent into poverty and distress.

Native as I am of one of the old Provinces, and early in the public service and Councils, I trace the late Revolt and Rent to a remoter cause, than those to which it is ordinarily ascribed. The Truth is that the Country had outgrown its Government, and wanted the true remedy for more than half a century before the Rupture commenced—To what period it continued to be practicable is problematical, and need not now be assigned.

To expect wisdom and moderation from near a score of Petty Parliaments, consisting in effect of only one of the three necessary branches of a Parliament, must, after the light brought by experience, appear to have been a very extravagant

Expectation. So it has been to my view above twenty years, and I did not conceal it.

My Lord, an American Assembly, quiet in the weakness of their Infancy, could not but discover in their Elevation to Prosperity, that *themselves* were the substance, and the Governor and Board of Council mere shadows in their political Frame. All America was thus, at the very outset of the Plantations, abandoned to Democracy. And it belonged to the Administrations of the days of Our Fathers to have found the Cure, in the Erection of a Power upon the Continent itself, to control all its own little Republics, and create a Partner in the Legislation of the Empire, Capable of consulting their own safety, and the common welfare.

To be better understood by your Lordship I beg leave to put a paper under this cover, in the form of additions to the present proposed Bill, partly suggested by the necessity of something to give a real and useful significancy to Your Lordship's nominal command of more Provinces than this.

As to the moment for commencing such an Establishment, that certainly must be the worst, when it shall be most wanted. And since its Erection will speak Intentions, and may give Umbrage, that will be the best time, in which that Umbrage shall excite the least apprehension.

The Debility of our Neighbours is notorious, nor can be succoured during the Distractions of France, and the consternation Spread by those Distractions through all Europe.

Here in these provinces, where it is of much

consequence, to set out with good habits, what juncture can be so favourable, as when the thousands thrown into them, under Your Patronage and Direction, have their Loyalty confirmed by Resentments for their Sufferings; and so are disposed to take, and especially from Your hand, whatever the wisdom of Great Britain shall prescribe, as a Gift of her Benevolence.

As to Canada, I mean that part of it to become Lower Canada, the Biasses in it, if there are any remaining, to the Stock from which it was severed, are become perfectly harmless, by that Body of English Loyalty Your Lordship has planted in the West—By their aversion to share in the Burdens and Miseries of the Revolted Colonies, and by the growing Discernment, that our safety and Prosperity is only to be found in the Commerce and Arms of Great Britain.

I am old enough to remember, what we in the Maritime Provinces dreaded from this French Colony in the North, and what it cost to take away that dread, which confined our Population to the Edges of the Atlantic; and my mind is therefore carried, under such an Administration as the present one, into a strong Persuasion, that nothing will be neglected to enable Great Britain, so to serve herself of that Power she already possesses here, as to check any Councils to be meditated to her Detriment, by the new Nation she has consented to create. She may do more! but this is out of my province.

So much, my Lord, You'll forgive me. I could not repress what I owed to the vindication of my Zeal, in the sacrifice of my fortune for the

British Interest, and as I think still for the best Interests too of the Country of my Birth. Most of all I owed it to my Sovereign, in whose Grace I found a Relief at the end of the Storm.

With a deep and grateful sense of all Your kindness and the honour of your request of my poor abilities, upon questions of so great magnitude and consequence.

I am, etc.

WM. SMITH.

12. RT. HON. H. DUNDAS TO LORD DORCHESTER

WHITEHALL, 16*th September*, 1791.

MY LORD,

In the letters which were written to your Lordship by my Predecessor, Lord Grenville, I find you were long ago fully informed by his Lordship of His Majesty's intention of dividing His Province of Quebec into two separate Governments, to be called the Province of Upper Canada, and the Province of Lower Canada, and of Regulations which were proposed to be made in consequence, for the better Government of that part of His Majesty's Dominions. In pursuance of that intention I am now to inform your Lordship that a Bill was introduced into Parliament and passed during the last session, intituled "An Act to repeal certain parts of an Act passed in the Fourteenth year of His Majesty's Reign intituled An Act for making more effectual Provision for the Government of the Province of Quebec in North America; and to make further provision for the Government of the said Province," a Copy of which I enclose together with a Commission under the Great Seal, revoking your former Commission of Governor of the Province of Quebec, and vesting you with the Chief Government of the two Provinces before-mentioned

and also Instructions under the Royal Sign Manual applicable to the Regulations which His Majesty under the Act has thought fit to establish.

In framing the Instructions to Your Lordship with respect to the Quorums of the Legislative Councillors and of the Members of the Assembly for Lower Canada, some difficulties occurred in fixing the number which might be proper to compose such Quorums, and on a consideration of the subject, it was rather thought advisable that the number of which such Quorums should consist, should be left to those Bodies to determine. The mode which His Majesty's Servants recommend for adjusting this point, is either by an Act of the Legislature, or what may perhaps equally answer the purpose, that of making the regulation now to be fixed upon, a standing order of each of the two Houses respectively, and I have it in Command to desire that your Lordship will on the first meeting recommend this object to their consideration, and likewise the forming other such Rules or standing Orders for regulating the Form of proceeding in the Council and Assembly, respectively, as may be most conducive to the regular dispatch of Business.

Your Lordship will find on a perusal of the Act that the number of Representatives of which the Assembly of Lower Canada was originally intended to consist has been considerably increased. This measure will render a new Distribution necessary instead of that which was proposed by Your Lordship in your letter to Lord Grenville and I wish Your Lordship particularly to consider whether for the sake of convenience

and dispatch in deciding upon Elections and preventing the inconvenience of too great a number of Electors, the Towns of Quebec and Montreal might not for that purpose be divided into two separate and distinct Districts, and that these Towns should return Four Members each, by electing Two in each District. Your Lordship will see by the Copy of a Paper delivered to me by Mr. Lymburner, that he proposes that each of the Towns of Quebec and Montreal should choose seven Members each, but that arrangement His Majesty's Servants entirely disapprove of, and would be sorry that such a distribution should on any account take place.

When your Lordship shall have considered this subject maturely, and have arranged your Plan for the Representatives to be chosen by each of the Towns and Circles respectively, you will as soon as conveniently may be issue your Proclamation accordingly.

According to the best opinions which I can obtain it seems to me adviseable that excepting in the instances of Trois Rivieres, St. John, and William Henry, each of the other Circles and Towns or Townships in Lower Canada should elect one Representative, and as the Extent of the several Towns from the introduction of new Settlers and from the probable increase of Population will hereafter be likely to be enlarged, it seems to be desireable that for the same purpose of preventing too great a number of Electors for any place, that limits should now be fixed within which the Electors for the Representatives of the Towns should be resident, and whenever the

number of new Inhabitants resident within the limits adjacent and possessed of qualifications to vote for Towns or Townships shall increase so as to render it expedient that they should be represented in the House of Assembly, a new Town or Township shall in like manner be established within fixed limits for the purpose of separately electing an additional Representative in the House of Assembly, and so on from time to time as often as the occasion may require.

Your Lordship has, I have no doubt, been informed of the disputes and disagreements which have at times taken place between the Councils and Assemblies of the different Colonies respecting the Right claimed by the latter that all Bills whatsoever for granting money should originate with them. The principle itself as far as it relates to any question of imposing burthens upon the Subject is so consistent with the Spirit of Our Constitution that it ought not to be resisted; at the same time it would be prudent, if possible, to avoid any unnecessary discussion of its application in minute cases, and above all that it should not be so extended by overstrained refinements as to produce embarrassment and perplexity in the progress of Public business.

As there does not at present appear to be sufficient provision for the support of the Protestant Clergy either in Upper Canada or in Lower Canada, the collection of Tithes has under the Act of the present year been suffered to continue. But your Lordship will understand that it is not wished to continue this burthen longer than is necessary for the competent provision of the

Clergy: If therefore the Proprietors of Lands liable to the payment of Tithes shall be induced to concur with your Lordship's recommendation in providing a sufficient fund for clearing the reserved Lands and for building Parsonage Houses on the several Parsonages which may be endowed under the Act of the last Session of Parliament, and at the same time provide an intermediate fund for the maintenance of the Clergy during the period that will be required for the purpose of so clearing these reserved Lands, the obligation of Tithes may then cease. I have thought it necessary to explain this subject minutely to your Lordship, that by making it understood among the Proprietors of these Lands they may perceive the means which are in their own power to relieve themselves from a burthen which is naturally irksome to them.

By the Act of the last Session the duties payable to His Majesty under the Act of the 14th year of His Majesty's Reign, Cap. 88, on Articles imported into the Province of Quebec are suffered to remain upon their former footing; but I have it in Command to intimate to Your Lordship that as soon as the Legislatures of the Provinces of Upper Canada and Lower Canada shall have passed Laws laying the same or other Duties to an equal amount to those which become payable under the Acts, and such Act shall have obtained the Royal Assent, His Majesty's Ministers will be ready to propose to Parliament a Repeal of the Act abovementioned.

I am, etc.

H. DUNDAS.

II

THE DEADLOCK IN CANADA AND THE GRANT OF RESPONSIBLE GOVERNMENT

1. FROM LORD DURHAM'S REPORT ON THE AFFAIRS OF BRITISH NORTH AMERICA

I

SUCH is the lamentable and hazardous state of things produced by the conflict of races which has so long divided the Province of Lower Canada, and which has assumed the formidable and irreconcileable character which I have depicted. In describing the nature of this conflict, I have specified the causes in which it originated; and though I have mentioned the conduct and constitution of the Colonial Government as modifying the character of the struggle, I have not attributed to political causes a state of things which would, I believe, under any political institutions have resulted from the very composition of society. A jealousy between two races, so long habituated to regard each other with hereditary enmity, and so differing in habits, in language and in laws, would have been inevitable under any form of government. That liberal institutions and a pru-

dent policy might have changed the character of the struggle I have no doubt; but they could not have prevented it; they could only have softened its character, and brought it more speedily a more decisive and peaceful conclusion. Unhappily, however, the system of government pursued in Lower Canada has been based on the policy of perpetuating that very separation of the races, and encouraging these very notions of conflicting nationalities which it ought to have been the first and chief care of Government to check and extinguish. From the period of the conquest to the present time, the conduct of the Government has aggravated the evil, and the origin of the present extreme disorder may be found in the institutions by which the character of the colony was determined.

There are two modes by which a government may deal with a conquered territory. The first course open to it is that of respecting the rights and nationality of the actual occupants; of recognizing the existing laws, and preserving established institutions; of giving no encouragement to the influx of the conquering people, and, without attempting any change in the elements of the community, merely incorporating the Province under the general authority of the central Government. The second is that of treating the conquered territory as one open to the conquerors, of encouraging their influx, of regarding the conquered race as entirely subordinate, and of endeavouring as speedily and as rapidly as possible to assimilate the character and institutions of its new subjects to those of the great body of its empire.

In the case of an old and long settled country, in which the land is appropriated, in which little room is left for colonization, and in which the race of the actual occupants must continue to constitute the bulk of the future population of the province, policy as well as humanity render the well-being of the conquered people the first care of a just government, and recommend the adoption of the first-mentioned system; but in a new and unsettled country, a provident legislator would regard as his first object the interests not of the few individuals who happen at the moment to inhabit a portion of the soil, but those of that comparatively vast population by which he may reasonably expect that it will be filled; he would form his plans with a view of attracting and nourishing that future population, and he would therefore establish those institutions which would be most acceptable to the race by which he hoped to colonize the country. The course which I have described as best suited to an old and settled country, would have been impossible in the American continent, unless the conquering state meant to renounce the immediate use of the unsettled lands of the Province; and in this case such a course would have been additionally unadvisable, unless the British Government were prepared to abandon to the scanty population of French whom it found in Lower Canada, not merely the possession of the vast extent of rich soil which that Province contains, but also the mouth of the St. Lawrence, and all the facilities for trade which the entrance of that great river commands.

In the first regulations adopted by the British Government for the settlement of the Canadas, in the Proclamation of 1763, and the Commission of the Governor-in-Chief of the Province of Quebec, in the offers by which officers and soldiers of the British army, and settlers from the other North American Provinces, were tempted to accept grants of land in the Canadas, we perceive very clear indications of an intention of adopting the second and the wiser of the two systems. Unfortunately, however, the conquest of Canada was almost immediately followed by the commencement of those discontents which ended in the independence of the United Provinces. From that period, the colonial policy of this country appears to have undergone a complete change. To prevent the further dismemberment of the Empire became the primary object with our statesmen; and an especial anxiety was exhibited to adopt every expedient which appeared calculated to prevent the remaining North American Colonies from following the example of successful revolt. Unfortunately the distinct national character of the French inhabitants of Canada, and their ancient hostility to the people of New England, presented the easiest and most obvious line of demarcation. To isolate the inhabitants of the British from those of the revolted Colonies, became the policy of the Government; and the nationality of the French Canadians was therefore cultivated, as a means of perpetual and entire separation from their neighbours. It seems also to have been considered the policy of the British Government to govern its Colonies by

means of division, and to break them down as much as possible into petty isolated communities, incapable of combination, and possessing no sufficient strength for individual resistance to the Empire. Indications of such designs are to be found in many of the acts of the British Government with respect to its North American Colonies. In 1775 instructions were sent from England, directing that all grants of land within the Province of Quebec, then comprising Upper and Lower Canada, were to be made in fief and seigniory; and even the grants to the refugee loyalists, and officers and privates of the colonial corps, promised in 1786, were ordered to be made on the same tenure. In no instance was it more singularly exhibited than in the condition annexed to the grants of land in Prince Edward's Island, by which it was stipulated that the Island was to be settled by 'foreign Protestants'; as if they were to be foreign in order to separate them from the people of New England, and Protestants in order to keep them apart from the Canadian and Acadian Catholics. It was part of the same policy to separate the French of Canada from the British emigrants, and to conciliate the former by the retention of their language, laws, and religious institutions. For this purpose Canada was afterwards divided into two Provinces, the settled portion being allotted to the French, and the unsettled being destined to become the seat of British colonization. Thus, instead of availing itself of the means which the extent and nature of the Province afforded for the gradual introduction of such an English population into its

various parts as might have easily placed the French in a minority, the Government deliberately constituted the French into a majority, and recognized and strengthened their indistinct national character. Had the sounder policy of making the Province English, in all its institutions, been adopted from the first, and steadily persevered in, the French would probably have been speedily outnumbered, and the beneficial operation of the free institutions of England would never have been impeded by the animosities of origin.

Not only, however, did the Government adopt the unwise course of dividing Canada, and forming in one of its divisions a French community, speaking the French language, and retaining French institutions, but it did not even carry this consistently into effect; for at the same time provision was made for encouraging the emigration of English into the very Province which was said to be assigned to the French. Even the French institutions were not extended over the whole of Lower Canada. The civil law of France, as a whole, and the legal provision for the Catholic clergy were limited to the portion of the country then settled by the French, and comprised in the seigniories; though some provision was made for the formation of new seigniories, almost the whole of the then unsettled portion of the Province was formed into townships, in which the law of England was partially established, and the Protestant religion alone endowed. Thus two populations of hostile origin and different characters, were brought into juxtaposition under a common

government, but under different institutions; each was taught to cherish its own language, laws and habits, and each, at the same time, if it moved beyond its original limits, was brought under different institutions, and associated with a different people. The unenterprising character of the French population, and, above all, its attachment to its church (for the enlargement of which, in proportion to the increase or diffusion of the Catholic population, very inadequate provision was made) have produced the effect of confining it within its ancient limits. But the English were attracted into the seigniories, and especially into the cities, by the facilities of commerce afforded by the great rivers. To have effectually given the policy of retaining French institutions and a French population in Lower Canada a fair chance of success, no other institutions should have been allowed, and no other race should have received any encouragement to settle therein. The Province should have been set apart to be wholly French, if it was not to be rendered completely English. The attempt to encourage English emigration into a community, of which the French character was still to be preserved, was an error which planted the seeds of a contest of races in the very constitution of the Colony; this was an error, I mean, even on the assumption that it was possible to exclude the English race from French Canada. But it was quite impossible to exclude the English race from any part of the North American continent. It will be acknowledged by every one who has observed the progress of Anglo-Saxon colonization in America,

that sooner or later the English race was sure to predominate even numerically in Lower Canada, as they predominate already, by their superior knowledge, energy, enterprise and wealth. The error, therefore, to which the present contest must be attributed, is the vain endeavour to preserve a French Canadian nationality in the midst of Anglo-American colonies and states.

That contest has arisen by degrees. The scanty number of the English who settled in Lower Canada during the earlier period of our possession, put out of the question any ideas of rivalry between the races. Indeed, until the popular principles of English institutions were brought effectually into operation, the paramount authority of the Government left little room for dispute among any but the few who contended for its favours. It was not until the English had established a vast trade, and accumulated considerable wealth, until a great part of the landed property of the Province was vested in their hands, until a large English population was found in the cities, had scattered itself over large portions of the country, and had formed considerable communities in the townships, and not until the development of representative government had placed substantial power in the hands of the people, that that people divided itself into races, arrayed against each other in intense and enduring animosity.

The errors of the Government did not cease with that, to which I have attributed the origin of this animosity. The defects of the colonial

constitution necessarily brought the executive Government into collision with the people; and the disputes of the Government and the people called into action the animosities of race; nor has the policy of the Government obviated the evils inherent in the constitution of the Colony, and the composition of society. It has done nothing to repair its original error, by making the Province English. Occupied in a continued conflict with the Assembly, successive Governors and their councils have overlooked, in great measure, the real importance of the feud of origin; and the Imperial Government, far removed from opportunities of personal observation of the peculiar state of society, has shaped its policy so as to aggravate the disorder. In some instances it has actually conceded the mischievous pretensions of nationality, in order to evade popular claims; as in attempting to divide the Legislative Council, and the patronage of Government, equally between the two races, in order to avoid the demands for an elective Council, and a responsible Executive: sometimes it has, for a while, pursued the opposite course. A policy founded on imperfect information, and conducted by continually changing hands, has exhibited to the Colony a system of vacillation which was in fact no system at all. The alternate concessions to the contending races have only irritated both, impaired the authority of Government, and, by keeping alive the hopes of a French Canadian nationality, counteracted the influences which might, ere this, have brought the quarrel to its natural and necessary termination. It is impossible to determine precisely the

respective effects of the social and political causes. The struggle between the Government and the Assembly, has aggravated the animosities of race; and the animosities of race have rendered the political difference irreconcileable. No remedy can be efficient that does not operate upon both evils. At the root of the disorders of Lower Canada, lies the conflict of the two races, which compose its population; until this is settled, no good government is practicable; for whether the political institutions be reformed or left unchanged, whether the powers of the Government be entrusted to the majority or the minority, we may rest assured, that while the hostility of the races continues, whichever of them is entrusted with power, will use it for partial purposes.

I have described the contest between the French and English races in Lower Canada with minuteness, because it was my wish to produce a complete and general conviction of the prominent importance of that struggle, when we are taking into consideration the causes of those disorders which have so grievously afflicted the Province. I have not, however, during the course of my preceding remarks, been able to avoid alluding to other causes, which have greatly contributed to occasion the existing state of things; and I have specified among these the defects of the constitution, and the errors arising out of the system of government. It is, indeed, impossible to believe that the assigned causes of the struggle

between the Government and the majority have had no effect, even though we may believe that they have had much less than the contending parties imagined. It is impossible to observe the great similarity of the constitutions established in all our North American Provinces, and the striking tendency of all to terminate in pretty nearly the same result, without entertaining a belief that some defect in the form of government, and some erroneous principle of administration, have been common to all; the hostility of the races being palpably insufficient to account for all the evils which have affected Lower Canada, inasmuch as nearly the same results have been exhibited among the homogeneous population of the other provinces. It is but too evident that Lower Canada, or the two Canadas, have not alone exhibited repeated conflicts between the executive and the popular branches of the legislature. The representative body of Upper Canada was before the late election, hostile to the policy of the Government; the most serious discontents have only recently been calmed in Prince Edward's Island and New Brunswick; the Government is still, I believe, in a minority in the Lower House in Nova Scotia; and the dissensions of Newfoundland are hardly less violent than those of the Canadas. It may fairly be said, that the natural state of government in all these Colonies is that of collision between the executive and the representative body. In all of them the administration of public affairs is habitually confided to those who do not co-operate harmoniously with the popular branch of the legislature; and the

Government is constantly proposing measures which the majority of the Assembly reject, and refusing its assent to bills which that body has passed.

A state of things, so different from the working of any successful experiment of representative government, appears to indicate a deviation from sound constitutional principles or practice. Though occasional collisions between the Crown and the House of Commons have occurred in this country since the establishment of our constitution at the Revolution of 1688, they have been rare and transient. A state of frequent and lasting collisions appears almost identical with one of convulsion and anarchy; and its occurrence in any country is calculated to perplex us as to the mode in which any government can be carried on therein, without an entire evasion of popular control. But, when we examine into the system of government in these colonies, it would almost seem as if the object of those by whom it was established had been the combining of apparently popular institutions with an utter absence of all efficient control of the people over their rulers. Representative assemblies were established on the basis of a very wide, and, in some cases, almost universal suffrage; the annual meeting of these bodies was secured by positive enactment, and their apparent attributes were locally nearly as extensive as those of the English House of Commons. At the same time the Crown almost entirely relied on its territorial resources, and on duties imposed by Imperial Acts, prior to the introduction of the representative system, for

carrying on the government, without securing the assent of the representative body either to its policy or to the persons by whom that policy was to be administered.

It was not until some years after the commencement of the present century that the population of Lower Canada began to understand the representative system which had been extended to them, and that the Assembly evinced any inclination to make use of its powers. Immediately, however, upon its so doing, it found how limited those powers were, and entered upon a struggle to obtain the authority which analogy pointed out as inherent in a representative assembly. Its freedom of speech immediately brought it into collision with the Governor; and the practical working of the Assembly commenced by its principal leaders being thrown into prison. In course of time, however, the Government was induced, by its necessities, to accept the Assembly's offer to raise an additional revenue by fresh taxes; and the Assembly thus acquired a certain control over the levying and appropriation of a portion of the public revenue. From that time, until the final abandonment in 1832 of every portion of the reserved revenue, excepting the casual and territorial funds, an unceasing contest was carried on, in which the Assembly, making use of every power which it gained, for the purpose of gaining more, acquired, step by step, an entire control over the whole revenue of the country.

I pass thus briefly over the events which have heretofore been considered the principal features

of the Canadian controversy, because, as the contest has ended in the concession of the financial demands of the Assembly, and the admission by the Government of the impropriety of attempting to withhold any portion of the public revenues from its control, that contest can now be regarded as of no importance, except as accounting for the exasperation and suspicion which survived it. Nor am I inclined to think that the disputes which subsequently occurred are to be attributed entirely to the operation of mere angry feelings. A substantial cause of contest yet remained. The Assembly, after it had obtained entire control over the public revenues, still found itself deprived of all voice in the choice or even designation of the persons in whose administration of affairs it could feel confidence. All the administrative power of Government remained entirely free from its influence; and though Mr. Papineau appears by his own conduct to have deprived himself of that influence in the Government which he might have acquired, I must attribute the refusal of a civil list to the determination of the Assembly not to give up its only means of subjecting the functionaries of Government to any responsibility.

The powers for which the Assembly contended, appear in both instances to be such as it was perfectly justified in demanding. It is difficult to conceive what could have been their theory of government who imagined that in any colony of England a body invested with the name and character of a representative Assembly, could be deprived of any of those powers which, in the

opinion of Englishmen, are inherent in a popular legislature. It was a vain delusion to imagine that by mere limitations in the Constitutional Act, or an exclusive system of government, a body, strong in the consciousness of wielding the public opinion of the majority, could regard certain portions of the provincial revenues as sacred from its control, could confine itself to the mere business of making laws, and look on as a passive or indifferent spectator, while those laws were carried into effect or evaded, and the whole business of the country was conducted by men, in whose intentions or capacity it had not the slightest confidence. Yet such was the limitation placed on the authority of the Assembly of Lower Canada; it might refuse or pass laws, vote or withhold supplies, but it could exercise no influence on the nomination of a single servant of the Crown. The Executive Council, the law officers, and whatever heads of departments are known to the administrative system of the Province, were placed in power, without any regard to the wishes of the people or their representatives; nor indeed are there wanting instances in which a mere hostility to the majority of the Assembly elevated the most incompetent persons to posts of honour and trust. However decidedly the Assembly might condemn the policy of the Government, the persons who had advised that policy retained their offices and their power of giving bad advice. If a law was passed after repeated conflicts, it had to be carried into effect by those who had most strenuously opposed it. The wisdom of adopting the true principle of

representative government and facilitating the management of public affairs, by entrusting it to the persons who have the confidence of the representative body, has never been recognized in the government of the North American Colonies. All the officers of government were independent of the Assembly; and that body, which had nothing to say to their appointment, was left to get on as it best might, with a set of public functionaries, whose paramount feeling may not unfairly be said to have been one of hostility to itself.

A body of holders of office thus constituted, without reference to the people or their representatives, must in fact, from the very nature of colonial government, acquire the entire direction of the affairs of the Province. A Governor, arriving in a colony in which he almost invariably has had no previous acquaintance with the state of parties, or the character of individuals, is compelled to throw himself almost entirely upon those whom he finds placed in the position of his official advisers. His first acts must necessarily be performed, and his first appointments made, at their suggestion. And as these first acts and appointments give a character to his policy, he is generally brought thereby into immediate collision with the other parties in the country, and thrown into more complete dependence upon the official party and its friends. Thus, a Governor of Lower Canada has almost always been brought into collision with the Assembly, which his advisers regard as their enemy. In the course of the contest in which he was thus involved, the provo-

cations which he received from the Assembly, and the light in which their conduct was represented by those who alone had any access to him, naturally imbued him with many of their antipathies; his position compelled him to seek the support of some party against the Assembly; and his feelings and his necessities thus combined to induce him to bestow his patronage and to shape his measures to promote the interests of the party on which he was obliged to lean. Thus, every successive year consolidated and enlarged the strength of the ruling party. Fortified by family connexion, and the common interest felt by all who held, and all who desired, subordinate offices, that party was thus erected into a solid and permanent power, controlled by no responsibility, subject to no serious change, exercising over the whole government of the Province an authority utterly independent of the people and its representatives, and possessing the only means of influencing either the Government at home, or the colonial representative of the Crown.

This entire separation of the legislative and executive powers of a State is the natural error of governments desirous of being free from the check of representative institutions. Since the Revolution of 1688, the stability of the English constitution has been secured by that wise principle of our Government which has vested the direction of the national policy, and the distribution of patronage, in the leaders of the Parliamentary majority. However partial the monarch might be to particular ministers, or however he might have personally committed himself to their

policy, he has invariably been constrained to abandon both, as soon as the opinion of the people has been irrevocably pronounced against them through the medium of the House of Commons. The practice of carrying on a representative government on a different principle, seems to be the rock on which the continental imitations of the British Constitution have invariably split; and the French Revolution of 1830 was the necessary result of an attempt to uphold a ministry with which no Parliament could be got to act in concert. It is difficult to understand how any English statesmen could have imagined that representative and irresponsible government could be successfully combined. There seems, indeed, to be an idea, that the character of representative institutions ought to be thus modified in colonies; that it is an incident of colonial dependence that the officers of government should be nominated by the Crown, without any reference to the wishes of the community, whose interests are entrusted to their keeping. It has never been very clearly explained what are the imperial interests, which require this complete nullification of representative government. But if there be such a necessity, it is quite clear that a representative government in a colony must be a mockery, and a source of confusion. For those who support this system have never yet been able to devise, or to exhibit in the practical working of colonial government, any means for making so complete an abrogation of political influence palatable to the representative body. It is not difficult to apply the case to our own country. Let it be

imagined that at a general election the opposition were to return 500 out of 658 members of the House of Commons, and that the whole policy of the ministry should be condemned, and every Bill introduced by it, rejected by this immense majority. Let it be supposed that the Crown should consider it a point of honour and duty to retain a ministry so condemned and so thwarted; that repeated dissolutions should in no way increase, but should even diminish, the ministerial minority, and that the only result which could be obtained by such a development of the force of the opposition were not the slightest change in the policy of the ministry, not the removal of a single minister, but simply the election of a Speaker of the politics of the majority; and, I think, it will not be difficult to imagine the fate of such a system of government. Yet such was the system, such literally was the course of events in Lower Canada, and such in character, though not quite in degree, was the spectacle exhibited in Upper Canada, and, at one time or another, in every one of the North American Colonies. To suppose that such a system would work well there, implies a belief that the French Canadians have enjoyed representative institutions for half a century, without acquiring any of the characteristics of a free people; that Englishmen renounce every political opinion and feeling when they enter a colony, or that the spirit of Anglo-Saxon freedom is utterly changed and weakened among those who are transplanted across the Atlantic.

It appears, therefore, that the opposition of

the Assembly to the Government was the unavoidable result of a system which stinted the popular branch of the legislature of the necessary privileges of a representative body, and produced thereby a long series of attempts on the part of that body to acquire control over the administration of the Province. I say all this without reference to the ultimate aim of the Assembly, which I have before described as being the maintenance of a Canadian nationality against the progressive intrusion of the English race. Having no responsible ministers to deal with, it entered upon that system of long inquiries by means of its committees, which brought the whole action of the executive immediately under its purview, and transgressed our notions of the proper limits of Parliamentary interference. Having no influence in the choice of any public functionary, no power to procure the removal of such as were obnoxious to it merely on political grounds, and seeing almost every office of the Colony filled by persons in whom it had no confidence, it entered on that vicious course of assailing its prominent opponents individually, and disqualifying them for the public service, by making them the subjects of inquiries and consequent impeachments, not always conducted with even the appearance of a due regard to justice; and when nothing else could attain its end of altering the policy of the composition of the colonial government, it had recourse to that *ultima ratio* of representative power to which the more prudent forbearance of the Crown has never driven the House of Commons in England, and endeavoured to disable

the whole machine of Government by a general refusal of the supplies.

It was an unhappy consequence of the system which I have been describing, that it relieved the popular leaders of all the responsibilities of opposition. A member of opposition in this country acts and speaks with the contingency of becoming a minister constantly before his eyes, and he feels, therefore, the necessity of proposing no course, and of asserting no principles, on which he would not be prepared to conduct the Government, if he were immediately offered it. But the colonial demagogue bids high for popularity without the fear of future exposure. Hopelessly excluded from power, he expresses the wildest opinions, and appeals to the most mischievous passions of the people, without any apprehension of having his sincerity or prudence hereafter tested, by being placed in a position to carry his views into effect; and thus the prominent places in the ranks of opposition are occupied for the most part by men of strong passions, and merely declamatory powers, who think but little of reforming the abuses which serve them as topics for exciting discontent.

II

Such are the lamentable results of the political and social evils which have so long agitated the

Canadas; and such is their condition, that, at the present moment, we are called on to take immediate precautions against dangers so alarming as those of rebellion, foreign invasion, and utter exhaustion and depopulation. When I look on the various and deep-rooted causes of mischief which the past inquiry has pointed out as existing in every institution, in the constitutions, and in the very composition of society throughout a great part of these Provinces, I almost shrink from the apparent presumption of grappling with these gigantic difficulties. Nor shall I attempt to do so in detail. I rely on the efficacy of reform in the constitutional system by which these Colonies are governed, for the removal of every abuse in their administration which defective institutions have engendered. If a system can be devised which shall lay in these countries the foundation of an efficient and popular government, ensure harmony, in place of collision, between the various powers of the State, and bring the influence of a vigorous public opinion to bear on every detail of public affairs, we may rely on sufficient remedies being found for the present vices of the administrative system.

The preceding pages have sufficiently pointed out the nature of those evils, to the extensive operation of which, I attribute the various practical grievances, and the present unsatisfactory condition of the North American Colonies. It is not by weakening, but strengthening the influence of the people on its Government; by confining

within much narrower bounds than those hitherto allotted to it, and not by extending the interference of the imperial authorities in the details of colonial affairs, that I believe that harmony is to be restored, where dissension has so long prevailed; and a regularity and vigour hitherto unknown, introduced into the administration of these Provinces. It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British constitution, and introduce into the Government of these great Colonies those wise provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are not now to consider the policy of establishing representative government in the North American Colonies. That has been irrevocably done; and the experiment of depriving the people of their present constitutional power, is not to be thought of. To conduct their Government harmoniously, in accordance with its established principles, is now the business of its rulers; and I know not how it is possible to secure that harmony in any other way, than by administering the Government on those principles which have been found perfectly efficacious in Great Britain. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these Colonies require the protection of prerogatives, which have not hitherto been exercised. But

the Crown must, on the other hand, submit to the necessary consequences of representative institutions; and, if it has to carry on the Government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence.

In England, this principle has been so long considered an indisputable and essential part of our constitution, that it has really hardly ever been found necessary to inquire into the means by which its observance is enforced. When a ministry ceases to command a majority in Parliament on great questions of policy, its doom is immediately sealed; and it would appear to us as strange to attempt, for any time, to carry on a Government by means of ministers perpetually in a minority, as it would be to pass laws with a majority of votes against them. The ancient constitutional remedies, by impeachment and a stoppage of the supplies, have never, since the reign of William III, been brought into operation for the purpose of removing a ministry. They have never been called for, because, in fact, it has been the habit of ministers rather to anticipate the occurrence of an absolutely hostile vote, and to retire, when supported only by a bare and uncertain majority. If Colonial Legislatures have frequently stopped the supplies, if they have harassed public servants by unjust or harsh impeachments, it was because the removal of an unpopular administration could not be effected in the Colonies by those milder indications of a want of confidence, which have

always sufficed to attain the end in the mother country.

The means which have occasionally been proposed in the Colonies themselves appear to me by no means calculated to attain the desired end in the best way. These proposals indicate such a want of reliance on the willingness of the Imperial Government to acquiesce in the adoption of a better system, as, if warranted, would render an harmonious adjustment of the different powers of the State utterly hopeless. An elective executive council would not only be utterly inconsistent with monarchical government, but would really, under the nominal authority of the Crown, deprive the community of one of the great advantages of an hereditary monarchy. Every purpose of popular control might be combined with every advantage of vesting the immediate choice of advisers in the Crown, were the Colonial Governor to be instructed to secure the co-operation of the Assembly in his policy, by entrusting its administration to such men as could command a majority; and if he were given to understand that he need count on no aid from home in any difference with the Assembly, that should not directly involve the relations between the mother country and the Colony. This change might be effected by a single dispatch containing such instructions; or, if any legal enactment were requisite, it would only be one that would render it necessary that the official acts of the Governor should be countersigned by some public functionary. This would induce responsibility for every act of the Government, and, as a natural consequence, it would

necessitate the substitution of a system of administration, by means of competent heads of departments, for the present rude machinery of an executive council. The Governor, if he wished to retain advisers not possessing the confidence of the existing Assembly, might rely on the effect of an appeal to the people, and, if unsuccessful, he might be coerced by a refusal of supplies, or his advisers might be terrified by the prospect of impeachment. But there can be no reason for apprehending that either party would enter on a contest, when each would find its interest in the maintenance of harmony; and the abuse of the powers which each would constitutionally possess, would cease when the struggle for larger powers became unnecessary. Nor can I conceive that it would be found impossible or difficult to conduct a Colonial Government with precisely that limitation of the respective powers which has been so long and so easily maintained in Great Britain.

I know that it has been urged that the principles, which are productive of harmony and good government in the mother country, are by no means applicable to a colonial dependency. It is said that it is necessary that the administration of a colony should be carried on by persons nominated without any reference to the wishes of its people; that they have to carry into effect the policy, not of that people, but of the authorities at home; and that a colony which should name all its own administrative functionaries, would, in fact, cease to be dependent. I admit that the system which I propose would, in fact, place the

internal government of the colony in the hands of the colonists themselves; and that we should thus leave to them the execution of the laws, of which we have long entrusted the making solely to them. Perfectly aware of the value of our colonial possessions, and strongly impressed with the necessity of maintaining our connexion with them, I know not in what respect it can be desirable that we should interfere with their internal legislation in matters which do not affect their relations with the mother country. The matters, which so concern us, are very few. The constitution of the form of government,—the regulation of foreign relations, and of trade with the mother country, the other British Colonies, and foreign nations,—and the disposal of the public lands, are the only points on which the mother country requires a control. This control is now sufficiently secured by the authority of the Imperial Legislature; by the protection which the Colony derives from us against foreign enemies; by the beneficial terms which our laws secure to its trade; and by its share of the reciprocal benefits which would be conferred by a wise system of colonization. A perfect subordination, on the part of the Colony, on these points, is secured by the advantages which it finds in the continuance of its connexion with the Empire. It certainly is not strengthened, but greatly weakened, by a vexatious interference on the part of the Home Government, with the enactment of laws for regulating the internal concerns of the Colony, or in the selection of the persons entrusted with their execution. The colonists may

not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but, at least, they have a greater interest in coming to a right judgement on these points, and will take greater pains to do so, than those whose welfare is very remotely and slightly affected by the good or bad legislation of these portions of the Empire. If the colonists make bad laws, and select improper persons to conduct their affairs, they will generally be the only, always the greatest, sufferers; and, like the people of other countries, they must bear the ills which they bring on themselves, until they choose to apply the remedy. But it surely cannot be the duty or the interest of Great Britain to keep a most expensive military possession of these Colonies, in order that a Governor or Secretary of State may be able to confer colonial appointments on one rather than another set of persons in the Colonies. For this is really the only question at issue. The slightest acquaintance with these Colonies proves the fallacy of the common notion, that any considerable amount of patronage in them is distributed among strangers from the mother country. Whatever inconvenience a consequent frequency of changes among the holders of office may produce, is a necessary disadvantage of free government, which will be amply compensated by the perpetual harmony which the system must produce between the people and its rulers. Nor do I fear that the character of the public servants will, in any respect, suffer from a more popular tenure of office. For I can conceive no system so calculated to fill

important posts with inefficient persons as the present, in which public opinion is too little consulted in the original appointment, and in which it is almost impossible to remove those who disappoint the expectations of their usefulness, without inflicting a kind of brand on their capacity or integrity.

I am well aware that many persons, both in the Colonies and at home, view the system which I recommend with considerable alarm, because they distrust the ulterior views of those by whom it was originally proposed, and whom they suspect of urging its adoption, with the intent only of enabling them more easily to subvert monarchical institutions, or assert the independence of the Colony. I believe, however, that the extent to which these ulterior views exist, has been greatly overrated. We must not take every rash expression of disappointment as an indication of a settled aversion to the existing constitution; and my own observation convinces me, that the predominant feeling of all the English population of the North American Colonies is that of devoted attachment to the mother country. I believe that neither the interests nor the feelings of the people are incompatible with a Colonial Government, wisely and popularly administered. The proofs, which many, who are much dissatisfied with the existing administration of the Government, have given of their loyalty, are not to be denied or overlooked. The attachment constantly exhibited by the people of these Provinces towards the British Crown and Empire has all the characteristics of a strong national feeling. They value

the institutions of their country, not merely from a sense of the practical advantages which they confer, but from sentiments of national pride; and they uphold them the more, because they are accustomed to view them as marks of nationality, which distinguish them from their Republican neighbours. I do not mean to affirm that this is a feeling which no impolicy on the part of the mother country will be unable to impair; but I do most confidently regard it as one which may, if rightly appreciated, be made the link of an enduring and advantageous connexion. The British people of the North American Colonies are a people on whom we may safely rely, and to whom we must not grudge power. For it is not to the individuals who have been loudest in demanding the change, that I propose to concede the responsibility of the Colonial administration, but to the people themselves. Nor can I conceive that any people, or any considerable portion of a people, will view with dissatisfaction a change which would amount simply to this, that the Crown would henceforth consult the wishes of the people in the choice of its servants.

The important alteration in the policy of the Colonial Government which I recommend, might be wholly or in great part effected for the present by the unaided authority of the Crown; and I believe that the great mass of discontent in Upper Canada, which is not directly connected with personal irritation, arising out of the incidents of the late troubles, might be dispelled by an assurance that the government of the Colony should henceforth be carried on in conformity with the

views of the majority in the Assembly. But I think that for the well-being of the Colonies, and the security of the mother country, it is necessary that such a change should be rendered more permanent than a momentary sense of the existing difficulties can ensure its being. I cannot believe that persons in power in this country will be restrained from the injudicious interference with the internal management of these Colonies, which I deprecate, while they remain the petty and divided communities which they now are. The public attention at home is distracted by the various and sometimes contrary complaints of these different contiguous Provinces. Each now urges its demands at different times, and in somewhat different forms, and the interests which each individual complainant represents as in peril, are too petty to attract the due attention of the Empire. But if these important and extensive Colonies should speak with one voice, if it were felt that every error of our colonial policy must cause a common suffering and a common discontent throughout the whole wide extent of British America, those complaints would never be provoked; because no authority would venture to run counter to the wishes of such a community, except on points absolutely involving the few imperial interests, which it is necessary to remove from the jurisdiction of Colonial legislation.

It is necessary that I should also recommend what appears to me an essential limitation on the present powers of the representative bodies in these Colonies. I consider good government not

to be attainable while the present unrestricted powers of voting public money, and of managing the local expenditure of the community, are lodged in the hands of an Assembly. As long as a revenue is raised, which leaves a large surplus after the payment of the necessary expenses of the civil Government, and as long as any member of the Assembly may, without restriction, propose a vote of public money, so long will the Assembly retain in its hands the powers which it everywhere abuses, of misapplying that money. The prerogative of the Crown, which is constantly exercised in Great Britain for the real protection of the people, ought never to have been waived in the Colonies; and if the rule of the Imperial Parliament, that no money vote should be proposed without the previous consent of the Crown, were introduced into these Colonies, it might be wisely employed in protecting the public interests now frequently sacrificed in that scramble for local appropriations, which chiefly serves to give an undue influence to particular individuals or parties.

The establishment of a good system of municipal institutions throughout these Provinces is a matter of vital importance. A general legislature, which manages the private business of every parish, in addition to the common business of the country, wields a power which no single body, however popular in its constitution, ought to have; a power which must be destructive of any constitutional balance. The true principle of limiting popular power is that apportionment of it in many different depositaries which has been

adopted in all the most free and stable States of the Union. Instead of confiding the whole collection and distribution of all the revenues raised in any country for all general and local purposes to a single representative body, the power of local assessment, and the application of the funds arising from it, should be entrusted to local management. It is in vain to expect that this sacrifice of power will be voluntarily made by any representative body. The establishment of municipal institutions for the whole country should be made a part of every colonial constitution; and the prerogative of the Crown should be constantly interposed to check any encroachment on the functions of the local bodies, until the people should become alive, as most assuredly they almost immediately would be, to the necessity of protecting their local privileges.

The establishment of a sound and general system for the management of the lands and the settlement of the Colonies, is a necessary part of any good and durable system of government. [In a report contained in the Appendix to the present, the plan which I recommend for this purpose will be fully developed.]

These general principles apply, however, only to those changes in the system of government which are required in order to rectify disorders common to all the North American Colonies; but they do not in any degree go to remove those evils in the present state of Lower Canada which require the most immediate remedy. The fatal feud of origin, which is the cause of the most extensive mischief, would be aggravated at the

present moment by any change, which should give the majority more power than they have hitherto possessed. A plan by which it is proposed to ensure the tranquil government of Lower Canada, must include in itself the means of putting an end to the agitation of national disputes in the legislature, by settling, at once and for ever, the national character of the Province. I entertain no doubts as to the national character which must be given to Lower Canada; it must be that of the British Empire; that of the majority of the population of British America; that of the great race which must, in the lapse of no long period of time, be predominant over the whole North American Continent. Without effecting the change so rapidly or so roughly as to shock the feelings and trample on the welfare of the existing generation, it must henceforth be the first and steady purpose of the British Government to establish an English population, with English laws and language, in this Province, and to trust its government to none but a decidedly English Legislature.

III

On these grounds, I believe that no permanent or efficient remedy can be devised for the dis-

orders of Lower Canada, except a fusion of the Government in that of one or more of the surrounding Provinces; and as I am of opinion that the full establishment of responsible government can only be permanently secured by giving these Colonies an increased importance in the politics of the Empire, I find in union the only means of remedying at once and completely the two prominent causes of their present unsatisfactory condition.

Two kinds of union have been proposed,—federal and legislative. By the first, the separate legislature of each Province would be preserved in its present form, and retain almost all its present attributes of internal legislation; the federal legislature exercising no power, save in those matters of general concern, which may have been expressly ceded to it by the constituent Provinces. A legislative union would imply a complete incorporation of the Provinces included in it under one legislature, exercising universal and sole legislative authority over all of them, in exactly the same manner as the Parliament legislates alone for the whole of the British Isles.

On my first arrival in Canada, I was strongly inclined to the project of a federal union, and it was with such a plan in view, that I discussed a general measure for the government of the Colonies, with the deputations from the Lower Provinces, and with various leading individuals and public bodies in both the Canadas. I was fully aware that it might be objected that a federal union would, in many cases, produce a weak and rather

cumbrous government; that a Colonial federation must have, in fact, little legitimate authority or business, the greater part of the ordinary functions of a federation falling within the scope of the imperial legislature and executive; and that the main inducement to federation, which is the necessity of conciliating the pretensions of independent states to the maintenance of their own sovereignty, could not exist in the case of Colonial dependencies, liable to be moulded according to the pleasure of the supreme authority at home. In the course of the discussions which I have mentioned, I became aware also of great practical difficulties in any plan of federal government, particularly those that must arise in the management of the general revenues, which would in such a plan have to be again distributed among the Provinces. But I had still more strongly impressed on me the great advantages of an united Government; and I was gratified by finding the leading minds of the various Colonies strongly and generally inclined to a scheme that would elevate their countries into something like a national existence. I thought that it would be the tendency of a federation sanctioned and consolidated by a monarchical Government gradually to become a complete legislative union; and that thus, while conciliating the French of Lower Canada, by leaving them the government of their own Province and their own internal legislation, I might provide for the protection of British interests by the general government, and for the gradual transition of the Provinces into an united and homogeneous community.

But the period of gradual transition is past in Lower Canada. In the present state of feeling among the French population, I cannot doubt that any power which they might possess would be used against the policy and the very existence of any form of British government. I cannot doubt that any French Assembly that shall again meet in Lower Canada will use whatever power, be it more or less limited, it may have, to obstruct the Government, and undo whatever has been done by it. Time, and the honest co-operation of the various parties, would be required to aid the action of a federal constitution; and time is not allowed, in the present state of Lower Canada, nor co-operation to be expected from a legislature, of which the majority shall represent its French inhabitants. I believe that tranquillity can only be restored by subjecting the Province to the vigorous rule of an English majority; and that the only efficacious government would be that formed by a legislative union.

If the population of Upper Canada is rightly estimated at 400,000, the English inhabitants of Lower Canada at 150,000, and the French at 450,000, the union of the two Provinces would not only give a clear English majority, but one which would be increased every year by the influence of English emigration; and I have little doubt that the French, when once placed, by the legitimate course of events and the working of natural causes, in a minority, would abandon their vain hopes of nationality. I do not mean that they would immediately give up their pre-

sent animosities, or instantly renounce the hope of attaining their end by violent means. But the experience of the two Unions in the British Isles may teach us how effectually the strong arm of a popular legislature would compel the obedience of the refractory population; and the hopelessness of success, would gradually subdue the existing animosities, and incline the French Canadian population to acquiesce in their new state of political existence. I certainly should not like to subject the French Canadians to the rule of the identical English minority with which they have so long been contending; but from a majority, emanating from so much more extended a source, I do not think they would have any oppression or injustice to fear; and in this case, the far greater part of the majority, never having been brought into previous collision, would regard them with no animosity that could warp their natural sense of equity. The endowments of the Catholic Church in Lower Canada, and the existence of all its present laws, until altered by the united Legislature, might be secured by stipulations similar to those adopted in the Union between England and Scotland. I do not think that the subsequent history of British legislation need incline us to believe, that the nation which has a majority in a popular legislature is likely to use its power to tamper very hastily with the laws of the people to which it is united.

The union of the two Provinces would secure to Upper Canada the present great objects of its desire. All disputes as to the division or amount

of the revenue would cease. The surplus revenue of Lower Canada would supply the deficiency of that part of the upper Province; and the Province thus placed beyond the possibility of locally jobbing the surplus revenue, which it cannot reduce, would, I think, gain as much by the arrangement as the Province, which would thus find a means of paying the interest of its debt. Indeed it would be by no means unjust to place this burthen on Lower Canada, inasmuch as the great public works, for which the debt was contracted, are as much the concern of one Province as of the other. Nor is it to be supposed that, whatever may have been the mismanagement, in which a great part of the debt originated, the canals of Upper Canada will always be a source of loss, instead of profit. The completion of the projected and necessary line of public works would be promoted by such an union. The access to the sea would be secured to Upper Canada. The saving of public money, which would be ensured by the union of various establishments in the two Provinces, would supply the means of conducting the general Government on a more efficient scale than it has yet been carried on. And the responsibility of the executive would be secured by the increased weight which the representative body of the United Province would bring to bear on the Imperial Government and Legislature.

But while I convince myself that such desirable ends would be secured by the legislative union of the two Provinces, I am inclined to go further, and inquire whether all these objects would not

more surely be attained, by extending this legislative union over all the British Provinces in North America; and whether the advantages which I anticipate for two of them, might not, and should not in justice be extended over all. Such an union would at once decisively settle the question of races; it would enable all the Provinces to co-operate for all common purposes; and, above all, it would form a great and powerful people, possessing the means of securing good and responsible government for itself, and which, under the protection of the British Empire, might in some measure counterbalance the preponderant and increasing influence of the United States on the American continent. I do not anticipate that a Colonial Legislature thus strong and thus self-governing, would desire to abandon the connexion with Great Britain. On the contrary, I believe that the practical relief from undue interference, which would be the result of such a change, would strengthen the present bond of feelings and interests; and that the connexion would only become more durable and advantageous, by having more of equality, of freedom, and of local independence. But at any rate, our first duty is to secure the well-being of our colonial countrymen; and if in the hidden decrees of that wisdom by which this world is ruled, it is written, that these countries are not for ever to remain portions of the Empire, we owe it to our honour to take good care that, when they separate from us, they should not be the only countries on the American continent in which the Anglo-Saxon race shall be found unfit to govern itself.

I am, in truth, so far from believing that the increased power and weight that would be given to these Colonies by union would endanger their connexion with the Empire, that I look to it as the only means of fostering such a national feeling throughout them as would effectually counterbalance whatever tendencies may now exist towards separation. No large community of free and intelligent men will long feel contented with a political system which places them, because it places their country, in a position of inferiority to their neighbours. The colonist of Great Britain is linked, it is true, to a mighty Empire; and the glories of its history, the visible signs of its present power, and the civilization of its people, are calculated to raise and gratify his national pride. But he feels, also, that his link to that Empire is one of remote dependence; he catches but passing and inadequate glimpses of its power and prosperity; he knows that in its government he and his own countrymen have no voice. While his neighbour on the other side of the frontier assumes importance, from the notion that his vote exercises some influence on the councils, and that he himself has some share in the onward progress of a mighty nation, the colonist feels the deadening influence of the narrow and subordinate community to which he belongs. In his own, and in the surrounding Colonies, he finds petty objects occupying petty, stationary and divided societies; and it is only when the chances of an uncertain and tardy communication bring intelligence of what has passed a month before on the other side of the Atlantic, that he is reminded of the

Empire with which he is connected. But the influence of the United States surrounds him on every side, and is for ever present. It extends itself as population augments and intercourse increases; it penetrates every portion of the continent into which the restless spirit of American speculation impels the settler or the trader; it is felt in all the transactions of commerce, from the important operations of the monetary system down to the minor details of ordinary traffic; it stamps, on all the habits and opinions of the surrounding countries, the common characteristics of the thoughts, feelings and customs of the American people. Such is necessarily the influence which a great nation exercises on the small communities which surround it. Its thoughts and manners subjugate them, even when nominally independent of its authority. If we wish to prevent the extension of this influence, it can only be done by raising up for the North American colonist some nationality of his own; by elevating these small and unimportant communities into a society having some objects of a national importance; and by thus giving their inhabitants a country which they will be unwilling to see absorbed even into one more powerful.

While I believe that the establishment of a comprehensive system of Government, and of an effectual union between the different Provinces, would produce this important effect on the general feelings of their inhabitants, I am inclined to attach very great importance to the influence which it would have in giving greater scope and satisfaction to the legitimate ambition of the most

active and prominent persons to be found in them. As long as personal ambition is inherent in human nature, and as long as the morality of every free and civilized community encourages its aspirations, it is one great business of a wise Government to provide for its legitimate development. If, as it is commonly asserted, the disorders of these Colonies have, in great measure, been fomented by the influence of designing and ambitious individuals, this evil will best be remedied by allowing such a scope for the desires of such men as shall direct their ambition into the legitimate chance of furthering, and not of thwarting, their Government. By creating high prizes in a general and responsible Government we shall immediately afford the means of pacifying the turbulent ambitions, and of employing in worthy and noble occupations the talents which now are only exerted to foment disorder. We must remove from these Colonies the cause to which the sagacity of Adam Smith traced the alienation of the Provinces which now form the United States: we must provide some scope for what he calls 'the importance' of the leading men in the Colony, beyond what he forcibly terms the present 'petty prizes of the paltry raffle of colonial faction.' A general Legislative Union would elevate and gratify the hopes of able and aspiring men. They would no longer look with envy and wonder at the great arena of the bordering federation, but see the means of satisfying every legitimate ambition in the high offices of the Judicature and Executive Government of their own Union.

Nor would an union of the various Provinces be less advantageous in facilitating a co-operation for various common purposes, of which the want is now very seriously felt. There is hardly a department of the business of Government which does not require, or would not be better performed, by being carried on under the superintendence of a general Government; aad when we consider the political and commercial interests that are common to these Provinces, it appears difficult to account for their having ever been divided into separate governments, since they have all been portions of the same Empire, subject to the same Crown, governed by nearly the same laws and constitutional customs, inhabited, with one exception, by the same race, contiguous and immediately adjacent to each other, and bounded along their whole frontier by the territories of the same powerful and rival State. It would appear that every motive that has induced the union of various Provinces into a single State, exists for the consolidation of these Colonies under a common legislature and executive. They have the same common relation to the mother country; the same relation to foreign nations. When one is at war, the others are at war; and the hostilities that are caused by an attack on one, must seriously compromise the welfare of the rest. Thus the dispute between Great Britain and the State of Maine, appears immediately to involve the interests of none of these Colonies, except New Brunswick or Lower Canada, to one of which the territory claimed by us must belong. But, if a war were to commence on this ground, it is

most probable that the American Government would select Upper Canada as the most vulnerable, or, at any rate, as the easiest point of attack. A dispute respecting the fisheries of Nova Scotia would involve precisely the same consequences. An union for common defence against foreign enemies is the natural bond of connexion that holds together the great communities of the world; and between no parts of any Kingdom or State is the necessity for such an union more obvious than between the whole of these Colonies.

Their internal relations furnish quite as strong motives for union. The Post Office is at the present moment under the management of the same imperial establishment. If, in compliance with the reasonable demands of the Colonies, the regulation of a matter so entirely of internal concern, and the revenue derived from it, were placed under the control of the Provincial Legislatures, it would still be advisable that the management of the Post Office throughout the whole of British North America should be conducted by one general establishment. In the same way, so great is the influence on the other Provinces of the arrangements adopted with respect to the disposal of public lands and colonization in any one, that it is absolutely essential that this department of Government should be conducted on one system, and by one authority. The necessity of common fiscal regulations is strongly felt by all the Colonies; and a common custom-house establishment would relieve them from the hindrances to their trade, caused by the duties now

levied on all commercial intercourse between them. The monetary and banking system of all is subject to the same influences, and ought to be regulated by the same laws. The establishment of a common colonial currency is very generally desired. Indeed, I know of no department of Government that would not greatly gain, both in economy and efficiency, by being placed under a common management. I should not propose, at first, to alter the existing public establishments of the different Provinces, because the necessary changes had better be left to be made by the united Government; and the judicial establishments should certainly not be disturbed until the future legislature shall provide for their re-construction, on an uniform and permanent footing. But even in the administration of justice, an union would immediately supply a remedy for one of the most serious wants under which all the Provinces labour, by facilitating the formation of a general appellate tribunal for all the North American Colonies.

But the interests which are already in common between all these Provinces are small in comparison with those which the consequences of such an union might, and I think I may say assuredly would, call into existence; and the great discoveries of modern art, which have throughout the world, and nowhere more than in America, entirely altered the character and the channels of communication between distant countries, will bring all the North American Colonies into constant and speedy intercourse with each other. The success of the great experiment of steam

navigation across the Atlantic opens a prospect of a speedy communication with Europe, which will materially affect the future state of all these Provinces. In a Despatch which arrived in Canada after my departure, the Secretary of State informed me of the determination of your Majesty's Government to establish a steam communication between Great Britain and Halifax; and instructed me to turn my attention to the formation of a road between that port and Quebec. It would, indeed, have given me sincere satisfaction, had I remained in the Province, to promote, by any means in my power, so highly desirable an object; and the removal of the usual restrictions on my authority as Governor-General, having given me the means of effectually acting in concert with the various Provincial Governments, I might have been able to make some progress in the work. But I cannot point out more strikingly the evils of the present want of a general government for these Provinces, than by adverting to the difficulty which would practically occur, under the previous and present arrangements of both Executive and Legislative authorities in the various Provinces, in attempting to carry such a plan into effect. For the various Colonies have no more means of concerting such common works with each other, than with the neighbouring States of the Union. They stand to one another in the position of foreign States, and of foreign States without diplomatic relations. The Governors may correspond with each other: the Legislatures may enact laws, carrying the common purposes into effect in their respective juris-

dictions; but there is no means by which the various details may speedily and satisfactorily be settled with the concurrence of the different parties. And, in this instance, it must be recollected that the communication and the final settlement would have to be made between, not two, but several of the Provinces. The road would run through three of them; and Upper Canada, into which it would not enter, would, in fact, be more interested in the completion of such a work than any even of the Provinces through which it would pass. The Colonies, indeed, have no common centre in which the arrangement could be made, except in the Colonial Office at home; and the details of such a plan would have to be discussed just where the interests of all parties would have the least means of being fairly and fully represented, and where the minute local knowledge necessary for such a matter would be least likely to be found.

The completion of any satisfactory communication between Halifax and Quebec, would, in fact, produce relations between these Provinces, that would render a general union absolutely necessary. Several surveys have proved that a railroad would be perfectly practicable the whole way. Indeed, in North America, the expense and difficulty of making a railroad, bears by no means the excessive proportion to those of a common road that it does in Europe. It appears to be a general opinion in the United States, that the severe snows and frosts of that continent very slightly impede, and do not prevent, the travellings on railroads; and if I am rightly informed, the Utica railroad,

in the northern part of the State of New York, is used throughout the winter. If this opinion be correct, the formation of a railroad from Halifax to Quebec would entirely alter some of the distinguishing characteristics of the Canadas. Instead of being shut out from all direct intercourse with England during half the year, they would possess a far more certain and speedy communication throughout the winter than they now possess in summer. The passage from Ireland to Quebec would be a matter of 10 or 12 days, and Halifax would be the great port by which a large portion of the trade, and all the conveyance of passengers to the whole of British North America, would be carried on. But even supposing these brilliant prospects to be such as we could not reckon on seeing realized, I may assume that it is not intended to make this road without a well-founded belief that it will become an important channel of communication between the Upper and Lower Provinces. In either case, would not the maintenance of such a road, and the mode in which the Government is administered in the different Provinces, be matters of common interest to all? If the great natural channel of the St. Lawrence gives all the people who dwell in any part of its basin such an interest in the government of the whole as renders it wise to incorporate the two Canadas, the artificial work which would, in fact, supersede the lower part of the St. Lawrence, as the outlet of a great part of the Canadian trade, and would make Halifax, in a great measure, an outport to Quebec, would surely in the same way render it advisable that the incorporation should

be extended to Provinces through which such a road would pass.

With respect to the two smaller Colonies of Prince Edward's Island and Newfoundland, I am of opinion, that not only would most of the reasons which I have given for an union of the others, apply to them, but that their smallness makes it absolutely necessary, as the only means of securing any proper attention to their interests, and investing them with that consideration, the deficiency of which they have so much reason to lament in all the disputes which yearly occur between them and the citizens of the United States, with regard to the encroachments made by the latter on their coasts and fisheries.

The views on which I found my support of a comprehensive union have long been entertained by many persons in these Colonies, whose opinion is entitled to the highest consideration. I cannot, however, refrain from mentioning the sanction of such views by one whose authority Your Majesty will, I may venture to say, receive with the utmost respect. Mr. Sewell, the late Chief Justice of Quebec, laid before me an autograph letter addressed to himself by Your Majesty's illustrious and lamented father, in which his Royal Highness was pleased to express his approbation of a similar plan then proposed by that gentleman. No one better understood the interests and character of these Colonies than his Royal Highness; and it is with peculiar satisfaction, therefore, that I submit to Your Majesty's perusal the important document which contains his Royal Highness's opinion in favour of such a scheme:—

KENSINGTON PALACE,
November 30, 1814.

MY DEAR SEWELL,

I have this day had the pleasure of receiving your note of yesterday, with its interesting enclosure: nothing can be better arranged than the whole thing is, or more perfectly I cannot wish; and, when I see an opening, it is fully my intention to hint the matter to Lord Bathurst, and put the paper into his hands, without, however, telling him from whom I have it, though I shall urge him to have some conversation with you relative to it. Permit me, however, just to ask you whether it was not an oversight in you to state that there are *five* Houses of Assembly in the British Colonies in North America? for if I am not under an error, there are *six*, viz. Upper and Lower Canada, Nova Scotia and New Brunswick, the Islands of Prince Edward and Cape Breton. Allow me also to beg of you to put down the proportions in which you think the thirty members of the representative Assembly ought to be furnished by each province; and, finally, to suggest whether you would not think two Lieutenant Governors, with two Executive Councils, sufficient for the Executive Government of the whole, viz. one for the two Canadas and one for Nova Scotia and New Brunswick, comprehending the small dependencies of Cape Breton and Prince Edward's Island; the former to reside at Montreal, and the latter at whichever of the two situations may be considered most central for the two Provinces, whether Annapolis Royal or Windsor. But at all events, should you even consider four Executive Governments and four Executive Councils requisite, I presume there cannot be a question of the expediency of comprehending the two small islands in the Gulf of St. Lawrence with Nova Scotia.

Believe me ever to remain, with the most friendly regard,

My dear Sewell, yours faithfully,

EDWARD.

I know of but one difficulty in the way of such an union; and that arises from the disinclination which some of the Lower Provinces might feel to the transference of powers from their present Legislatures to that of the Union. The objection to this would arise principally, I imagine, from their not liking to give up the immediate control which they now have over the funds by which their local expenditure is defrayed. I have given such a view of the evils of this system, that I cannot be expected to admit that an interference with it would be an objection to my plan. I think, however, that the Provinces would have a right to complain, if these powers of local management, and of distributing funds for local purposes, were taken from Provincial Assemblies only to be placed in the yet more objectionable hands of a general legislature. Every precaution should, in my opinion, be taken to prevent such a power, by any possibility, falling into the hands of the Legislature of the Union. In order to prevent that, I would prefer that the Provincial Assemblies should be retained, with merely municipal powers. But it would be far better, in point both of efficiency and of economy, that this power should be entrusted to the municipal bodies of much smaller districts; and the formation of such bodies would, in my opinion, be an essential part of any durable and complete Union.

With such views, I should without hesitation recommend the immediate adoption of a general legislative union of all the British Provinces in North America, if the regular course of Government were suspended or perilled in the Lower

Provinces, and the necessity of the immediate adoption of a plan for their government, without reference to them, a matter of urgency; or if it were possible to delay the adoption of a measure with respect to the Canadas until the project of an union could have been referred to the Legislatures of the Lower Provinces. But the state of the Lower Provinces, though it justifies the proposal of an union, would not, I think, render it gracious, or even just, on the part of Parliament to carry it into effect without referring it for the ample deliberation and consent of the people of these Colonies. Moreover, the state of the two Canadas is such, that neither the feelings of the parties concerned nor the interests of the Crown or the Colonies themselves will admit of a single Session, or even of a large portion of a Session of Parliament, being allowed to pass without a definite decision by the Imperial Legislature as to the basis on which it purposes to found the future government of those Colonies.

In existing circumstances, the conclusion to which the foregoing considerations lead me, is that no time should be lost in proposing to Parliament a Bill for repealing the 31 Geo. 3; restoring the union of the Canadas under one Legislature; and re-constituting them as one Province.

The Bill should contain provisions by which any or all of the other North American Colonies may, on the application of the Legislature, be, with the consent of the two Canadas, or their united Legislature, admitted into the union on such terms as may be agreed on between them.

As the mere amalgamation of the Houses of Assembly of the two Provinces would not be advisable, or give at all a due share of representation to each, a Parliamentary Commission should be appointed, for the purpose of forming the electoral divisions and determining the number of members to be returned on the principle of giving representation, as near as may be, in proportion to population. I am averse to every plan that has been proposed for giving an equal number of members to the two Provinces, in order to attain the temporary end of out-numbering the French, because I think the same object will be obtained without any violation of the principles of representation, and without any such appearance of injustice in the scheme as would set public opinion, both in England and America, strongly against it; and because, when emigration shall have increased the English population in the Upper Province, the adoption of such a principle would operate to defeat the very purpose it is intended to serve. It appears to me that any such electoral arrangement, founded on the present provincial divisions, would tend to defeat the purposes of union, and perpetuate the idea of disunion.

At the same time, in order to prevent the confusion and danger likely to ensue from attempting to have popular elections in districts recently the seats of open rebellion, it will be advisable to give the Governor a temporary power of suspending by proclamation, stating specifically the grounds of his determination, the writs of electoral districts in which he may be of opinion that elections could not safely take place.

The same commission should form a plan of local government by elective bodies subordinate to the general legislature, and exercising a complete control over such local affairs as do not come within the province of general legislation. The plan so framed should be made an Act of the Imperial Parliament, so as to prevent the general legislature from encroaching on the powers of the local bodies.

A general executive on an improved principle should be established, together with a Supreme Court of Appeal, for all the North American Colonies. The other establishments and laws of the two Colonies should be left unaltered, until the Legislature of the Union should think fit to change them; and the security of the existing endowments of the Catholic Church in Lower Canada should be guaranteed by the Act.

The constitution of a second legislative body for the United Legislature, involves questions of very great difficulty. The present constitution of the Legislative Councils of these Provinces has always appeared to me inconsistent with sound principles, and little calculated to answer the purpose of placing the effective check which I consider necessary on the popular branch of the Legislature. The analogy which some persons have attempted to draw between the House of Lords and the Legislative Councils seems to me erroneous. The constitution of the House of Lords is consonant with the frame of English society; and, as the creation of a precisely similar body in such a state of society as that of these Colonies is impossible, it has always appeared to me most unwise to

attempt to supply its place by one which has no point of resemblance to it, except that of being a non-elective check on the elective branch of the Legislature. The attempt to invest a few persons, distinguished from their fellow-colonists neither by birth nor hereditary property, and often only transiently connected with the country, with such a power, seems only calculated to ensure jealousy and bad feelings in the first instance, and collision at last. I believe that when the necessity of relying, in Lower Canada, on the English character of the Legislative Council as a check on the national prejudices of a French Assembly shall be removed by the Union, few persons in the Colonies will be found disposed in favour of its present constitution. Indeed, the very fact of union will complicate the difficulties which have hitherto existed; because a satisfactory choice of councillors would have to be made with reference to the varied interests of a much more numerous and extended community.

It will be necessary, therefore, for the completion of any stable scheme of government, that Parliament should revise the constitution of the Legislative Council, and, by adopting every practicable means to give that institution such a character as would enable it, by its tranquil and safe, but effective, working, to act as an useful check on the popular branch of the Legislature, prevent a repetition of those collisions which have already caused such dangerous irritation.

The plan which I have framed for the management of the public lands being intended to promote the common advantage of the Colonies and

of the mother country, I therefore propose that the entire administration of it should be confided to an imperial authority. The conclusive reasons which have induced me to recommend this course, will be found at length in the separate Report on the subject of Public Lands and Emigration.

All the revenues of the Crown, except those derived from this source, should at once be given up to the United Legislature, on the concession of an adequate civil list.

The responsibility to the United Legislature of all officers of the Government, except the Governor and his Secretary, should be secured by every means known to the British Constitution. The Governor, as the representative of the Crown, should be instructed that he must carry on his government by heads of departments, in whom the United Legislature shall repose confidence; and that he must look for no support from home in any contest with the Legislature, except on points involving strictly Imperial interests.

The independence of the Judges should be secured, by giving them the same tenure of office and security of income as exist in England.

No money-votes should be allowed to originate without the previous consent of the Crown.

In the same Act should be contained a repeal of past provisions with respect to the clergy reserves, and the application of the funds arising from them.

In order to promote emigration on the greatest possible scale, and with the most beneficial results to all concerned, I have elsewhere recommended a system of measures which has been expressly

framed with that view, after full inquiry and careful deliberation. Those measures would not subject either the colonies or the mother country to any expense whatever. In conjunction with the measures suggested for disposing of public lands, and remedying the evils occasioned by past mismanagement in that department, they form a plan of colonization to which I attach the highest importance. The objects, at least, with which the plan has been formed, are to provide large funds for emigration, and for creating and improving means of communication throughout the provinces; to guard emigrants of the labouring class against the present risks of the passage; to secure for all of them a comfortable resting-place, and employment at good wages immediately on their arrival; to encourage the investment of surplus British capital in these colonies, by rendering it as secure and as profitable as in the United States; to promote the settlement of wild lands and the general improvement of the colonies; to add to the value of every man's property in land; to extend the demand for British manufactured goods, and the means of paying for them, in proportion to the amount of emigration and the general increase of the colonial people; and to augment the colonial revenues in the same degree.

When the details of the measure, with the particular reasons for each of them, are examined, the means proposed will, I trust, be found as simple as the ends are great; nor have they been suggested by any fanciful or merely speculative view of the subject. They are founded on the facts given in

evidence by practical men; on authentic information, as to the wants and capabilities of the colonies; on an examination of the circumstances which occasion so high a degree of prosperity in the neighbouring States; on the efficient working and remarkable results of improved methods of colonization in other parts of the British Empire; in some measure on the deliberate proposals of a Committee of the House of Commons; and, lastly, on the favourable opinion of every intelligent person in the colonies whom I consulted with respect to them. They involve, no doubt, a considerable change of system, or rather the adoption of a system where there has been none; but this, considering the number and magnitude of past errors, and the present wretched economical state of the colonies, seems rather a recommendation than an objection. I do not flatter myself that so much good can be accomplished without an effort; but in this, as in other suggestions, I have presumed that the Imperial Government and Legislature will appreciate the actual crisis in the affairs of these colonies, and will not shrink from any exertion that may be necessary to preserve them to the Empire.

By the adoption of the various measures here recommended, I venture to hope that the disorders of these Colonies may be arrested, and their future well-being and connexion with the British Empire secured. Of the certain result of my suggestions, I cannot, of course, speak with entire confidence, because it seems almost too much to hope that evils of so long growth, and such extent, can be removed by the tardy application

of even the boldest remedy; and because I know that as much depends upon the consistent vigour and prudence of those who may have to carry it into effect, as on the soundness of the policy suggested. The deep-rooted evils of Lower Canada will require great firmness to remove them. The disorders of Upper Canada, which appear to me to originate entirely in mere defects of its constitutional system, may, I believe, be removed by adopting a more sound and consistent mode of administering the government. We may derive some confidence from the recollection, that very simple remedies yet remain to be resorted to for the first time. And we need not despair of governing a people who really have hitherto very imperfectly known what it is to have a Government.

2. LORD JOHN RUSSELL TO THE RIGHT HON. C. POULETT THOMSON

DOWNING STREET
Oct. 11, 1839.

SIR,

It appears from Sir George Arthur's despatches that you may encounter much difficulty in subduing the excitement which prevails on the question of what is called 'Responsible Government.' I have to instruct you, however, to refuse any explanation which may be construed to imply an acquiescence in the petitions and addresses upon this subject. I cannot better commence this despatch than by a reference to the resolutions of both Houses of Parliament of the 28th April and 9th May in the year 1837.

The assembly of Lower Canada having repeatedly pressed this point, her Majesty's confidential advisers at that period thought it necessary not only to explain their views in the communications of the Secretary of State, but expressly called for the opinion of Parliament on the subject. The Crown and the two houses of Lords and Commons having thus decisively pronounced a judgement upon the question, you will consider yourself precluded from entertaining any proposition on the subject.

It does not appear, indeed, that any very definite meaning is generally agreed upon by those who call themselves the advocates of this principle; but its very vagueness is a source of delusion, and if at all encouraged, would prove the cause of embarrassment and danger.

The constitution of England, after long struggles and alternate success, has settled into a form of government in which the prerogative of the Crown is undisputed, but is never exercised without advice. Hence the exercise only is questioned, and, however the use of the authority may be condemned, the authority itself remains untouched.

This is the practical solution of a great problem, the result of a contest which from 1640 to 1690 shook the monarchy and disturbed the peace of the country.

But if we seek to apply such a practice to a colony, we shall at once find ourselves at fault. The power for which a minister is responsible in England, is not his own power, but the power of the Crown, of which he is for the time the organ. It is obvious that the executive councillor of a colony is in a situation totally different. The Governor, under whom he serves, receives his orders from the Crown of England. But can the colonial council be the advisers of the Crown of England? Evidently not, for the Crown has other advisers, for the same functions, and with superior authority.

It may happen, therefore, that the Governor receives at one and the same time instructions from the Queen, and advice from his executive

council totally at variance with each other. If he is to obey his instructions from England, the parallel of constitutional responsibility entirely fails; if, on the other hand, he is to follow the advice of his council he is no longer a subordinate officer, but an independent sovereign.

There are some cases in which the force of these objections is so manifest, that those who at first made no distinction between the constitution of the United Kingdom, and that of the colonies, admit their strength. I allude to the questions of foreign war and international relations, whether of trade or diplomacy. It is now said that internal government is alone intended. But there are some cases of internal government in which the honour of the Crown or the faith of Parliament, or the safety of the state, are so seriously involved, that it would not be possible for Her Majesty to delegate her authority to a ministry in a colony.

I will put for illustration some of the cases which have occurred in that very province where the petition for a responsible executive first arose—I mean Lower Canada.

During the time when a large majority of the Assembly of Lower Canada followed M. Papineau as their leader, it was obviously the aim of that gentleman to discourage all who did their duty to the Crown within the province, and to deter all who should resort to Canada with British habits and feelings from without. I need not say that it would have been impossible for any minister to support, in the Parliament of the United Kingdom, the measures which a ministry, headed

by M. Papineau, would have imposed upon the Governor of Lower Canada:—British officers punished for doing their duty; British emigrants defrauded of their property; British merchants discouraged in their lawful pursuits, would have loudly appealed to Parliament against the Canadian ministry and would have demanded protection.

Let us suppose the Assembly as then constituted to have been sitting when Sir John Colborne suspended two of the judges. Would any councillor, possessing the confidence of the Assembly, have made himself responsible for such an act? And yet the very safety of the province depended on its adoption. Nay, the very orders of which your Excellency is yourself the bearer respecting Messrs. Bedard and Panet, would never be adopted or put in execution by a ministry depending for existence on a majority led by M. Papineau.

Nor can any one take upon himself to say that such cases will not again occur. The principle once sanctioned, no one can say how soon its application might be dangerous, or even dishonourable, while all will agree that to recall the power thus conceded would be impossible.

While I thus see insuperable objections to the adoption of the principle as it has been stated, I see little or none to the practical views of colonial government recommended by Lord Durham, as I understand them. The Queen's government have no desire to thwart the representative assemblies of British North America in their measures of reform and improvement. They have no wish to

make those provinces the resource for patronage at home. They are earnestly intent on giving to the talent and character of leading persons in the colonies, advantages similar to those which talent and character, employed in the public service, obtain, in the United Kingdom. Her Majesty has no desire to maintain any system of policy among her North American subjects which opinion condemns. In receiving the Queen's commands, therefore, to protest against any declaration at variance with the honour of the Crown, and the unity of the empire, I am at the same time instructed to announce her Majesty's gracious intention to look to the affectionate attachment of her people in North America, as the best security for permanent dominion. It is necessary for this purpose that no official misconduct should be screened by her Majesty's representative in the provinces; and that no private interests should be allowed to compete with the general good.

Your Excellency is fully in possession of the principles which have guided her Majesty's advisers on this subject; and you must be aware that there is no surer way of earning the approbation of the Queen, than by maintaining the harmony of the executive with the legislative authorities.

While I have thus cautioned you against any declaration from which dangerous consequences might hereafter flow, and instructed you as to the general line of your conduct, it may be said that I have not drawn any specific line beyond which the power of the Governor on the one hand, and the privileges of the Assembly on the other, ought not to extend. But this must be the case in any

mixed government. Every political constitution in which different bodies share the supreme power, is only enabled to exist by the forbearance of those among whom this power is distributed. In this respect the example of England may well be imitated. The sovereign using the prerogative of the Crown to the utmost extent, and the House of Commons exerting its power of the purse, to carry all its resolutions into immediate effect, would produce confusion in the country in less than a twelvemonth. So in a colony: the Governor, thwarting every legitimate proposition of the Assembly; and the Assembly continually recurring to its power of refusing supplies, can but disturb all political relations, embarrass trade, and retard the prosperity of the people. Each must exercise a wise moderation. The Governor must only oppose the wishes of the Assembly where the honour of the Crown, or the interests of the empire are deeply concerned; and the Assembly must be ready to modify some of its measures for the sake of harmony, and from a reverent attachment to the authority of Great Britain.

I have, etc.,

J. RUSSELL.

3. THE EARL OF ELGIN AND KINCARDINE TO EARL GREY

GOVERNMENT HOUSE, MONTREAL,
April 30, 1849.

I REGRET to state that rioting, attended with some consequences much to be regretted, though happily with no injury to life, or, except in one instance, to person, has taken place in the city of Montreal during the last few days. I hasten to furnish your Lordship with an account of what has actually occurred, lest you should be misled by exaggerated reports conveyed through the United States.

2. In consequence of the unexpected arrival of vessels with merchandize at the Port of Quebec, it became necessary for me to proceed, on a short notice, to Parliament, on Wednesday last, in order to give the Royal Assent to a Customs Bill which had that day passed the Legislative Council; and I considered that, as this necessity had arisen, it would not be expedient to keep the public mind in suspense by omitting to dispose, at the same time, of the other Acts in which the two branches of the local Parliament had at an earlier period of the session concurred, and which still awaited my decision. Among these was the Act to provide for the indemnification of parties in Lower Canada whose property was destroyed during the

Rebellion in 1837 and 1838, with respect to which, as your Lordship is aware, much excitement has unhappily been stirred.

3. I herewith enclose, for your Lordship's perusal, a printed copy of the Act in question, and I shall not fail by the first mail to furnish you with full information respecting its character and objects, the circumstances which led to its introduction, and the grounds on which I resolved, after much reflection, to sanction it. No money can be paid under it as indemnity for a considerable period, so that her Majesty's power of disallowance can be exercised with effect, should her Majesty be so advised, notwithstanding the course which I have taken. As I am writing this Dispatch in haste, with a view to its transmission by way of New York, I shall confine myself for the present to a statement of the proceedings by which the peace of the city has been disturbed.

4. In order, however, to render this narrative intelligible, I must premise that for some time past the House of Assembly, as at present constituted, has been the object of bitter denunciation, and not infrequently of reckless menace, on the part of a certain portion of the press of the province, and more especially of that of Montreal. Your Lordship will probably recollect that the body in question is the product of a general election which took place about 18 months ago, under the auspices of the political party now in opposition, and after a dissolution, to which I had recourse on their advice, for the purpose of strengthening them in their position as a Government. The result of this measure was in the last degree

unfavourable to those who had recommended it; not, however, so much so in Lower Canada, where the complexion of the representation was little affected by the dissolution, as in the Upper Province, where several constituencies, among which were some of the most populous, rejected Conservative in favour of Liberal candidates. On a question of confidence raised at the commencement of the session, immediately after the general election, the Administration was defeated by a majority of more than two to one, and a change of Government, as a matter of course, ensued.

5. This alteration in the political complexion of the Assembly, and the change of Government consequent upon it, were therefore clearly and distinctly traceable to a revulsion of sentiment in the British constituencies of Upper Canada. In Lower Canada nothing had occurred to account for either. This circumstance has, however, failed to secure for the decisions of the popular representative body either forbearance or respect from a certain section of those who profess to be emphatically the supporters of British interests. To denounce the Parliament as French in its composition, and the Government as subject to French influences, has been their constant object, and the wildest doctrines have been broached with respect to the right which belongs to a British minority of redressing by violence any indignity to which it may be subjected from such a source. I have now before me an article that appeared in one of the principal English newspapers of Montreal at a very early period of the session, of which I transcribe the concluding paragraph, as illustra-

tive of the temper and language in which, even at that time, and before the public mind had been excited by the discussion of the Rebellion Losses Bill, a portion of the press ventured to criticize the proceedings of the local Parliament. The article treats of a measure affecting the townships, to which, I believe, no great objection was raised in Parliament. It terminates, however, in the words—

> We are very glad of it—the sooner the cloven foot is made visible the better: the obvious intention of that majority, composed of Frenchmen, aided by traitorous British Canadians, is to force French institutions still further upon the British minority in Lower Canada. The intention is obvious, as we said, and we are glad that it is openly shown. We trust that the party of the Government will succeed in every one of their obnoxious measures. When French tyranny becomes insupportable we shall find our Cromwell. Sheffield, in the olden times, used to be famous for its keen and well-tempered whittles; well, they make bayonets there now, just as sharp and just as well-tempered. When we can stand tyranny no longer, it will be seen whether good bayonets in Saxon hands will not be more than a match for a mace and a majority.

6. To persons accustomed to the working of constitutional government in well-ordered communities, it may seem incredible that such language should be employed by the organs of any respectable party in reference to a body comprising the freely-chosen representatives of a constituency, formed on a most popular basis; but the cause of the anomaly is apparent enough to all who are acquainted with the history of Canada.

For a series of years the popular representative body and the Executive supported by the Legislative Council were, in the Lower Province especially, in a condition of almost constant antagonism. To revile the one was the surest test of patriotism; to denounce the other, of loyalty. In a society singularly democratic in its structure, where diversities of race supplied special elements of confusion, and where consequently it was most important that constituted authority should be respected, the moral influence of law and Government was enfeebled by the existence of perpetual strife between the powers that ought to have afforded to each other a mutual support. No state of affairs could be imagined less favourable to the extinction of national animosities, and to the firm establishment of the gentle and benignant control of those liberal institutions which it is England's pride and privilege to bestow upon her children.

7. I am not without hope that a steady adherence to the principles of constitutional Government, and the continuance of harmony between the co-ordinate branches of the Legislature, may lead in process of time to the correction of these evils; meanwhile, however, I must ascribe mainly to the cause which I have assigned the tone of arrogant defiance with which the resolutions, not of the Government only, but also of the Parliament, are treated by parties who happen for the moment to be unable to make their views prevail with either, and the acts of violence to which this inflammatory language has in the present instance led.

8. That many persons conscientiously disapprove of the measure respecting rebellion losses in Lower Canada which has been introduced by the Government, and which the local Parliament has passed by large majorities, and that in the minds of others it stirs national antipathies and recollections of former conflicts, which designing politicians seek to improve to their own selfish ends, cannot, I fear, be doubted. It is therefore emphatically a measure which should have been approached with calmness and caution, by all at least who are not directly interested in the issue. Unfortunately, however, this has been by no means the case. Not only have appeals to passion of the most reckless description proceeded from the local press, but they have received encouragement from quarters from which they had little right to look for it. Passages such as the following, in which a London journal of influence treats of the British population as affected by the measure in question :—

> They are tolerably able to take care of themselves, and we very much misconstrue the tone adopted by the English press and English public in the province if they do not find some means of resisting the heavy blow and great discouragement which is aimed at them,

are read with avidity, and construed to mean that sympathy will be extended from influential quarters at home to those who seek to annul the obnoxious decision of the local Legislature, whatever be the means to which they resort for the attainment of that end.

9. The scenes by which the city of Montreal has been lately disgraced, are the natural fruits of an agitation of this character, operating on a people of excitable temper, who have been taught to believe that a race which they despise, and over which they have been wont to exercise dominion, has obtained through the operation of a constitutional system an authority which it could not otherwise have acquired. Hence, more especially, their vehement indignation against me personally, and the conviction, in many cases I doubt not perfectly sincere, that I have been guilty of a serious dereliction of duty because I have not, as my predecessors have often done before me, consented to place myself in the front of an agitation to counteract the policy of Parliament. The nature of the constitutional doctrines which practically obtain in this section of the community, is curiously exemplified by the fact, that it is not the passage of the Bill by an overwhelming majority of the representatives of the people, or the acquiescence of the Council, but the consent of the Governor which furnishes the pretext for an exhibition of popular violence.

10. When I left the House of Parliament after giving the Royal Assent to several Bills, to which I have referred, I was received with mingled cheers and hootings by a crowd by no means numerous which surrounded the entrance to the building. A small knot of individuals consisting, it has since been ascertained, of persons of a respectable class in society pelted the carriage with missiles which they must have brought with them for the purpose. Within an hour after this occurrence,

a notice, of which I enclose a copy, issued from one of the newspaper offices, calling a meeting in the open air. At the meeting inflammatory speeches were made. On a sudden, whether under the effect of momentary excitement, or in pursuance of a plan arranged beforehand, the mob proceeded to the House of Parliament where the members were still sitting, and breaking the windows set fire to the building and burned it to the ground. By this wanton act public property of considerable value, including two excellent libraries, has been utterly destroyed. Having achieved their object the crowd dispersed, apparently satisfied with what they had done. The members were permitted to retire unmolested and no resistance was offered to the military who appeared on the ground after a brief interval, to restore order, and aid in extinguishing the flames. During the two following days a good deal of excitement prevailed in the streets, and some further acts of incendiarism were perpetrated. Since then the military force has been increased, and the leaders of the disaffected party have shown a disposition to restrain their followers, and to direct their energies towards the more constitutional object of petitioning the Queen for my recall, and the disallowance of the obnoxious Bill. The proceedings of the House of Assembly will also tend to awe the turbulent. I trust, therefore, that the peace of the city will not be again disturbed. The newspapers which I enclose contain full, and I believe pretty accurate, accounts of all that has occurred since Wednesday last.

11. The ministry are blamed for not having

made adequate provision against these disasters; that they by no means expected that the hostility to the Rebellion Losses Bill would have displayed itself in the outrages which have been perpetrated during the last few weeks is certain. Perhaps sufficient attention was not paid by them to the menaces of the opposition press. It must be admitted, however, that their position was one of considerable difficulty. The civil force of Montreal—a city containing about 50,000 inhabitants of different races, with secret societies and other agencies of mischief in constant activity—consists of two policemen under the authority of the Government, and seventy appointed by the Corporation. To oppose, therefore, effectual resistance to any considerable mob, recourse must be had in all cases either to the military or to a force of civilians enrolled for the occasion. Grave objections, however, presented themselves in the present instance to the adoption of either of these courses until the disposition to tumult on the part of the populace unhappily manifested itself in overt acts. More especially was it of importance to avoid any measure which might have had a tendency to produce a collision between parties on a question on which their feelings were so strongly excited. The result of the course pursued is, that there has been no bloodshed, and, except in the case of some of the ministers themselves, no destruction of private property.

12. The proceedings in the Assembly have been important. I enclose the copy of an address which has been voted to me by a majority of 36

to 16, expressive of abhorrence at the outrages which have taken place in the city of Montreal, of loyalty to the Queen, and approval of my just and impartial administration of the Government with my late as well as my present advisers. Some of the opposition approve of the course which I have taken with respect to the Rebellion Losses Bill, as appears from the speeches of Messrs. Wilson and Galt, of which reports are given in the newspapers which I enclose. Mr. Wilson is an influential member of the Upper Canada conservative party, and Mr. Galt's views are the more important, because he has been returned to Parliament only a few days ago by a Lower Canadian constituency which comprises a large British population. Generally, however, as the amendments they have moved to the address show, they desire to avoid committing themselves on this point. The votes against the Address may be thus classed: Sir A. M'Nab and his party; my late ministers and their party; and Mr. Papineau. The first acts with perfect consistency in voting as he has done on this question; for he has always contended that government conducted on British principles is unsuited to Canada. The course of the second class is less intelligible; for, until the day on which they resigned their offices into my hands, they uniformly expressed approval of the principles on which my conduct as Governor-General was guided; and these, as your Lordship well knows, have undergone no change with the change of administration. Mr. Papineau's vote conveys a useful lesson which will not, I trust, be lost on persons who had been induced to believe

that the persecution of which I am now the object is really attributable to my having shown undue lenity to those who were led by him into rebellion.

13. I have now furnished your Lordship with as clear a statement of these important occurrences as I can give, and I can conclude by assuring you that the city is perfectly tranquil, and that there is no present likelihood of a renewal of disturbances. A few days will show what echo the proceedings of the violent party awaken in Upper Canada, and to what extent they are followed by reaction. Meanwhile it is my firm conviction that if this dictation be submitted to, the government of this province by constitutional means will be impossible, and that the struggle between overbearing minorities, backed by force, and majorities resting on legality and established forms, which has so long proved the bane of Canada, driving capital from the province, and producing a state of chronic discontent, will be perpetuated. At the same time, I think that if I am unable to recover that position of dignified neutrality between contending parties which it has been my unremitting study to maintain, and from which I would appear to have been for the moment driven—not, as I firmly believe, through any fault of my own, but by the unreasoning violence of faction—it may be a question with your Lordship whether it would not be for the interests of her Majesty's service that I should be removed from my high office to make way for one who should not indeed hold views at variance with mine with respect to the duties of a consti-

tutional Governor, but who should have the advantage of being personally unobnoxious to any section of her Majesty's subjects within the province.

I have, etc.

ELGIN.

4. EARL GREY TO THE EARL OF ELGIN AND KINCARDINE

DOWNING STREET,
May 18, 1849.

MY LORD,

I have received, and laid before the Queen, your Lordship's despatch of the 30th of April giving an account of the scenes by which the City of Montreal has been disgraced, and in the course of which the building occupied by the provincial parliament has been destroyed by fire.

I am commanded by her Majesty to inform your Lordship that, while she has received with very great concern, the intelligence of these deplorable events, they have not impaired the confidence which her Majesty has hitherto felt in your ability and judgement, and that she continues to regard your administration of the affairs of the province as meriting her entire approbation.

Upon the act of the provincial Parliament, which has afforded a pretext for the outrages which have been committed, it is the duty of her Majesty's servants to reserve their judgement until we shall be in possession of the full information which you lead me to expect as to its character and objects: but, whatever may be the view which may be taken of the merits of that measure, there can be but one opinion as to the guilt of

those who in resistance to a law, constitutionally passed by the provincial legislature, have had recourse to violence of so disgraceful a character, or as to the very serious responsibility incurred by all who have, even by the imprudence of their language, assisted in producing the excitement which has led to such lamentable results. Her Majesty's servants entirely concur with your Lordship, as to the consequences which must follow from submitting to the kind of dictation by which it has been attempted on this occasion to overrule the decision of the legally constituted authorities of the province, and they confidently rely upon your firmness, supported, as I trust you will be, by the Parliament and the great majority of the people of Canada, to enforce for the future obedience to the law, and to compel those who may disapprove of the measures either of the legislative or of the executive government of the province to confine their opposition within legal and constitutional limits.

I appreciate the motives which have induced your Lordship to offer the suggestion with which your despatch concludes, but I should most earnestly deprecate the change it contemplates in the government of Canada. Your Lordship's relinquishment of that office, which under any circumstances would be a most serious loss to her Majesty's service and to the province, could not fail, in the present state of affairs, to be most injurious to the public welfare, from the encouragement which it would give to those who have been concerned in the violent and illegal opposition which has been offered to your government. I

also feel no doubt that, when the present excitement shall have subsided, you will succeed in regaining that position of 'dignified neutrality' becoming your office which, as you justly observe, it has hitherto been your study to maintain, and from which even those who are at present most opposed to you will on reflection perceive that you have been driven by no fault on your part but by their own unreasoning violence.

Relying therefore upon your devotion to the interests of Canada, I feel assured that you will not be induced by the unfortunate occurrences which have taken place to retire from the high office which the Queen has been pleased to entrust to you, and which, from the value she puts upon your past services, it is her Majesty's anxious wish that you should retain.

I have, etc.,

GREY.

III

RESPONSIBLE GOVERNMENT IN AUSTRALASIA

1. REPORT OF COMMITTEE FOR TRADE AND PLANTATIONS OF PRIVY COUNCIL ON PROPOSED AUSTRALIAN CONSTITUTION

Dated May 1, 1849.

But in sanctioning that departure[1] from the general type or model of the earlier colonial Constitutions, it has been the practice of Parliament to recognize the ancient principle, and to record the purpose of resuming the former constitutional practice so soon as the causes should have ceased to operate, which in each particular case had forbidden the immediate observance of it. Nor has the pledge thus repeatedly given been forgotten. It has been redeemed in New South Wales, except so far as relates to the combination which has taken place there of the Council and Assembly into one Legislative House or Chamber. It has been redeemed with regard to New Zealand, although peculiar circumstances have required a temporary postponement of the operation in that

[1] Namely, the creation of nominee Legislative Councils in place of elective Assemblies.

Colony of the Act passed by Parliament for establishing in it a Representative Legislature.

We are of opinion that the time has not yet arrived for conferring the franchise on the Colonists of Western Australia, because they are unable to fulfil the condition on which alone, it appears to us, such a grant ought to be made; the condition, that is, of sustaining the expense of their own Civil Government, by means of the local revenue, which would be placed under the direction and control of their representatives. Whenever the Settlers in Western Australia shall be willing and able to perform this condition, they ought, we apprehend, to be admitted to the full enjoyment of the corresponding franchises, but not till then.

The Colonies of South Australia and Van Diemen's Land, being on the other hand at once willing and able to provide by local resources for the public expenditure of each or at least for so much of that expenditure as is incurred with a view to colonial and local objects, the time has in our judgement arrived when Parliament may properly be recommended to institute in each of these Colonies a legislature, in which the representatives of the people at large shall enjoy and exercise their constitutional authority.

In submitting to your Majesty this advice, we are only repeating an opinion so familiar and so generally adopted by all persons conversant with the Government of the British Colonies, that it would seem superfluous to support it by argument or explanation. The introduction of this constitutional principle into every dependency

of the British Crown is a general rule sanctioned by a common and clear assent. The exception to that rule arises only when it can be shown that the observance of it will induce evils still more considerable than those which it would obviate and correct. We are aware of no reason for apprehending that such a preponderance of evil would follow on the introduction of such a change in South Australia and Van Diemen's Land. The contrary anticipation appears to be entertained by all those who possess the best means and the greatest powers of foreseeing the probable results of such a measure. We therefore recommend that, during the present session of Parliament, a Bill shall be introduced for securing to the representatives of the people of South Australia and Van Diemen's Land respectively, their due share in the legislation of each of those Colonies.

We apprehend however that it would be found highly inconvenient to consider the question as it regards those two settlements, without at the same time adverting to the effects with which such a change in them must be followed in the whole range of the Australian Colonies.

New Holland is at present divided between the three Governments of New South Wales, South Australia, and Western Australia. The most cursory inspection of the maps and charts of those regions will sufficiently show, that as they shall become more populous and more extensively settled, it will be necessary to divide them into a greater number of distinct Colonies. But, confining our immediate attention to the case of New South Wales, we observe that the cities of

Sydney and of Melbourne, lying at a great distance from each other, form the respective capitals of districts of great extent, separated from each other by diversities of climate and by some corresponding differences in their natural resources, and in the agricultural and commercial pursuits followed in each of them. The inhabitants of the southern districts have long and earnestly solicited that Melbourne should be made the seat and centre of a Colonial Government separated from that of Sydney; and so decided has this wish become of late, that on the recent general election of members of the Legislature of New South Wales collectively, the inhabitants of the southern district have virtually and in effect refused to make any such choice. The reluctance which was at first so naturally entertained at Sydney to the proposed innovation, appears to have gradually but effectually yielded to the progress of knowledge and reasoning on the subject. The Governor and the Executive Council, the existing Legislature, and, as we believe, the great body of the Colonists, now favour the contemplated division of their extensive territory into a northern and a southern Colony.

Nor is it surprising that such should have been the ultimate conclusion of such a debate. The inhabitants of countries recently and imperfectly settled are exposed to few greater social evils than that of the remoteness of the seat of Government from large bodies of the settlers. The effect is virtually to disfranchise a large proportion, if not a majority, of the Colonists, by excluding them from any share in the management of public

affairs, and in the inspection and control of the conduct of their rulers. In such circumstances the inconveniences of the centralization of all the powers of Government are experienced in their utmost force. The population of the districts most distant from the metropolis are compelled to entrust the representation of their persons and the care of their local interests to settled residents at that metropolis, who possess but a very slight knowledge of their constituents and a faint sympathy with their peculiar pursuits and wants.

We propose therefore that Parliament should be recommended to authorize the division of the existing Colony of New South Wales into a northern and a southern Province. Sydney would be the capital of the northern division, which would retain the present name of New South Wales. Melbourne would be the capital of the southern division, on which we would humbly advise that your Majesty should be graciously pleased to confer the name of Victoria. . . .

The line of demarcation between New South Wales and Victoria would coincide with the existing boundary between the two districts into which for certain purposes the Colony is already divided. It would commence at Cape How, pursue a straight line to the nearest source of the river Murray, and follow the course of that river as far as the boundary which now divides New South Wales from South Australia.

In each of the two proposed provinces of New South Wales and Victoria we apprehend that provision ought now to be made by Parliament

for creating a Legislature, in which the representatives of the people should exercise their Constitutional authority and influence. We do not advise that resort should be had for these purposes to the ancient and unaided prerogatives of your Majesty's Crown, because it is not competent to your Majesty in the exercise of that prerogative, to supersede the Constitutions which Parliament has already established in the Australian Colonies. Parliamentary intervention is therefore indispensable.

If we were approaching the present question under circumstances which left to us the unfettered exercise of our own judgement as to the nature of the Legislature to be established in New South Wales, Victoria, South Australia, and Van Diemen's Land, we should advise that Parliament should be moved to recur to the ancient constitutional usage by establishing in each a Governor, a Council, and an Assembly. For we think it desirable that the political institutions of the British Colonies should thus be brought into the nearest possible analogy to the Constitution of the United Kingdom. We also think it wise to adhere as closely as possible to our ancient maxims of government on this subject, and to the precedents in which those maxims have been embodied. The experience of centuries has ascertained the value and the practical efficiency of that system of Colonial polity to which those maxims and precedents afford their sanction. In the absence of some very clear and urgent reason for breaking up the ancient uniformity of design in the Government of the Colonial dependencies of the Crown,

it would seem unwise to depart from that uniformity. And further, the whole body of constitutional law, which determines the rights and duties of the different branches of the ancient Colonial Governments, having, with the lapse of time, been gradually ascertained and firmly established, we must regret any innovation which tends to deprive the Australian Colonies of the great advantage of possessing such a code so defined and so maturely considered.

But great as is the weight that we attach to these considerations, the circumstances under which we actually approach the question are such as to constrain us, however reluctantly, to adopt the opinion that the proposed Act of Parliament should provide for the establishment in each of the four Australian Colonies of a single House of Legislature only; one-third of the members of which should be nominated by your Majesty and the remaining two-thirds elected by the Colonists. . . . We recommend therefore that the proposed Act of Parliament should provide for convoking in each of the four Colonies a Legislature comprising two estates only, that is, a Governor and a single House, composed of nominees of the Crown and of the representatives of the people jointly. We also think that in South Australia and Van Diemen's Land, as in New South Wales and Victoria, the Legislatures now to be established ought to have the power of amending their own Constitutions, by resolving either of these single Houses of Legislature into two Houses. Whatever the result may be in either of the four Colonies, your Majesty will thus

at least have the satisfaction of knowing that free scope has been given for the influence of public opinion in them all; and that this constitutional question has been finally adjusted in each, in accordance with that opinion.

For the same reason we think it desirable that the Legislatures now to be created should be entrusted with the power of making any other amendments in their own Constitutions which time and experience may show to be requisite. We are aware of no sufficient cause for withholding this power, and we believe that the want of it in the other British Colonies has often been productive of serious inconvenience. On the other hand, we do not think it right that a subordinate Legislature should have the power of enlarging or altering any of the constitutional franchises conferred on it by Parliament, without either the express or the implied assent of the Queen, Lords and Commons of the United Kingdom. We should object to such an unrestrained permission, not for technical or legal reasons merely, but on broad and substantial grounds. Changes in the Constitution of any Colony may be productive of consequences extending far beyond the limits of the place itself. They may affect the interests of other British settlements adjacent or remote. They may be injurious to the less powerful classes of the local society. They may be prejudicial to your Majesty's subjects in this country, or they may invade the rights of your Majesty's Crown. We think therefore that no Act of any Australian Legislature which shall in any manner enlarge, retrench or alter the

Constitution of that Legislature or its rights or privileges, or which shall be in any respect at variance with the Act of Parliament or other instruments under which the Legislature is constituted, ought to be of any validity until it had been expressly confirmed and finally enacted by your Majesty in Council. And we are further of opinion that it should not be lawful to make any Order in Council so confirming any such Act until it had been laid before each House of Parliament for at least thirty days.

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We should think it prudent, if we thought it practicable, to confine the proposed Act to those provisions which are necessary for constituting Legislatures in the four Colonies in question, and for enabling those Legislatures to perform the duties to which they will be called. For we contemplate with great reluctance any departure from the general principle which leaves to the local Legislature of every Colony the creation of other local institutions, and the enactment of any laws which are to have their operation within the local limits of the Colony.

Passing to the subject of a Civil List, we have to observe that the very large proportion of the revenue of New South Wales, at present withdrawn from the control of the Legislature by the permanent appropriation of Parliament, has been a continual subject of complaint and remonstrance in the Colony since the passing of the Constitution Act of 1842; and we cannot conceal our opinion

that these complaints are not without some foundation. It appears to us hardly consistent with the full adoption of the principles of Representative Government that as to a large part of the public expenditure of the Colony, the Legislature should be deprived of all authority; nor does there appear to us to be any real occasion for imposing a restriction upon the powers of that body which manifests so much jealousy as to the manner in which those powers may be exercised. The expenditure thus provided for is all incurred for services in which the Colonists alone are interested. The Colonists themselves are mainly concerned in the proper and efficient performance of those services; and it appears to us that they ought to possess, through their representatives, the power of making such changes from time to time in the public establishments as circumstances may require. But while we are of opinion that there is no sufficient reason for refusing to the Legislatures of the Colonies a control over the whole of their expenditure, we also think that great inconvenience and very serious evils might be expected to arise from leaving the whole of the public establishments to be provided for by annual vote. In this country your Majesty's Civil List is settled upon your Majesty for life, and, in addition to this, Parliament has thought fit to provide, by a permanent charge on the Consolidated Fund for a very considerable part of the establishments kept up for the public service, including the whole of those of a judicial character, leaving to be defrayed by annual votes those charges only which have been regarded as requir-

ing the more frequent revision of the Legislature. The reasons which have induced the British Parliament in this manner to withdraw various heads of expenditure from annual discussion, and to make provision for them in a manner which can only be altered by an Act of the whole Legislature, apply, as we apprehend, with much increased force in favour of adopting a similar policy in the Colonies. It is not to be denied that in these smaller societies party spirit is apt to run still higher than amongst ourselves, and that questions respecting the remuneration of public servants are occasionally discussed, rather with reference to personal feelings than to a calm consideration of the real interest of the community. We believe also, that true economy is promoted by giving to those who are employed in the public service some reasonable assurance for the permanence of their official incomes. It is thus only that efficient service can be secured in return for a moderate remuneration. With these views the arrangement which we should recommend is that Parliament should, in the first instance, charge upon the revenues of the several colonies an amount sufficient to defray the expenses of those services which it would be inexpedient to leave to be provided for by annual votes of the respective Legislatures, leaving, however, to those Legislatures full power to alter this appropriation by laws to be passed in the usual form. It would remain for your Majesty to determine what instructions should be given to the Governors of these Colonies, as to their assenting on behalf of the Crown to any laws which might be tendered

to them by the Legislatures for repealing or altering any of the charges created by Parliament on the revenues of the respective Colonies. We conceive that it might be advisable by such instructions to restrain the Governors from assenting to Acts making any alterations in the salaries of their own offices, or of those of the Judges, and some others of the public servants, unless these Acts contained clauses suspending their operation until they should be confirmed by your Majesty's immediate authority. It appears to us that this course ought to be adopted, because we consider that the salaries of the principal officers of the Colonial Governments ought not to be changed without your Majesty's direct concurrence; and because the present holders of some of the offices of lower rank have received their appointments under circumstances which give them a strong claim to the protection which would be thus afforded them. . . . We doubt not that such claims would be respected by the local Legislatures, whatever reductions they might see fit to make in other cases; but we think that your Majesty ought to secure them even from the risk of a hasty and ill-considered decision to their prejudice, occasioned by some temporary excitement; subject to these qualifications, we are of opinion that complete control over the Colonial expenditure ought to be given to the respective Legislatures.

There yet remains a question of considerable difficulty. By far the larger part of the revenue of the Australian Colonies is derived from duties on customs. But if, when Victoria shall have

been separated from New South Wales, each province shall be authorized to impose duties according to its own wants, it is scarcely possible but that in process of time differences should arise between the rates of duty imposed upon the same articles in the one and in the other of them. There is already such a difference in the tariffs of South Australia and New South Wales; and although, until of late, this has been productive of little inconvenience, yet with the increase of settlers on either side of the imaginary line dividing them, it will become more and more serious. The division of New South Wales into two Colonies would further aggravate this inconvenience, if the change should lead to the introduction of three entirely distinct tariffs, and to the consequent necessity for imposing restrictions and securities on the import and export of goods between them. So great indeed would be the evil, and such the obstruction of the inter-colonial trade, and so great the check to the development of the resources of each of these Colonies, that it seems to us necessary that there should be one tariff common to them all, so that goods might be carried from the one into the other with the same absolute freedom as between any two adjacent counties in England.

We are further of opinion that the same tariff should be established in Van Diemen's Land also, because the intercourse between that Island and the neighbouring Colonies in New Holland has risen to a great importance and extent, and has an obvious tendency to increase. Yet fiscal regulations on either side of the intervening strait

must of necessity check, and might perhaps to a great extent destroy, that beneficial trade.

If the duties were uniform, it is obvious that there need be no restrictions whatever imposed upon the import or export of goods between the respective Colonies, and no motive for importing into one goods liable to duty, which were destined for consumption in another; and it may safely be calculated that each would receive the proportion of revenue to which it would be justly entitled, or, at all events, that there would be no departure from this to an extent of any practical importance.

Hence it seems to us that a uniformity in the rate of duties should be secured.

For this purpose we recommend that a uniform tariff should be established by the authority of Parliament, but that it should not take effect until twelve months had elapsed from the promulgation in the several Colonies of the proposed Act of Parliament. That interval would afford time for making any financial arrangements which the contemplated change might require in any of them; and by adopting the existing Tariff of New South Wales (with some modifications to adapt it to existing circumstances) as the General Tariff for Australia, we apprehend that there would be no risk of imposing upon the inhabitants of these Colonies a table of duties unsuited to their actual wants. We should not, however, be prepared to offer this recommendation unless we proposed at the same time to provide for making any alteration in this general tariff, which time and experience may dictate, and this we think

can only be done by creating some authority competent to act for all those Colonies jointly.

For this purpose we propose that one of the Governors of the Australian Colonies should always hold from your Majesty a Commission constituting him the Governor-General of Australia. We think that he should be authorized to convene a body to be called the General Assembly of Australia, at any time and at any place within your Majesty's Australian dominions, which he might see fit to appoint for the purpose. But we are of opinion that the first convocation of that body should be postponed until the Governor-General should have received from two or more of the Australian Legislatures addresses requesting him to exercise that power.

We recommend that the General Assembly should consist of the Governor-General and of a single House to be called the House of Delegates. The House of Delegates should be composed of not less than twenty, nor of more than thirty members. They should be elected by the Legislatures of the different Australian Colonies. We subjoin a schedule explanatory of the composition of this body; that is, of the total number of delegates, and of the proportion in which each Colony should contribute that number.

We think that your Majesty should be authorized to establish provisionally, and in the first instance, all the rules necessary for the election of the delegates, and for the conduct of the business of the General Assembly, but that it should be competent to that body to supersede any such rules, and to substitute others, which substituted

rules should not, however, take effect until they had received your Majesty's sanction.

We propose that the General Assembly should also have the power of making laws for the alteration of the number of delegates, or for the improvement in any other respect of its own Constitution. But we think that no such law should come into operation until it had actually been confirmed by your Majesty.

We propose to limit the range of the legislative authority of the General Assembly to the ten topics which we proceed to enumerate. These are :—

1. The imposition of duties upon imports and exports.
2. The conveyance of letters.
3. The formation of roads, canals, or railways, traversing any two or more of such Colonies.
4. The erection and maintenance of beacons and light-houses.
5. The imposition of dues or other charges on shipping in every port or harbour.
6. The establishment of a General Supreme Court, to be a Court of Original Jurisdiction, or a Court of Appeal from any of the inferior Courts of the separate Provinces.
7. The determining of the extent of the jurisdiction and the forms and manner of proceeding of such Supreme Court.
8. The regulation of weights and measures.
9. The enactment of laws affecting all the Colonies represented in the General As-

sembly on any subject not specifically mentioned in the preceding list, but on which the General Assembly should be desired to legislate by addresses for that purpose presented to them from the Legislatures of all those Colonies.

10. The appropriation to any of the preceding objects of such sums as may be necessary, by an equal percentage from the revenue received in all the Australian Colonies, in virtue of any enactments of the General Assembly of Australia.

By these means we apprehend that many important objects would be accomplished which would otherwise be unattainable; and, by the qualifications which we have proposed, effectual security would, we think, be taken against the otherwise danger of establishing a Central Legislature in opposition to the wishes of the separate Legislatures, or in such a manner as to induce collisions of authority betweeen them. The proceedings also of the Legislative Council of New South Wales with reference to the proposed changes in the Constitution, lead us to infer that the necessity of creating some such general authority for the Australian Colonies begins to be seriously felt.

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SCHEDULE

Composition of the House of Delegates

Each Colony to send two members, and each to send one additional member for every 15,000

of the population, according to the latest census before the convening of the House.

On the present population the numbers would be as follows :—

	Population last census.	Number of members
New South Wales .	155,000	12
Victoria . . .	33,000	4
Van Diemen's Land (deducting convicts) .	46,000	5
South Australia .	31,000	4
		25

2. RIGHT HON. SIR JOHN S. PAKINGTON TO SIR CHARLES FITZROY

DOWNING STREET,
December 15, 1852.

SIR,

In my Despatch of 1st October No. 61, I informed you that it was the intention of her Majesty's Government at the earliest period to arrive at the necessary decision with respect to the contents of the petition of the Legislative Council of New South Wales, transmitted in your Despatch of January 15th last, and to apprise you of the result of their deliberations upon it.

They have been fully impressed with a sense of the importance to be attached to that petition, not only as proceeding from a great majority of the Legislature of the province, but as reiterating that statement of the causes of discontent felt by the community, which had been deliberately urged by their predecessors upon the attention of her Majesty's then Government,—a statement, moreover, which was accompanied by your assurance that its sentiments were shared by the most loyal, respectable, and influential members of the community.

But they are influenced, in addition, by considerations arising from those extraordinary discoveries of gold which have lately taken place in

some of the Australian colonies, and which may be said to have imparted new and unforeseen features to their political and social condition.

They are sensible that they have now to consider the prayer of the petition thus laid before her Majesty, with reference to a state of affairs which has no parallel in history, and which must, in all human probability, stimulate the advance of population, wealth, and material prosperity, with a rapidity alike unparalleled.

Her Majesty's Government have observed, with a degree of satisfaction which it is impossible to express too strongly, the general order and good conduct which have distinguished the multitudes attracted to the gold deposits; and they have had the additional good fortune of being able to approve of the general firmness and good judgement displayed by the local authorities, under circumstances so strange and difficult.

And with the evidence thus before them, they cannot but feel, that while it has become more urgently necessary than heretofore to place full powers of self-government in the hands of a people thus advanced in wealth and prosperity, that people have, on the other hand, given signal evidence of their fitness to regulate their own affairs, especially under legislative institutions amended in the manner which the Council itself has pointed out in the concluding part of this petition.

It is in this spirit, and with these views, that her Majesty's Government have approached the consideration of the great subject before them; and under circumstances thus altered, it becomes

less necessary than it otherwise might have been, that they should enter minutely on the consideration of the separate grievances here alleged.

It is, however, their duty to state, that they concur in opinion with their predecessors as to a portion of these grievances, and consider the allegations concerning them to have been answered in substance by Lord Grey's Despatch of 23rd January last. They agree with his Lordship that there is no just complaint in evidence before them as to the distribution of the patronage of the Crown in the Australian colonies, and that the exclusive rule proposed by the Council could not be adopted without great prejudice to the public service. They believe that the wish of the Council, that the Customs shall be subject to the direct supervision and control of the Local Legislature, has been to a considerable extent met by the directions contained in Lord Grey's Despatches of the 8th August 1850, and the 12th February last; and they will, therefore, not at present enter farther into that ground of remonstrance, except by saying that they are prepared to give fair consideration to any representations or proposals which the Legislature of the colony may be disposed hereafter to make with respect to it.

As to the more important question involved in the last head of the grievances stated in the petition, namely, the demand for the exemption of legislative enactments of a strictly local character from the disallowing power of the Crown, her Majesty's Government have no indisposition to meet the views of the Council if any practicable mode can be devised of distinguishing local from

imperial subjects of legislation. But as to the difficulty of fixing on such a mode, they cannot better express their views than has already been done by Lord Grey, believing that neither the plan noticed and combatted by his Lordship, nor other plans which have been suggested with the same general purpose, would prove useful or indeed practicable substitutes for the system now in force. They must add that, under the present mode of exercising the royal prerogative in this behalf, the grievance complained of is, in their opinion, rather theoretical than practical.

Upon the two remaining grounds of complaint, those, namely, which stand first in the petition, her Majesty's Government are ready to accede to the wishes of the Council and of the colony in a spirit of entire confidence.

They are indeed unable to concede the claim advanced on behalf of the colonists to the administration of the waste lands as one of absolute right, in which shape the petition asserts it. And here again, feeling it their duty not to leave this claim unnoticed, they are unable to express their views on it better than by adopting the language of Lord Grey in the Despatch referred to.

They concur, farther, in his Lordship's opinion that when, and on what conditions, it may be desirable to transfer the control of the waste lands of a colony to its Local Legislature, is a question of expediency and not of right.

But they have arrived, after full consideration, at the conclusion that, under the new and rapidly changing circumstances of New South Wales, the time is come at which it is their duty to advise

her Majesty that the administration of those lands should be transferred to the Colonial Legislature, after those changes in its constitution have been effected which are adverted to in the petition.

Without believing that the operation of the Land Sales Act has been in truth pernicious to New South Wales, and with a strong persuasion that much benefit has resulted to the Australian colonies in general from that adherence to fixed principles in the disposal of the land fund which it enforced, they are of opinion that those benefits are no longer such as to countervail the disadvantages attending its restrictions. They think those restrictions should no longer be maintained, unless they are so by the will of the colonists themselves, either as regards the selling price of land or the application of the proceeds. As to the latter, they are clearly of opinion that the portion now expended, according to the terms of the Act, for general purposes, under the authority of the Lords Commissioners of the Treasury, ought to be entrusted to the control of the Legislature. And with respect to the other moiety, although the benefit which they believe New South Wales to have, upon the whole, largely derived from its expenditure on immigration, renders any change in its disposal matter of more serious doubt, they do not propose to except it from the surrender. For they are persuaded that the cost of an immigration which has become more than ever necessary to the welfare of the colony, and is far more important to its interests than to those of the mother country, will be also best undertaken by the Legislature of the former.

Her Majesty's Government are not unmindful of the changes to which this concession may possibly lead, in the amount of revenue to be derived from the disposal of lands, and in the facilities afforded by the land fund for emigration from this country. But they are willing to rely in this, as in other respects, on the foresight and political judgement of that body to which the supervision will be transferred, especially in its improved shape, and they are bound to add, that it appears to them matter of justice, as well as expediency, that concessions on so important a subject which have been made for some time to the principal North American colonies, and recently to New Zealand, should no longer be withheld from New South Wales.

The only remaining subject adverted to as a grievance in the recitals of the petition, and which I conclude to be also embodied under the first head of the protest, relates to the civil list or 'schedules' attached to the Constitutional Acts under which the present Legislature possesses its powers.

I understand the complaint of the Council to be, both that the sums reserved by these schedules are unnecessarily and disproportionately large, and further, that the power which the Act of 1850 gives for altering the appropriation of these sums is so clogged by restrictions, especially those imposed by Lord Grey's subsequent instructions, as to be practically insufficient.

That the sums in question are unnecessarily large, her Majesty's Government are disposed to agree; and it appears to them that, although no

further restriction is imposed by the instructions referred to than that any Act altering their amount and distribution should be reserved for the Royal confirmation if it affected existing interests, yet that a restriction so expressed may easily be understood as interposing serious delay, if not more permanent obstacles, in the way of any except the most trifling change. Her Majesty's Government are, therefore, desirous of meeting on this point also the wishes of the Council.

I cannot close this statement of the spirit in which her Majesty's Government are prepared to meet the views of the Council, and the concessions which they are willing to make to its demands, without adverting to another subject, which, although not included in this petition, is one of extreme interest and importance to the Australian colonies, and of no ordinary difficulty to the mother country.

It is unnecessary for me now to recapitulate the circumstances under which the transportation of convicts from the United Kingdom to New South Wales and Victoria has ceased.

It is enough for my present purpose to state, that its continuance to Van Diemen's Land has elicited from the Legislature of that Colony, and a large portion of its most respectable inhabitants, notwithstanding the effect produced by the discoveries of gold upon the labour market, strong and repeated remonstrances, accompanied by urgent petitions that their flourishing and improving country may no longer be made the receptacle of the criminal population of the mother country.

New South Wales and Victoria have also pro-

tested against this system with equal warmth; declaring, and no doubt with truth, that with the temptation of gold fields within their limits, it is impossible for them to prevent themselves from being contaminated by a large influx of such criminals as may have obtained conditional pardons, or contrived to escape from the restraints of justice.

Her Majesty's Government are unable to resist the force and justice of these remonstrances; and in pursuance of the announcement made by the Queen, in her Majesty's gracious speech from the throne, at the commencement of the present session of Parliament, they propose altogether to discontinue transportation to Van Diemen's Land at as early a period as shall be consistent with the completion of the arrangements which are indispensable for the bringing to a close a system so long in operation.

It only remains for me to refer once more to the last paragraph of the petition, which I conclude to express the sentiment of the Council, that a reform in the constitution of the Legislature itself is expedient, along with that extension of its powers which they demand. In that sentiment her Majesty's Government fully concur. They believe that the rapid progress of New South Wales in wealth and population renders it necessary that the form of its institutions should be more nearly assimilated to that prevailing in the mother country, and should be better adapted to the enlarged functions, and increased responsibilities which will now devolve on the legislative body. I will not lengthen this Despatch by enlarging

upon the advantages of a double Chamber for the safe and satisfactory government of an important community under representative institutions. The people of New South Wales must not only be familiar with the recent discussions in Parliament on this subject, when their own constitution was under debate, but they must be aware that the change has been recommended in several able Despatches from yourself, and has been much debated among themselves, both on public occasions and by their representatives. In a remarkable memorial from certain inhabitants of New South Wales, forwarded to my predecessor in your Despatch of 12th April 1850, I find it stated as in their opinion of the highest importance, 'to protect the colony against rash and hasty legislation by the interposition of a second Chamber.' A step in the progress of constitutional improvement which, they add, has from the first been contemplated, and ought no longer to be deferred.

Assuming therefore, that this is a change as to the expediency of which general agreement prevails, her Majesty's Government believe it to be desirable for the interests of the colony that it should precede those important concessions which I have now the pleasure of announcing their readiness to make.

Ample powers for the purpose of effecting this alteration appear to be entrusted to the existing Legislature by the Constitutional Act of 1850, subject to the confirmation by the Crown of any Act passed for the purpose.

In compliance therefore with the opinion expressed by the Council in favour of a constitution

similar in its outlines to that of Canada, and with a view also to the most simple and expeditious mode of completing the whole transaction, it is the wish of her Majesty's Government that the Council should establish the new Legislature on the bases of an elective Assembly, and a Legislative Council to be nominated by the Crown. Adopting this general outline, they would leave it to the judgement of the Council to determine the numbers of the two Chambers, and, if they think it necessary, to make any change in the constituency by which the new Assembly is to be elected; subject to the approval of such change by her Majesty when the Act is submitted to her.

It is scarcely necessary to add that her Majesty's Government do not consider that the power which the Legislature of New South Wales at present possesses of changing its constitution is to be considered as exhausted by this exercise of it; that power must be retained, in case further reform should at any time appear expedient.

On the receipt by her Majesty's advisers of such a constitutional enactment by the present Colonial Legislature as I have here generally indicated, with a civil list annexed to it in accordance with what I understand to be the intention of the Legislative Council, they undertake forthwith to propose to Parliament such measures as will be necessary to carry into effect the entire arrangement, namely, the repeal of the Land Sales Act, and the requisite alterations in the Constitutional Acts, and the Schedules annexed to them.

In order to avoid misunderstanding, I wish to state that such a civil list should provide for the

maintenance of the salaries of the principal officers of the Government at their present rate, until altered by Act. The Governor, Judges, Colonial Secretary, Treasurer, and Auditor General, and Attorney and Solicitor General, are clearly within this description ; but I must leave it to yourself and to the Legislature to decide what other functionaries have claims to a similar position. The sums appropriated to pensions and to public worship should also be maintained.

It is my sincere wish that this great change may be speedily and satisfactorily effected, and the course of policy, already commenced by the transfer which has taken place of the gold revenue to the control of the Local Legislature, carried into complete operation. And in the meantime, it is to me a source of very great satisfaction to be the agent for conveying to you the consent of her Majesty's Government to measures which, they trust, will not only tend to promote the welfare and prosperity of the great colony over which you preside, but also to cement and perpetuate the ties of kindred affection and mutual confidence which connect its people with that of the United Kingdom.

I annex for your information copies of two Despatches which I have addressed on the same subject to the Lieutenant-Governors of Victoria and South Australia.

I have, etc.

JOHN S. PAKINGTON.

3. THE OFFICER ADMINISTERING THE GOVERNMENT OF NEW ZEALAND [GENERAL WYNYARD] TO THE DUKE OF NEWCASTLE

GOVERNMENT HOUSE, AUCKLAND,
9 *June*, 1854.

MY LORD DUKE,

The question of responsible government having been the first subject before the House of Representatives, and fully discussed with great talent and moderation in a debate lasting four days, a resolution, of which the enclosed is a copy, was carried on the 5th instant, by a majority of 29 to 1.

2. Seeing the position in which I was thus placed by an all but unanimous resolution from the House of Representatives, calling for certain arrangements not provided for in the Constitution Act, and which, if rejected, would inevitably lead to unpleasant if not serious consequences to the well-working of a form of government in all other respects so popular to the people of New Zealand; and seeing by the opinion of the Attorney-General, embodied in the decision of the Executive Council, that an opening presented itself, I trust your Grace will concur with me that I could not adopt, justifiably, any course better calculated to meet

the views of the Representatives (so as to avert a rupture, that if once roused would be fatal to the harmony of the whole Session), than the one suggested by the legal adviser of the colony, and confirmed by the Members of my Council. Feeling also how much depended on immediate action on my part, and entirely setting aside personal consequences in the hopes of furthering the interest and prosperity of the colony at large, I determined on seeking an interview with the gentlemen named in the margin (who so ably and temperately proposed and seconded the reply to my opening Address), in the hopes of preserving unanimity in the Assembly, by securing their services in my Executive Council, subject to her Majesty's approval; thus carrying out the earnestly desired system of responsible government to the utmost in my power, without trenching on the Constitution Act or exceeding the limits of my instructions.

3. The plan I propose to adopt, and which will, I imagine, be gratefully received, is to add to my Executive Council the names of three Members of the Assembly, whose duty it will be not only to conduct the legislative business of the government through the Session, but also carry with them while so engaged the confidence of the House of Representatives, without at the same time disturbing the original Members of my Executive Council in the discharge of their respective duties, and whose appointments under the New Zealand Government are already recognized by the Crown.

4. Having conferred with these gentlemen, and

explained to them the line of policy I proposed to adopt, pending the receipt of your Grace's commands, I beg to add that, although they conceive the proposal calculated to give perfect satisfaction to all parties, still time has been solicited to ascertain if they are likely to carry with them the confidence of the House, or whether it may be more desirable for me to solicit the exertions of others. No third party has yet been decided on, as it is deemed advisable to select one whose legal knowledge and experience can by them be made available.

5. When the arrangements are finally completed, which I trust may be in a few days, I shall again communicate with your Grace, and continue to keep you informed of every step I take on this highly important and to me trying position.

I have, &c.

R. H. WYNYARD,
Officer administering the Government.

ENCLOSURE 1

Extract from the Minutes of the Proceedings of the House of Representatives

Tuesday, 6 June 1854

Resolved, That a respectful address be presented by the Speaker to the Officer administering the Government, praying that his Excellency will be pleased to take the following resolution into his serious and early consideration, viz. :

That amongst the objects which this House

desires to see accomplished wthout delay, both as an essential means whereby the general Government may rightly exercise a due control over the provincial government, and as a no less indispensable means of obtaining for the general Government the confidence and attachment of the people, the most important is the establishment of ministerial responsibility in the conduct of legislative and executive proceedings by the Government.

CHARLES CLIFFORD, Speaker.

ENCLOSURE 2

Extract from the Minutes of the Executive Council

Tuesday, 6 June, 1854

The Officer administering the Government brought under the consideration of the Council the following resolution passed by the House of Representatives, on Monday, the 5th instant, by a majority of 29 to 1, namely,

'That among the objects which this House desire to be accomplished without delay, both as an essential means whereby the general Government may rightly exercise a due control over the provincial governments, and as a no less indispensable means of obtaining for the general Government the confidence and attachment of the people, the most important is the establishment of ministerial responsibility in the conduct of legislative and executive proceedings by the Governor.'

His Excellency informed the Council that he

had submitted the subject for the legal opinion of the Attorney-General, and that that officer had given the following opinion thereon, viz. :—

By the recent Act for granting a representative constitution to New Zealand no provision has been made for establishing 'ministerial responsibility in the conduct of legislative and executive proceedings by the Governor.' By the Royal letters patent (13 September, 1852) issued to the Governor subsequently to the passing of the Act, it is provided that the government of the colony shall be administered by a governor, under instructions from the Crown, and with the advice and assistance of an Executive Council.

By the 'Royal Instructions' of the same date (13th of September, 1852), and accompanying the Governor's commission, the under-mentioned persons are nominated and appointed by the Crown to be members of the Executive Council (that is to say) :

The senior Military Officer in command of her Majesty's Troops;

The Colonial Secretary, or the person acting in that capacity;

The Attorney-General, or the person acting in that capacity;

The Treasurer, or the person acting in that capacity;

And such other persons as the Governor shall deem to be qualified and capable to advise him. But it is provided that any appointment so to be made by the Governor shall be provisional only, and subject to be confirmed or disallowed by the Crown.

The 'Royal Instructions' further provide that the Executive Council shall not proceed to the despatch of business unless summoned by the Governor; that as a general rule no question shall be brought before them for their advice or decision excepting such as may be proposed by the Governor; and that it shall be competent for the Governor, although he may dissent from the opinion of the major part, or of the whole of the Council, to execute the powers conferred upon him, in opposition to their opinion. But that, in such case, it shall be competent for any member of the Council to record on the minutes the reasons of any advice he may give; and that it shall be peremptory on the Governor in such case immediately to transmit to the Crown a full explanation and a copy of such minutes.

By the terms of his commission, and by the 'Royal Instructions' accompanying it, the Governor himself is made directly responsible to the Crown, and no power is given to him to delegate his authority, or to relieve himself from such responsibility in the conduct of the duties of his office.

By the same instruments, the members of the Executive Council are also made responsible to the Crown.

Neither by the Constitution Act, nor by the instruments under the authority of which he administers the government, has any provision been made for enabling the Governor to establish 'ministerial responsibility in the conduct of legislative and executive proceedings by the Governor.'

Looking at the provisions of the Constitution

Act (sections 55 and 56), by which it is enacted, that the Governor may by message transmit to either the Legislative Council or to the House of Representatives, for their consideration, the drafts of any laws which it may appear to him to be desirable to introduce; and that he may also make such amendments as he may think expedient in any Bill which may have been passed by the Council and House, and return the same for their consideration; and looking to the recommendation contained in the Report of the Committee of the Board of Trade and Plantations on the proposed establishment of a representative legislature for the Cape of Good Hope, which appears to have been under the notice of her Majesty's Government when engaged in the preparation of the New Zealand Constitution Act, it would seem to have been the opinion of the framers of the Act, that it was not necessary that the executive should be represented either in the Legislative Council or in the House of Representatives; and that it was intended by them that the Governor should not only exercise the power of assenting to or disallowing the legislative measures of the Legislative Council and the House of Representatives, but that he should form an active and co-ordinate branch of the Assembly, and with the advice and assistance of the Executive Council, take a direct and distinct share in the business of the Legislature.

With a general desire on the part of the Members of the Assembly to carry out the apparent intentions of the framers of the Act, it would be possible, though difficult, to carry through two

chambers the legislative measures necessary for giving effect to the policy of the Government; but, in the absence of a co-operative spirit on their part, it would be impracticable successfully to conduct through the two branches of the Legislature the most ordinary government business. From the recent debates in the House of Representatives, it is obvious that the Members of the House are not prepared cordially to acquiesce in any arrangement for the conduct of the public business in the Assembly, which shall render unnecessary the presence in the Legislature of any representation of the Executive Government.

It can scarcely be doubted that the absence of any provision for securing that the Executive should be represented in the Legislature is a defect in the Act, and the practical question is, whether it is now within the power of the Officer administering the Government to remedy the defect.

In the absence of any practical difficulty, the most simple course would have been for the Officer administering the Government to select from the Members of the Assembly three persons who enjoy the respect and confidence of the country, and who would be prepared to carry out the policy of the Government, and to appoint such persons to the offices of Colonial Secretary, Attorney-General, and Colonial Treasurer; but the difficulty which stands in the way of such an arrangement arises from the fact that the present holders of these offices held virtually permanent appointments, which, in the absence of misconduct on their parts, they can hardly be called upon to resign; and

not having been required by the then Governor to secure their election for a seat in the House of Representatives before the general election, they could not now be required to vacate their offices merely because they should not be able to secure their election by any particular constituency, even if a vacancy were made in order that the experiment might be tried.

It would be desirable, however, that the Officer administering the Government, if he remains in office, and that a new Governor, if a successor be appointed, should be in a position to call to his Council, and to appoint to the principal offices of government, persons in whom the country would confide, to give free scope to the full development of the new constitution. An Act to be passed by the Assembly for securing to the present holders of these offices a reasonable provision, in the event of their retirement, would probably lead to the attainment of that object.

It would further be competent for the Officer administering the Government, under the authority of the 'Royal Instructions' at once to add to the Executive Council such other persons as 'he may deem qualified and capable to advise him.' By this means it would be within his power to secure, in some measure, the representation of the Government in the Legislature. With this object, two or three Members having seats in the Assembly, might be appointed provisionally members of the Executive Council, to form the recognized organ of communication between the Executive and Legislative. The persons selected for this purpose, without being appointed at present to any specific

offices, might be charged with the duty of conducting the Government business through the two Chambers; with the duty of preparing, introducing, and superintending in their progress such Bills as may be necessary for giving effect to the policy of the Government; of preparing a financial statement, and the necessary measures for giving it practical effect. To enable the persons entrusted with these duties to discharge them efficiently, it would be essential that the Officer administering the Government should give them his confidence and cordial support. As a return for laborious service, and further to secure their responsibility, it would be desirable that they should be adequately paid. It would also be indispensable that one of the number should be an able and experienced lawyer.

These legislative members of the Government, it is to be presumed, would take office only on the condition of holding their appointments so long as they should retain the confidence of the Legislature; as regards the Crown, their appointments being made under the authority of the 'Royal Instructions' would be 'provisional only, and subject to be confirmed or disallowed by the Crown.'

In the meantime, and during the continuance of the Session, at least, it would probably tend to the public convenience that the present Secretary, Attorney-General, and Treasurer, should continue to hold their offices, and to transact the ordinary and current business of their respective departments.

In the absence of special authority from her

Majesty's Government, it is not, I think, within the power of the Officer administering the Government to take any measures for carrying into effect the resolution of the House of Representatives further than to prepare the way for opening the principal offices of the Government to new men, and in the meantime, and as a temporary measure, to add two or three Members of the Assembly to the Executive Council, for the purpose of establishing a recognized and responsible medium of communication between the Executive and the Legislative of the Government.

The course thus suggested is not free from objection, and it would no doubt be attended with some difficulty and inconvenience; it proceeds, however, as far as, consistently with his powers and duties, and especially with his position as temporary administrator of the Government, he can, I think, prudently be advised to proceed.

Looking to the views and expectations of the Members of the Legislation now assembled from all parts of the colony, there is no reasonable grounds to believe that, in the absence of any measure for securing the representation of the executive in the Assembly, that the most ordinary and necessary business of the Government can be successfully conducted through the Chambers, seeing the strong tendency to provincial independence; believing that if the general Government be not strengthened, the central authority will become virtually powerless, and that, if the power of the general Government be not now increased, the opportunity will be lost of limiting and defining the powers of the Provincial Execu-

tive; seeing, too, that the temper of the House is as yet moderate, and that there appears to be a disposition on the part of the Members to work cordially with the Government, if met in a conciliatory spirit, and believing that ill feeling once aroused would be followed for years by a mischievous and unprofitable agitation, I think that if the course above suggested would secure the maintenance of harmonious relations between the executive and legislative branches of the Government, his Excellency would, under all the circumstances of the case, exercise a sound discretion in adopting it.

WILLIAM SWAINSON,
Attorney-General.

June 5, 1854.

The Officer administering the Government then requested the opinion of the Council as to the course which it would, in their opinion, be advisable by him to take in relation thereto.

The Council were unanimous in their opinion, that the Officer administering the Government would exercise a sound discretion, under the circumstances, in adopting the course suggested by the Attorney-General.

A. S. RICHMOND,
Acting Clerk of Executive Council.

4. THE RIGHT HONOURABLE SIR GEORGE GREY, BART., TO THE OFFICER ADMINISTERING THE GOVERNMENT OF NEW ZEALAND [GENERAL WYNYARD]

DOWNING STREET,
8 *December*, 1854.

SIR,

I have to acknowledge your despatches of the numbers and dates specified in the margin, reporting the proceedings which have taken place in the General Assembly of New Zealand on the subject of the future Executive Government of the colony.

As regards the most important portion of that subject, I have taken the earliest opportunity of informing you that her Majesty's Government have no objection whatever to offer to the establishment of the system known as responsible government, in New Zealand. They have no reason to doubt that it will prove the best adapted for developing the interests as well as satisfying the wishes of the community. Nor have they any desire to propose terms, or to lay down restrictions on your assent to the measures which may be necessary for that object, except that of which the necessity appears to be fully recognized by the General Assembly, namely, the making provision for certain officers who have accepted

their offices on the equitable understanding of their permanence, and who may now be liable to removal. The only officers mentioned in your despatches as likely to fall within this category, are the Colonial Secretary and Treasurer, and the Attorney-General, nor am I myself aware of any others; but I do not wish to fetter your discretion, if further consideration makes it, in your opinion, desirable to alter the list.

Should the arrangements made for this purpose be in your judgement satisfactory, you are authorized to admit at once the new holders of office under the responsible system, reporting their names for confirmation in the usual manner. There will be no occasion, on this supposition, for a further reference to the home Government before the change is carried into effect. But if the arrangements proposed should not meet your approval, which I trust will not be the case, the appeal to the home Government for ultimate decision will be unavoidable.

The preliminary steps for the introduction of responsible government being thus few and plain, I do not understand the opinion which some portions of this correspondence appear to convey, and which is supported by the language of your Address of 31st August, that Legislative enactment by the General Assembly is required to bring the change into operation. In this country the recognized plan of Parliamentary government, by which Ministers are responsible to Parliament, and their continuance in office practically depends on the votes of the two Houses, rests on no written law, but on usage only. In carrying a similar

system into effect in the North American Colonies legislation has indeed been necessary, to make a binding arrangement for the surrender by the Crown of the territorial revenues, which has generally formed part of the scheme, and for the establishment of a civil list, but not for any other purpose. In New Zealand the territorial revenue has already been ceded to the Assembly, and her Majesty's Government have no terms to propose with reference to the civil list already established. Unless, therefore, there are local laws in existence which would be repugnant to the new system, legislation seems uncalled for, except for the very simple purpose of securing their pensions to retiring officers; and, if uncalled for, such legislation is objectionable, because the laws so enacted would probably stand in the way of various partial changes which it might be necessary to adopt in the details of a system in its nature liable to much modification.

The shortness of the time at my command, as I am anxious to answer your despatches by the present mail, prevents me from entering on the details of the narrative contained in your despatches; nor, indeed, does there appear any necessity for my doing so; I am satisfied that you acted to the best of your judgement under the circumstances in which you were placed; and it gives me much pleasure to find that the ultimate result of the deliberations of the General Assembly has been the adoption of the ordinary and most satisfactory course, namely, that of referring the question of responsible government to her Majesty's Ministers for complete adjustment, instead of put-

ting it partially in practice, and leaving some important question bearing on it undecided.

There are passages in your Address already referred to, of 31st August to the General Assembly, after its prorogation, to which I feel it my duty shortly to advert. You appear in that Address to have especially called the attention of the Assembly to the expediency of legislation on a subject upon which they could not, by the constitution, legislate at all; I refer to the proposal for rendering the Legislative Council elective. It is also extremely doubtful whether the proposed measure for authorizing the superintendents to dissolve provincial councils, a function reserved by section 13 of the Constitutional Act to the Governor, is within the powers of the General Assembly. So, too, the constituting Auckland as a separate government, under a Lieutenant-governor, and with exclusive powers of legislation, if I rightly understand what is meant by the proposal, is also a measure which it would be beyond the power of that body to carry into execution. You appear also to propose the foundation of a new federal convention (apart from the General Assembly), which would be an innovation irreconcileable with the existing fundamental law.

I do not now enter on the question of the expediency of these several schemes, but I am anxious to call your attention to the inconvenience of inviting the Legislature to originate measures to which the Crown could not assent, as such assent would be invalid.

The views of her Majesty's Government on these points will be communicated to the Governor,

who will, I hope, shortly proceed to New Zealand, but, as you have yourself conducted the proceedings reported in your present despatches, and I am very desirous to avoid unnecessary delay, I have no hesitation in authorizing you to act in person on my present instructions.

I am, etc.

G. GREY.

IV

THE FEDERATION OF CANADA

1 THE QUEBEC RESOLUTIONS, OCTOBER 10, 1864

REPORT OF RESOLUTIONS ADOPTED AT A CONFERENCE OF DELEGATES FROM PROVINCES OF CANADA, NOVA SCOTIA, AND NEW BRUNSWICK, AND THE COLONIES OF NEWFOUNDLAND AND PRINCE EDWARD ISLAND, HELD AT THE CITY OF QUEBEC, OCTOBER 10, 1864, AS THE BASIS OF A PROPOSED CONFEDERATION OF THOSE PROVINCES AND COLONIES

1. THE best interests and present and future prosperity of British North America will be promoted by a Federal Union under the Crown of Great Britain, provided such Union can be effected on principles just to the several Provinces.

2. In the Federation of the British North American Provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several Provinces, and secure efficiency, harmony, and permanency in the working of the Union—would be a General Government charged with matters of common interest to the whole country, and Local Governments for each of the Canadas and for the Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, charged with the control

of local matters in their respective sections, provision being made for the admission into the Union on equitable terms of Newfoundland, the North-West Territory, British Columbia, and Vancouver.

3. In framing a Constitution for the General Government, the Conference, with a view to the perpetuation of our connexion with the Mother-Country, and to the promotion of the best interests of the people of these Provinces, desire to follow the model of the British Constitution, so far as our circumstances will permit.

4. The Executive Authority or Government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well understood principles of the British Constitution by the Sovereign personally or by the Representative of the Sovereign duly authorized.

5. The Sovereign or Representative of the Sovereign shall be Commander-in-Chief of the Land and Naval Militia Forces.

6. There shall be a General Legislature or Parliament for the Federated Provinces, composed of a Legislative Council and a House of Commons.

7. For the purpose of forming the Legislative Council, the Federated Provinces shall be considered as consisting of three divisions—1st, Upper Canada; 2nd, Lower Canada; 3rd, Nova Scotia, New Brunswick, and Prince Edward Island; each division with an equal representation in the Legislative Council.

8. Upper Canada shall be represented in the Legislative Council by 24 members, Lower Canada

by 24 members, and the three Maritime Provinces by 24 members, of which Nova Scotia shall have 10, New Brunswick 10, and Prince Edward Island 4 members.

9. The Colony of Newfoundland shall be entitled to enter the proposed Union, with a representation in the Legislative Council of four members.

10. The North-west Territory, British Columbia, and Vancouver shall be admitted into the Union, on such terms and conditions as the Parliament of the Federated Provinces shall deem equitable, and as shall receive the assent of her Majesty; and in the case of the Province of British Columbia or Vancouver, as shall be agreed to by the Legislature of such Province.

11. The Members of the Legislative Council shall be appointed by the Crown under the Great Seal of the General Government, and shall hold office during life; if any Legislative Councillor shall, for two consecutive sessions of Parliament, fail to give his attendance in the said Council, his seat shall thereby become vacant.

12. The Members of the Legislative Council shall be British subjects by birth or naturalization, of the full age of 30 years, shall possess a continuous real property qualification of four thousand dollars over and above all incumbrances, and shall be and continue worth that sum over and above their debts and liabilities, but in the case of Newfoundland and Prince Edward Island the property may be either real or personal.

13. If any question shall arise as to the quali-

fication of a Legislative Councillor, the same shall be determined by the Council.

14. The first selection of the Members of the Legislative Council shall be made, except as regards Prince Edward Island, from the Legislative Councils of the various Provinces, so far as a sufficient number be found qualified and willing to serve. Such Members shall be appointed by the Crown at the recommendation of the General Executive Government, upon the nomination of the respective Local Governments; and in such nomination due regard shall be had to the claims of the Members of the Legislative Council of the opposition in each Province, so that all political parties may as nearly as possible be fairly represented.

15. The Speaker of the Legislative Council (unless otherwise provided by Parliament) shall be appointed by the Crown from among the Members of the Legislative Council, and shall hold office during pleasure, and shall only be entitled to a casting vote on an equality of votes.

16. Each of the 24 Legislative Councillors representing Lower Canada in the Legislative Council of the General Legislature shall be appointed to represent one of the 24 electoral divisions mentioned in Schedule A. of Chapter 1st of the Consolidated Statutes of Canada, and such Councillor shall reside or possess his qualification in the division he is appointed to represent.

17. The basis of Representation in the House of Commons shall be Population, as determined by the official census every 10 years; and the

number of Members at first shall be 194, distributed as follows:

Upper Canada	82
Lower Canada	65
Nova Scotia	19
New Brunswick	15
Newfoundland	8
And Prince Edward Island	5

18. Until the official census of 1871 has been made up, there shall be no change in the number of Representatives from the several sections.

19. Immediately after the completion of the census of 1871, and immediately after every decennial census thereafter, the representation from each section in the House of Commons shall be readjusted on the basis of population.

20. For the purpose of such readjustments, Lower Canada shall always be assigned 65 Members, and each of the other sections shall at each readjustment receive, for the 10 years then next succeeding, the number of members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy, according to the census last taken, by having sixty-five members.

21. No reduction shall be made in the number of members returned by any section, unless its population shall have decreased relatively to the population of the whole Union, to the extent of five per centum.

22. In computing at each decennial period the number of Members to which each section is entitled, no fractional parts shall be considered.

unless when exceeding one-half the number entitling to a Member, in which case a Member shall be given for each such fractional part.

23. The Legislature of each Province shall divide such Province into the proper number of constituencies, and define the boundaries of each of them.

24. The Local Legislature of each Province may, from time to time, alter the electoral districts for the purposes of representation in the House of Commons, and distribute the Representatives to which the Province is entitled, in any manner such Legislature may think fit.

25. The number of Members may at any time be increased by the General Parliament, regard being had to the proportionate rights then existing.

26. Until provisions are made by the General Parliament, all the laws which at the date of the Proclamation constituting the Union are in force in the Provinces respectively, relating to the qualification of any person to be elected or to sit or vote as a Member of the Assembly in the said Provinces respectively—and relating to the qualification or disqualification of voters, and to the oaths to be taken by voters, and to Returning Officers and their powers and duties,—and relating to the proceedings at elections,—and to the period during which such elections may be continued,—and relating to the trial of Controverted Elections, and the proceedings incident thereto,—and relating to the vacating of seats of Members, —and the issuing and execution of new writs in case of any seat being vacated otherwise than by a dissolution,—shall respectively apply to elections

of Members to serve in the House of Commons, for places situate in those Provinces respectively.

27. Every House of Commons shall continue for five years from the day of the return of the writs choosing the same, and no longer, subject, nevertheless, to be sooner prorogued or dissolved by the Governor.

28. There shall be a Session of the General Parliament once at least in every year, so that a period of 12 calendar months shall not intervene between the last sitting of the General Parliament in one session and the first sitting thereof in the next session.

29. The General Parliament shall have power to make Laws for the peace, welfare and good Government of the Federated Provinces (saving the Sovereignty of England), and especially Laws respecting the following subjects:—

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
3. The imposition or regulation of Duties of Customs on Imports and Exports, except on Exports of Timber, Logs, Masts, Spars, Deals, and Sawn Lumber, and of Coal and other Minerals.
4. The imposition and regulation of Excise Duties.
5. The raising of money by all or any other modes or systems of Taxation.
6. The borrowing of money on the public credit.
7. Postal service.
8. Lines of Steam or other Ships, Railways, Canals and other works, connecting any

two or more of the Provinces together, or extending beyond the limits of any Province.

9. Lines of Steamships between the Federated Provinces and other Countries.
10. Telegraphic communication and the incorporation of Telegraph Companies.
11. All such works as shall, although lying wholly within any Province, be specially declared by the Acts authorizing them to be for the general advantage.
12. The Census.
13. Militia—Military and Naval Service and Defence.
14. Beacons, Buoys and Light Houses.
15. Navigation and Shipping.
16. Quarantine.
17. Sea Coast and Inland Fisheries.
18. Ferries between any Province and a Foreign Country, or between any two Provinces.
19. Currency and Coinage.
20. Banking, incorporation of Banks, and the issue of paper money.
21. Savings Banks.
22. Weights and Measures.
23. Bills of Exchange and Promissory Notes.
24. Interest.
25. Legal Tender.
26. Bankruptcy and Insolvency.
27. Patents of Invention and Discovery.
28. Copyrights.
29. Indians and Lands reserved for the Indians.
30. Naturalization and Aliens.
31. Marriage and Divorce.

32. The Criminal Law, excepting the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal matters.
33. Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island, and rendering uniform the procedure of all or any of the Courts in these Provinces; but any Statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof.
34. The establishment of a General Court of Appeal for the Federated Provinces.
35. Immigration.
36. Agriculture.
37. And generally respecting all matters of a general character, not especially and exclusively reserved for the Local Governments and Legislatures.

30. The General Government and Parliament shall have all powers necessary or proper for performing the obligations of the Federated Provinces, as part of the British Empire, to Foreign Countries, arising under Treaties between Great Britain and such Countries.

31. The General Parliament may also, from time to time, establish additional Courts, and the General Government may appoint Judges and Officers thereof, when the same shall appear necessary or for the public advantage, in order to the due execution of the laws of Parliament.

32. All Courts, Judges, and Officers of the several Provinces shall aid, assist, and obey the General Government in the exercise of its rights and powers, and for such purposes shall be held to be Courts, Judges and Officers of the General Government.

33. The General Government shall appoint and pay the Judges of the Superior Courts in each Province, and of the County Courts of Upper Canada, and Parliament shall fix their salaries.

34. Until the consolidation of the Laws of Upper Canada, New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, the Judges of these Provinces appointed by the General Government shall be selected from their respective Bars.

35. The Judges of the Courts of Lower Canada shall be selected from the Bar of Lower Canada.

36. The Judges of the Court of Admiralty now receiving salaries shall be paid by the General Government.

37. The Judges of the Superior Courts shall hold their offices during good behaviour, and shall be removable only on the Address of both Houses of Parliament.

Local Government

38. For each of the Provinces there shall be an Executive Officer, styled the Lieutenant-Governor, who shall be appointed by the Governor General in Council, under the Great Seal of the Federated Provinces, during pleasure: such pleasure not to be exercised before the expiration of the first five

years, except for cause: such cause to be communicated in writing to the Lieutenant-Governor immediately after the exercise of the pleasure as aforesaid, and also by Messages to both Houses of Parliament, within the first week of the first Session afterwards.

39. The Lieutenant-Governor of each Province shall be paid by the General Government.

40. In undertaking to pay the salaries of the Lieutenant-Governors, the Conference does not desire to prejudice the claim of Prince Edward Island upon the Imperial Government for the amount now paid for the salary of the Lieutenant-Governor thereof.

41. The Local Government and Legislature of each Province shall be constructed in such manner as the existing Legislature of such Province shall provide.

42. The Local Legislatures shall have power to alter or amend their Constitution from time to time.

43. The Local Legislatures shall have power to make Laws respecting the following subjects:

1. Direct Taxation and the imposition of Duties on the Export of Timber, Logs, Masts, Spars, Deals, and Sawn Lumber, and of Coals and other Minerals.
2. Borrowing Money on the credit of the Province.
3. The establishment and tenure of Local Offices, and the appointment and payment of Local Officers.
4. Agriculture.
5. Immigration.

6. Education; saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their Denominational Schools, at the time when the Union goes into operation.
7. The sale and management of Public Lands, excepting Lands belonging to the General Government.
8. Sea Coast and Inland Fisheries.
9. The establishment, maintenance, and management of Penitentiaries, and of Public and Reformatory Prisons.
10. The establishment, maintenance, and management of Hospitals, Asylums, Charities, and Eleemosynary Institutions.
11. Municipal Institutions.
12. Shop, Saloon, Tavern, Auctioneer and other Licences.
13. Local Works.
14. The Incorporation of private or local Companies, except such as relate to matters assigned to the General Parliament.
15. Property and civil rights, excepting those portions thereof assigned to the General Parliament.
16. Inflicting punishment by fine, penalties, imprisonment or otherwise for the breach of laws passed in relation to any subject within their jurisdiction.
17. The Administration of Justice, including the constitution, maintenance, and organization of the Courts—both of Civil and Criminal Jurisdiction, and including also the Procedure in Civil Matters.

18. And generally all matters of a private or local nature, not assigned to the General Parliament.

44. The power of respiting, reprieving, and pardoning Prisoners convicted of crimes, and of commuting and remitting of sentences in whole or in part, which belongs of right to the Crown, shall be administered by the Lieutenant-Governor of each Province in Council, subject to any instructions he may from time to time receive from the General Government, and subject to any provisions that may be made in this behalf by the General Parliament.

Miscellaneous

45. In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void as far as they are repugnant to or inconsistent with the former.

46. Both the English and French languages may be employed in the General Parliament and in its proceedings, and in the Local Legislature of Lower Canada, and also in the Federal Courts and in the Courts of Lower Canada.

47. No lands or property belonging to the General or Local Government shall be liable to taxation.

48. All bills for appropriating any part of the

public revenue, or for imposing any new tax or impost, shall originate in the House of Commons or the House of Assembly, as the case may be.

49. The House of Commons or House of Assembly shall not originate or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost to any purpose, not first recommended by Message of the Governor General, or the Lieutenant-Governor, as the case may be, during the session in which such vote, resolution, address, or bill is passed.

50. Any bill of the General Parliament may be reserved in the usual manner for her Majesty's assent, and any bill of the Local Legislatures may in like manner be reserved for the consideration of the Governor General.

51. Any bill passed by the General Parliament shall be subject to disallowance by her Majesty within two years, as in the case of bills passed by the Legislatures of the said Provinces hitherto, and in like manner any bill passed by a Local Legislature shall be subject to disallowance by the Governor General within one year after the passing thereof.

52. The seat of Government of the Federated Provinces shall be Ottawa, subject to the Royal Prerogative.

53. Subject to any future action of the respective Local Governments, the seat of the Local Government in Upper Canada shall be Toronto; of Lower Canada, Quebec; and the seats of the Local Governments in the other Provinces shall be as at present.

PROPERTY AND LIABILITIES

54. All stocks, cash, bankers' balances and securities for money belonging to each Province, at the time of the Union, except as hereafter mentioned, shall belong to the General Government.

55. The following public works and property of each Province shall belong to the General Government; to wit:—

1. Canals;
2. Public harbours;
3. Lighthouses and piers;
4. Steamboats, dredges, and public vessels;
5. River and lake improvements;
6. Railway and railway stocks, mortgages, and other debts due by railway companies;
7. Military roads;
8. Custom houses, post offices, and other public buildings, except such as may be set aside by the General Government for the use of the Local Legislatures and Governments;
9. Property transferred by the Imperial Government, and known as Ordnance property;
10. Armouries, drill sheds, military clothing, and munitions of war; and
11. Lands set apart for public purposes.

56. All lands, mines, minerals, and royalties vested in her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick, and Prince Edward Island, for the use of

such Provinces, shall belong to the Local Government of the territory in which the same are so situate; subject to any trusts that may exist in respect to any of such lands or to any interest of other persons in respect of the same.

57. All sums due from purchasers or lessees of such lands, mines, or minerals, at the time of the Union, shall also belong to the Local Governments.

58. All assets connected with such portions of the public debt of any Province as are assumed by the Local Governments, shall also belong to these Governments respectively.

59. The several Provinces shall retain all other public property therein, subject to the right of the General Government to assume any lands or public property required for fortifications or the defence of the country.

60. The General Government shall assume all the debts and liabilities of each Province.

61. The debt of Canada not specially assumed by Upper and Lower Canada respectively, shall not exceed at the time of the Union . . .	$62,500,000
Nova Scotia shall enter the Union with a debt not exceeding	8,000,000
And New Brunswick, with a debt not exceeding . . .	7,000,000

62. In case Nova Scotia or New Brunswick do not incur liabilities beyond those for which their Governments are now bound, and which shall make their debts at the date of Union less than

$8,000,000 and $7,000,000 respectively, they shall be entitled to interest at 5 per cent. on the amount not so incurred, in like manner as is herein-after provided for Newfoundland and Prince Edward Island; the foregoing resolution being in no respect intended to limit the powers given to the respective Governments of those Provinces by legislative authority, but only to limit the maximum amount of charge to be assumed by the General Government. Provided always that the powers so conferred by the respective Legislatures shall be exercised within five years from this date, or the same shall then lapse.

63. Newfoundland and Prince Edward Island, not having incurred debts equal to those of the other Provinces, shall be entitled to receive by half-yearly payments in advance from the General Government the interest at 5 per cent. on the difference between the actual amount of their respective debts at the time of the Union, and the average amount of indebtedness per head of the population of Canada, Nova Scotia, and New Brunswick.

64. In consideration of the transfer to the General Parliament of the powers of taxation, an annual grant in aid of each Province shall be made, equal to 80 cents per head of the population, as established by the census of 1861, the population of Newfoundland being estimated at 130,000. Such aid shall be in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province.

65. The position of New Brunswick being such

as to entail large immediate charges upon her local revenues, it is agreed that for the period of 10 years from the time when the Union takes effect, an additional allowance of $63,000 per annum shall be made to that Province. But that so long as the liability of that Province remains under $7,000,000, a deduction equal to the interest on such deficiency shall be made from the $63,000.

66. In consideration of the surrender to the General Government by Newfoundland of all its rights in mines and minerals, and of all the ungranted and unoccupied lands of the Crown, it is agreed that the sum of $150,000 shall each year be paid to that Province, by semi-annual payments. Provided that that Colony shall retain the right of opening, constructing, and controlling roads and bridges through any of the said lands, subject to any laws which the General Parliament may pass in respect of the same.

67. All engagements that may, before the Union, be entered into with the Imperial Government for the defence of the country shall be assumed by the General Government.

68. The General Government shall secure, without delay, the completion of the Intercolonial Railway from Rivière-du-Loup through New Brunswick to Truro in Nova Scotia.

69. The communications with the North-western Territory, and the improvements required for the development of the trade of the Great West with the Seaboard, are regarded by this Conference as subjects of the highest importance to the Federated Provinces, and shall be prose-

cuted at the earliest possible period that the state of the finances will permit.

70. The sanction of the Imperial and Local Parliaments shall be sought for the Union of the Provinces, on the principles adopted by the Conference.

71. That her Majesty the Queen be solicited to determine the rank and name of the Federated Provinces.

72. The proceedings of the Conference shall be authenticated by the signatures of the Delegates, and submitted by each Delegation to its own Government, and the Chairman is authorized to submit a copy to the Governor General for transmission to the Secretary of State for the Colonies.

I certify that the above is a true copy of the original Report of Resolutions adopted in Conference.

E. P. TACHÉ, Chairman.

2. THE RIGHT HONOURABLE EDWARD CARDWELL TO VISCOUNT MONCK

DOWNING STREET,
December 3, 1864.

MY LORD,

Her Majesty's Government have received with the most cordial satisfaction your Lordship's Despatch of the 7th ultimo, transmitting for their consideration the Resolutions adopted by the Representatives of the several Provinces of British North America, who were assembled at Quebec.

With the sanction of the Crown—and upon the invitation of the Governor General—men of every Province, chosen by the respective Lieutenant-Governors without distinction of party, assembled to consider questions of the utmost interest to every subject of the Queen, of whatever race or faith, resident in those Provinces; and have arrived at a conclusion destined to exercise a most important influence upon the future welfare of the whole community.

Animated by the warmest sentiments of loyalty and devotion to their Sovereign,—earnestly desirous to secure for their posterity throughout all future time the advantages which they enjoy as subjects of the British Crown,—steadfastly attached to the institutions under which they live,—they have conducted their deliberations with

patient sagacity, and have arrived at unanimous conclusions on questions involving many difficulties, and calculated under less favourable auspices to have given rise to many differences of opinion.

Such an event is in the highest degree honourable to those who have taken part in these deliberations. It must inspire confidence in the men by whose judgement and temper this result has been attained:—and will ever remain on record as an evidence of the salutary influence exercised by the institutions under which these qualities have been so signally developed.

Her Majesty's Government have given to your Despatch and to the Resolutions of the Conference their most deliberate consideration. They have regarded them as a whole, and as having been designed by those who have framed them to establish as complete and perfect an union of the whole into one Government, as the circumstances of the case and a due consideration of existing interests would admit. They accept them, therefore, as being, in the deliberate judgement of those best qualified to decide upon the subject, the best framework of a measure to be passed by the Imperial Parliament for attaining that most desirable result.

The point of principal importance to the practical well-working of the scheme, is the accurate determination of the limits between the authority of the Central and that of the Local Legislatures in their relation to each other. It has not been possible to exclude from the resolutions some provisions which appear to be less consistent than

might, perhaps, have been desired with the simplicity and unity of the system. But upon the whole it appears to her Majesty's Government that precautions have been taken, which are obviously intended to secure to the Central Government the means of effective action throughout the several Provinces; and to guard against those evils which must inevitably arise, if any doubt were permitted to exist as to the respective limits of Central and Local authority. They are glad to observe that, although large powers of legislation are intended to be vested in local bodies, yet the principle of Central control has been steadily kept in view. The importance of this principle cannot be overrated. Its maintenance is essential to the practical efficiency of the system,—and to its harmonious operation, both in the general administration, and in the Governments of the several Provinces. A very important part of this subject is the expense which may attend the working of the Central and the Local Governments. Her Majesty's Government cannot but express the earnest hope that the arrangements which may be adopted in this respect may not be of such a nature as to increase—at least in any considerable degree—the whole expenditure, or to make any material addition to the taxation, and thereby retard the internal industry, or tend to impose new burdens on the commerce of the country.

Her Majesty's Government are anxious to lose no time in conveying to you their general approval of the proceedings of the Conference. There are, however, two provisions of great importance which seem to require revision. The first of these

is the provision contained in the 44th Resolution with respect to the exercise of the Prerogative of pardon. It appears to her Majesty's Government that this duty belongs to the representative of the Sovereign,—and could not with propriety be devolved upon the Lieutenant-Governors, who will, under the present scheme, be appointed not directly by the Crown, but by the Central Government of the United Provinces.

The second point which her Majesty's Government desire should be reconsidered is the Constitution of the Legislative Council. They appreciate the considerations which have influenced the Conference in determining the mode in which this body, so important to the constitution of the Legislature, should be composed. But it appears to them to require further consideration whether if the Members be appointed for life, and their number be fixed, there will be any sufficient means of restoring harmony between the Legislative Council and the Popular Assembly, if it shall ever unfortunately happen that a decided difference of opinion shall arise between them.

These two points, relating to the Prerogative of the Crown and to the Constitution of the Upper Chamber, have appeared to require distinct and separate notice. Questions of minor consequence and matters of detailed arrangement may properly be reserved for a future time, when the Provisions of the Bill, intended to be submitted to the Imperial Parliament, shall come under consideration. Her Majesty's Government anticipate no serious difficulty in this part of the case, —since the Resolutions will generally be found

sufficiently explicit to guide those who will be intrusted with the preparation of the Bill. It appears to them, therefore, that you should now take immediate measures in concert with the Lieutenant-Governors of the several Provinces, for submitting to their respective Legislatures this project of the Conference;—and if, as I hope, you are able to report that these Legislatures sanction and adopt the scheme, her Majesty's Government will render you all the assistance in their power for carrying it into effect. It will probably be found to be the most convenient course, that in concert with the Lieutenant-Governors, you should select a deputation of the persons best qualified, to proceed to this country;—that they may be present during the preparation of the Bill, and give to her Majesty's Government the benefit of their counsel upon any question which may arise during the passage of the measure through the two Houses of Parliament,

I have, &c.,

EDWARD CARDWELL.

(A copy of the foregoing Despatch was sent on the 8th December to the Governors of each of the other Provinces in North America, viz., Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland.)

3. HON. JOHN MACDONALD'S SPEECH IN THE CANADIAN PARLIAMENT

February 6, 1865.

I HAVE the honour of being charged, on behalf of the Government, to submit a scheme for the Confederation of all the British North American Provinces—a scheme which has been received, I am glad to say, with general, if not universal, approbation in Canada. The scheme, as propounded through the press, has received almost no opposition. While there may be occasionally, here and there, expressions of dissent from some of the details, yet the scheme as a whole has met with almost universal approval, and the Government has the greatest satisfaction in presenting it to this House. This subject, which now absorbs the attention of the people of Canada, and of the whole of British North America, is not a new one. For years it has more or less attracted the attention of every statesman and politician in these provinces, and has been looked upon by many far-seeing politicians as being eventually the means of deciding and settling very many of the vexed questions which have retarded the prosperity of the colonies as a whole, and particularly the prosperity of Canada. The subject was pressed upon the public attention by a great many writers

and politicians; but I believe the attention of the Legislature was first formally called to it by my honourable friend the Minister of Finance. Some years ago, in an elaborate speech, my honourable friend, while an independent member of Parliament, before being connected with any Government, pressed his views on the Legislature at great length and with his usual force. But the subject was not taken up by any party as a branch of their policy, until the formation of the Cartier-Macdonald Administration in 1858, when the Confederation of the Colonies was announced as one of the measures which they pledged themselves to attempt, if possible, to bring to a satisfactory conclusion. In pursuance of that promise, the letter or despatch, which has been so much and so freely commented upon in the press and in this House, was addressed by three of the members of that Administration to the Colonial Office. The subject, however, though looked upon with favour by the country, and though there were no distinct expressions of opposition to it from any party, did not begin to assume its present proportions until last session. Then men of all parties and all shades of politics became alarmed at the aspect of affairs. They found that such was the opposition between the two sections of the province, such was the danger of impending anarchy, in consequence of the irreconcileable differences of opinion with respect to representation by population, between Upper and Lower Canada, that unless some solution of the difficulty was arrived at, we would suffer under a succession of weak governments,—weak in numerical sup-

port, weak in force, and weak in power of doing good. All were alarmed at this state of affairs. We had election after election,—we had ministry after ministry, with the same result. Parties were so equally balanced, that the vote of one member might decide the fate of the Administration and the course of legislation for a year or a series of years. This condition of things was well calculated to arouse the earnest consideration of every lover of his country, and I am happy to say it had that effect. None were more impressed by this momentous state of affairs, and the grave apprehensions that existed of a state of anarchy destroying our credit, destroying our prosperity, destroying our progress, than were the members of this present House; and the leading statesmen on both sides seemed to have come to the common conclusion, that some step must be taken to relieve the country from the deadlock and impending anarchy that hung over us.—With that view, my colleague, the President of the Council, made a motion founded on the despatch addressed to the Colonial Minister, to which I have referred, and a committee was struck, composed of gentlemen of both sides of the House, of all shades of political opinion, without any reference to whether they were supporters of the Administration of the day or belonged to the Opposition, for the purpose of taking into calm and full deliberation the evils which threatened the future of Canada. That motion of my honourable friend resulted most happily. The committee, by a wise provision,—and in order that each member of the committee might have an opportunity of expressing his

opinions without being in any way compromised before the public, or with his party, in regard either to his political friends or to his political foes,—agreed that the discussion should be freely entered upon without reference to the political antecedents of any of them, and that they should sit with closed doors, so that they might be able to approach the subject frankly and in a spirit of compromise. The committee included most of the leading members of the House,—I had the honour myself to be one of the number,—and the result was that there was found an ardent desire, —a creditable desire, I must say,—displayed by all the members of the committee to approach the subject honestly, and to attempt to work out some solution which might relieve Canada from the evils under which she laboured. The report of that committee was laid before the House, and then came the political action of the leading men of the two parties in this House, which ended in the formation of the present Government. The principle upon which that Government was formed has been announced, and is known to all. It was formed for the very purpose of carrying out the object which has now received to a certain degree its completion by the resolutions I have had the honour to place in your hands. As has been stated, it was not without a great deal of difficulty and reluctance that that Government was formed. The gentlemen who compose this Government had for many years been engaged in political hostilities to such an extent that it affected even their social relations. But the crisis was great, the danger was imminent, and the gentle-

men who now form the present Administration found it to be their duty to lay aside all personal feelings, to sacrifice in some degree their position, and even to run the risk of having their motives impugned, for the sake of arriving at some conclusion that would be satisfactory to the country in general. The present resolutions were the result. And, as I said before, I am proud to believe that the country has sanctioned, as I trust that the representatives of the people in this House will sanction, the scheme which is now submitted for the future government of British North America. Everything seemed to favour the project, and everything seemed to show that the present was the time, if ever, when this great union between all her Majesty's subjects dwelling in British North America should be carried out. When the Government was formed, it was felt that the difficulties in the way of effecting a union between all the British North American Colonies were great—so great as almost, in the opinion of many, to make it hopeless. And with that view it was the policy of the Government, if they could not succeed in procuring a union between all the British North American Colonies, to attempt to free the country from the dead-lock in which we were placed in Upper and Lower Canada, in consequence of the difference of opinion between the two sections, by having a severance to a certain extent of the present union between the two provinces of Upper and Lower Canada, and the substitution of a Federal Union between them. Most of us, however, I may say all of us, were agreed—and I believe every thinking man will

agree—as to the expediency of effecting a union between all the provinces, and the superiority of such a design, if it were only practicable, over the smaller scheme of having a Federal Union between Upper and Lower Canada alone. By a happy concurrence of events, the time came when that proposition could be made with a hope of success. By a fortunate coincidence the desire for union existed in the Lower Provinces, and a feeling of the necessity of strengthening themselves by collecting together the scattered colonies on the seaboard, had induced them to form a convention of their own for the purpose of effecting a union of the Maritime Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, the legislatures of those colonies having formally authorized their respective governments to send a delegation to Prince Edward Island for the purpose of attempting to form a union of some kind. Whether the union should be federal or legislative was not then indicated, but a union of some kind was sought for the purpose of making of themselves one people instead of three. We, ascertaining that they were about to take such a step, and knowing that if we allowed the occasion to pass, if they did indeed break up all their present political organizations and form a new one, it could not be expected that they would again readily destroy the new organization which they had formed,—the union of the three provinces on the sea-board,—and form another with Canada, knowing this, we availed ourselves of the opportunity, and asked if they would receive a deputation from Canada, who would go to meet them

at Charlottetown, for the purpose of laying before them the advantages of a larger and more extensive union, by the junction of all the provinces in one great government under our common Sovereign. They at once kindly consented to receive and hear us. They did receive us cordially and generously and asked us to lay our views before them. We did so at some length, and so satisfactory to them were the reasons we gave; so clearly, in their opinion, did we show the advantages of the greater union over the lesser, that they at once set aside their own project, and joined heart and hand with us in entering into the larger scheme, and trying to form, as far as they and we could, a great nation and a strong government. Encouraged by this arrangement, which, however, was altogether unofficial and unauthorized, we returned to Quebec, and then the Government of Canada invited the several governments of the sister colonies to send a deputation here from each of them for the purpose of considering the question, with something like authority from their respective governments. The result was, that when we met here on the 10th of October, on the first day on which we assembled, after the full and free discussions which had taken place at Charlottetown, the first resolution now before this House was passed unanimously, being received with acclamation, as in the opinion of every one who heard it, a proposition which ought to receive, and would receive, the sanction of each government and each people. The resolution is, 'That the best interests and present and future prosperity of British North America will

be promoted by a Federal Union under the Crown of Great Britain, provided such union can be effected on principles just to the several provinces.' It seemed to all the statesmen assembled —and there are great statesmen in the Lower Provinces, men who would do honour to any government and to any legislature of any free country enjoying representative institutions—it was clear to them all that the best interests and present and future prosperity of British North America would be promoted by a Federal Union under the Crown of Great Britain. And it seems to me, as to them, and I think it will so appear to the people of this country, that, if we wish to be a great people; if we wish to form—using the expression which was sneered at the other evening—a great nationality, commanding the respect of the world, able to hold our own against all opponents, and to defend those institutions we prize: if we wish to have one system of government, and to establish a commercial union, with unrestricted free trade, between people of the five provinces, belonging, as they do, to the same nation, obeying the same Sovereign, owning the same allegiance, and being, for the most part, of the same blood and lineage: if we wish to be able to afford to each other the means of mutual defence and support against aggression and attack—this can only be obtained by a union of some kind between the scattered and weak boundaries composing the British North American Provinces.

The very mention of the scheme is fitted to bring with it its own approbation. Supposing

that in the spring of the year 1865, half a million of people were coming from the United Kingdom to make Canada their home, although they brought only their strong arms and willing hearts; though they brought neither skill nor experience nor wealth, would we not receive them with open arms, and hail their presence in Canada as an important addition to our strength? But when, by the proposed union, we not only get nearly a million of people to join us—when they contribute not only their numbers, their physical strength, and their desire to benefit their position, but when we know that they consist of old-established communities, having a large amount of realized wealth,—composed of people possessed of skill, education and experience in the ways of the New World—people who are as much Canadians, I may say, as we are—people who are imbued with the same feelings of loyalty to the Queen, and the same desire for the continuance of the connexion with the Mother Country as we are, and at the same time have a like feeling of ardent attachment for this, our common country, for which they and we would alike fight and shed our blood, if necessary—when all this is considered, argument is needless to prove the advantage of such a union.

There were only three modes—if I may return for a moment to the difficulties with which Canada was surrounded—only three modes that were at all suggested, by which the deadlock in our affairs, the anarchy we dreaded, and the evils which retarded our prosperity, could be met or averted. One was the dissolution of the union

between Upper and Lower Canada, leaving them as they were before the union of 1841. I believe that that proposition, by itself, had no supporters. It was felt by every one that, although it was a course that would do away with the sectional difficulties which existed—though it would remove the pressure on the part of the people of Upper Canada for representation based upon population —and the jealousy of the people of Lower Canada lest their institutions should be attacked and prejudiced by that principle in our representation; yet it was felt by every thinking man in the province that it would be a retrograde step, which would throw back the country to nearly the same position as it occupied before the union —that it would lower the credit enjoyed by United Canada—that it would be the breaking up of the connection which had existed for nearly a quarter of a century, and, under which, although it had not been completely successful, and had not allayed altogether the local jealousies that had their root in circumstances which arose before the union, our province, as a whole, had nevertheless prospered and increased. It was felt that a dissolution of the union would have destroyed all the credit that we have gained by being a united province, and would have left us two weak and ineffective governments, instead of one powerful and united people.

The next mode suggested was the granting of representation by population. Now we all know the manner in which that question was and is regarded by Lower Canada; that while in Upper Canada the desire and cry for it was daily aug-

menting, the resistance to it in Lower Canada was proportionably increasing in strength. Still, if some such means of relieving us from the sectional jealousies which existed between the two Canadas, if some such solution of the difficulties as Confederation had not been found, then representation by population must eventually have been carried; no matter though it might have been felt in Lower Canada as being a breach of the Treaty of Union, no matter how much it might have been felt by the Lower Canadians that it would sacrifice their local interests, it is certain that in the progress of events representation by population would have been carried; and, had it been carried—I speak here of my own individual sentiments—I do not think it would have been for the interest of Upper Canada. For though Upper Canada would have felt that it had received what it claimed as a right, and had succeeded in establishing its right, yet it would have left the Lower Province with a sullen feeling of injury and injustice. The Lower Canadians would not have worked cheerfully under such a change of system, but would have ceased to be what they are now—a nationality, with representatives in Parliament, governed by general principles, and dividing according to their political opinions—and would have been in great danger of becoming a faction, forgetful of national obligations and only actuated by a desire to defend their own sectional interests, their own laws, and their own institutions.

The third and only means of solution for our difficulties was the junction of the provinces either

in a Federal or a Legislative Union. Now, as regards the comparative advantages of a Legislative and a Federal Union, I have never hesitated to state my own opinions. I have again and again stated in the House, that, if practicable, I thought a Legislative Union would be preferable. I have always contended that if we could agree to have one government and one parliament, legislating for the whole of these peoples, it would be the best, the cheapest, the most vigorous, and the strongest system of government we could adopt. But, on looking at the subject in the Conference, and discussing the matter as we did, most unreservedly, and with a desire to arrive at a satisfactory conclusion, we found that such a system was impracticable. In the first place, it would not meet the assent of the people of Lower Canada, because they felt that in their peculiar position—being in a minority, with a different language, nationality and religion from the majority—in case of a junction with the other provinces, their institutions and their laws might be assailed, and their ancestral associations, on which they prided themselves, attacked and prejudiced; it was found that any proposition which involved the absorption of the individuality of Lower Canada—if I may use the expression—would not be received with favour by her people. We found too, that though their people speak the same language and enjoy the same system of law as the people of Upper Canada, a system founded on the common law of England, there was as great a disinclination on the part of the various Maritime Provinces to lose their individuality as

separate political organizations, as we observed in the case of Lower Canada herself. Therefore, we were forced to the conclusion that we must either abandon the idea of union altogether, or devise a system of union in which the separate provincial organizations would be in some degree preserved. So that those who were, like myself, in favour of a Legislative Union, were obliged to modify their views and accept the project of a Federal Union as the only scheme practicable, even for the Maritime Provinces. Because, although the law of those provinces is founded on the common law of England, yet every one of them has a large amount of law of its own—colonial law framed by itself, and affecting every relation of life, such as the laws of property, municipal and assessment laws; laws relating to the liberty of the subject, and to all the great interests contemplated in legislation; we found, in short, that the statutory law of the different provinces was so varied and diversified that it was almost impossible to weld them into a Legislative Union at once. Why, sir, if you only consider the innumerable subjects of legislation peculiar to new countries, and that every one of those five colonies had particular laws of its own, to which its people have been accustomed and are attached, you will see the difficulty of effecting and working a Legislative Union, and bringing about an assimilation of the local as well as general laws of the whole of the provinces. We in Upper Canada understand from the nature and operation of our peculiar municipal law, of which we know the value, the difficulty of framing a general

system of legislation on local matters which would meet the wishes and fulfil the requirements of the several provinces. Even the laws considered the least important, respecting private rights in timber, roads, fencing, and innumerable other matters, small in themselves, but in the aggregate of great interest to the agricultural class, who form the great body of the people, are regarded as of great value by the portion of the community affected by them. And when we consider that every one of the colonies has a body of law of this kind, and that it will take years before those laws can be assimilated, it was felt that at first, at all events, any united legislation would be almost impossible. I am happy to state—and indeed, it appears on the face of the resolutions themselves—that, as regards the Lower Provinces, a great desire was evinced for the final assimilation of our laws. One of the resolutions provides that an attempt shall be made to assimilate the laws of the Maritime Provinces and those of Upper Canada, for the purpose of eventually establishing one body of statutory law, founded on the common law of England, the parent of the laws of all those provinces.

One great objection made to a Federal Union was the expense of an increased number of legislatures. I will not enter at any length into that subject, because my honourable friends, the Finance Minister and the President of the Council, who are infinitely more competent than myself to deal with matters of this kind—matters of account—will, I think, be able to show that the expenses under a Federal Union will not be greater than

those under the existing system of separate governments and legislatures. Here, where we have a joint legislature for Upper and Lower Canada, which deals not only with subjects of general interest common to all Canada, but with all matters of private right and of sectional interest, and with that class of measures known as 'private bills,' we find that one of the greatest sources of expense to the country is the cost of legislation. We find, from the admixture of subjects of a general with those of a private character in legislation, that they mutually interfere with each other; whereas, if the attention of the Legislature was confined to measures of one kind or the other alone, the session of Parliament would not be so protracted and therefore not so expensive as at present. In the proposed Constitution all matters of general interest are to be dealt with by the General Legislature; while the local legislatures will deal with matters of local interest, which do not affect the Confederation as a whole, but are of the greatest importance to their particular sections. By such a division of labour the sittings of the General Legislature would not be so protracted as even those of Canada alone. And so with the local legislatures, their attention being confined to subjects pertaining to their own sections, their sessions would be shorter and less expensive. Then, when we consider the enormous saving that will be effected in the administration of affairs by one General Government—when we reflect that each of the five colonies has a government of its own with a complete establishment of public departments and

all the machinery required for the transaction of the business of the country—that each has a separate executive, judicial and militia system—that each province has a separate ministry including a Minister of Militia, with a complete Adjutant-General's Department—that each has a Finance Minister with a full Customs and Excise staff—that each Colony has as large and complete an administrative organization, with as many executive officers as the General Government will have—we can well understand the enormous saving that will result from a union of all the colonies, from their having but one head and one central system.

We, in Canada, already know something of the advantages and disadvantages of a Federal Union. Although we have nominally a Legislative Union in Canada—although we sit in one Parliament, supposed constitutionally to represent the people without regard to sections or localities, yet we know, as a matter of fact, that since the union in 1841 we have had a Federal Union; that in matters affecting Upper Canada solely, members from that section claimed and generally exercised the right of exclusive legislation, while members from Lower Canada legislated in matters affecting only their own section. We have had a Federal Union in fact, though a Legislative Union in name; and in the hot contests of late years, if on any occasion a measure affecting any one section were interfered with by the members from the other—if, for instance, a measure locally affecting Upper Canada were carried or defeated against the wishes of its majority, by one from Lower

Canada,—my honourable friend the President of the Council and his friends denounced with all their energy and ability such legislation as an infringement of the rights of the Upper Province. Just in the same way, if any act concerning Lower Canada were pressed into law against the wishes of the majority of her representatives by those from Upper Canada, the Lower Canadians would rise as one man and protest against such a violation of their peculiar rights. The relations between England and Scotland are very similar to that which obtains between the Canadas. The union between them, in matters of legislation, is of a federal character, because the Act of Union between the two countries provides that the Scottish law cannot be altered, except for the manifest advantage of the people of Scotland. This stipulation has been held to be so obligatory on the Legislature of Great Britain, that no measure affecting the law of Scotland is passed unless it receives the sanction of a majority of the Scottish members in Parliament. No matter how important it may be for the interests of the Empire as a whole to alter the laws of Scotland—no matter how much it may interfere with the symmetry of the general law of the United Kingdom, that law is not altered, except with the consent of the Scottish people, as expressed by their representatives in Parliament. Thus we have in Great Britain, to a limited extent, an example of the working and effects of a Federal Union, as we might expect to witness them in our own Confederation.

The whole scheme of Confederation, as pro-

pounded by the Conference, as agreed to and sanctioned by the Canadian Government, and as now presented for the consideration of the people and the Legislature, bears upon its face the marks of compromise. Of necessity there must have been a great deal of mutual concession. When we think of the representatives of five colonies, all supposed to have different interests, meeting together, charged with the duty of protecting those interests and of pressing the views of their own localities and sections, it must be admitted that, had we not met in a spirit of conciliation, and with an anxious desire to promote this union; if we had not been impressed with the idea contained in the words of the resolution —'That the best interests and present and future prosperity of British North America would be promoted by a Federal Union under the Crown of Great Britain,'—all our efforts might have proved to be of no avail. If we had not felt that, after coming to this conclusion, we were bound to set aside our private opinions on matters of detail, if we had not felt ourselves bound to look at what was practicable, not obstinately rejecting the opinions of others nor adhering to our own; if we had not met, I say, in a spirit of conciliation, and with an anxious, overruling desire to form one people under one government, we never would have succeeded. With these views, we press the question on this House and the country. I say to this House, if you do not believe that the union of the colonies is for the advantage of the country, that the joining of these five peoples into one nation, under one sovereign, is for the benefit of

all, then reject the scheme. Reject it if you do not believe it to be for the present advantage and future prosperity of yourselves and your children. But if, after a calm and full consideration of this scheme, it is believed, as a whole, to be for the advantage of this province—if the House and country believe this union to be one which will ensure for us British laws, British connection, and British freedom—and increase and develop the social, political and material prosperity of the country, then I implore this House and the country to lay aside all prejudices, and accept the scheme which we offer. I ask this House to meet the question in the same spirit in which the delegates met it. I ask each member of this House to lay aside his own opinions as to particular details, and to accept the scheme as a whole if he think it beneficial as a whole. As I stated in the preliminary discussion, we must consider this scheme in the light of a treaty. By a happy coincidence of circumstances, just when an Administration had been formed in Canada for the purpose of attempting a solution of the difficulties under which we laboured, at the same time the Lower Provinces, actuated by a similar feeling, appointed a Conference with a view to a union among themselves, without being cognizant of the position the government was taking in Canada. If it had not been for this fortunate coincidence of events, never, perhaps, for a long series of years would we have been able to bring this scheme to a practical conclusion. But we did succeed. We made the arrangement, agreed upon the scheme, and the deputations from the several governments

represented at the Conference went back pledged to lay it before their governments, and to ask the legislatures and people of their respective provinces to assent to it. I trust the scheme will be assented to as a whole. I am sure this House will not seek to alter it in its unimportant details; and, if altered in any important provisions, the result must be that the whole will be set aside, and we must begin *de novo*. If any important changes are made, every one of the colonies will feel itself absolved from the implied obligation to deal with it as a treaty, each province will feel itself at liberty to amend it *ad libitum* so as to suit its own views and interests; in fact, the whole of our labours will have been for nought, and we will have to renew our negotiations with all the colonies for the purpose of establishing some new scheme. I hope the House will not adopt any such course as will postpone, perhaps for ever, or at all events for a long period, all chances of union. All the statesmen and public men who have written or spoken on the subject admit the advantages of a union, if it were practicable: and now when it is proved to be practicable, if we do not embrace this opportunity the present favourable time will pass away, and we may never have it again. Because, just so surely as this scheme is defeated, will be revived the original proposition for a union of the Maritime Provinces, irrespective of Canada; they will not remain as they are now, powerless, scattered, helpless communities; they will form themselves into a power, which, though not so strong as if united with Canada, will, nevertheless, be a powerful and

considerable community, and it will be then too late for us to attempt to strengthen ourselves by this scheme, which, in the words of the resolution, 'is for the best interests, and present and future prosperity of British North America.'

If we are not blind to our present position, we must see the hazardous situation in which all the great interests of Canada stand in respect to the United States. I am no alarmist. I do not believe in the prospect of immediate war. I believe that the common sense of the two nations will prevent a war; still we cannot trust to probabilities. The Government and Legislature would be wanting in their duty to the people if they ran any risk. We know that the United States at this moment are engaged in a war of enormous dimensions—that the occasion of a war with Great Britain has again and again arisen, and may at any time in the future again arise. We cannot foresee what may be the result; we cannot say but that the two nations may drift into a war as other nations have done before. It would then be too late when war had commenced to think of measures for strengthening ourselves, or to begin negotiations for a union with the sister provinces. At this moment, in consequence of the ill-feeling which has arisen between England and the United States—a feeling of which Canada was not the cause,—in consequence of the irritation which now exists, owing to the unhappy state of affairs on this continent, the Reciprocity Treaty, it seems probable, is about to be brought to an end—our trade is hampered by the passport system,—and at any moment we may be deprived of permission

to carry our goods through United States channels —the bonded goods system may be done away with,—and the winter trade through the United States put an end to. Our merchants may be obliged to return to the old system of bringing in during the summer months the supplies for the whole year. Ourselves already threatened, our trade interrupted, our intercourse, political and commercial, destroyed, if we do not take warning now when we have the opportunity, and, while one avenue is threatened to be closed, open another by taking advantage of the present arrangement and the desire of the Lower Provinces to draw closer the alliance between us, we may suffer commercial and political disadvantages it may take long for us to overcome.

The Conference having come to the conclusion that a legislative union, pure and simple, was impracticable, our next attempt was to form a government upon federal principles, which would give to the General Government the strength of a legislative and administrative union, while at the same time it preserved that liberty of action for the different sections which is allowed by a Federal Union. And I am strong in the belief that we have hit upon the happy medium in those resolutions, and that we have formed a scheme of government which unites the advantages of both, giving us the strength of a legislative union and the sectional freedom of a federal union, with protection to local interests. In doing so we had the advantage of the experience of the United States. It is the fashion now to enlarge on the defects of the Constitution of the United States,

but I am not one of those who look upon it as a failure. I think and believe that it is one of the most skilful works which human intelligence ever created, is one of the most perfect organizations that ever governed a free people. To say that it has some defects is but to say that it is not the work of Omniscience, but of human intellects. We are happily situated in having had the opportunity of watching its operation, seeing its working from its infancy till now. It was in the main formed on the model of the Constitution of Great Britain, adapted to the circumstances of a new country, and was perhaps the only practicable system that could have been adopted under the circumstances existing at the time of its formation. We can now take advantage of the experience of the last seventy-eight years, during which that Constitution has existed, and I am strongly of the belief that we have, in a great measure, avoided in this system which we propose for the adoption of the people of Canada, the defects which time and events have shown to exist in the American Constitution.

In the first place, by a resolution which meets with the universal approval of the people of this country, we have provided that for all time to come, so far as we can legislate for the future, we shall have as the head of the executive power, the Sovereign of Great Britain. No one can look into futurity and say what will be the destiny of this country. Changes come over nations and peoples in the course of ages. But, so far as we can legislate, we provide that, for all time to come, the Sovereign of Great Britain shall be the Sove-

reign of British North America. By adhering to the monarchical principle, we avoid one defect inherent in the Constitution of the United States. By the election of the President by a majority and for a short period, he never is the sovereign and chief of the nation. He is never looked up to by the whole people as the head and front of the nation. He is at best but the successful leader of a party. This defect is all the greater on account of the practice of re-election. During his first term of office, he is employed in taking steps to secure his own re-election, and for his party a continuance of power. We avoid this by adhering to the monarchical principle—the Sovereign whom you respect and love. I believe that it is of the utmost importance to have that principle recognized, so that we shall have a Sovereign who is placed above the region of party—to whom all parties look up—who is not elevated by the action of one party nor depressed by the action of another, who is the common head and sovereign of all.

In the Constitution we propose to continue the system of Responsible Government, which has existed in this province since 1841, and which has long obtained in the Mother Country. This is a feature of our Constitution as we have it now, and as we shall have it in the Federation, in which, I think, we avoid one of the great defects in the Constitution of the United States. There the President, during his term of office, is in a great measure a despot, a one-man power, with the command of the naval and military forces, with an immense amount of patronage as head of the

Executive, and with the veto power as a branch of the Legislature, perfectly uncontrolled by responsible advisers, his cabinet being departmental officers merely, whom he is not obliged by the Constitution to consult with, unless he chooses to do so. With us the Sovereign, or in this country the Representative of the Sovereign, can act only on the advice of his ministers, those ministers being responsible to the people through Parliament.

Prior to the formation of the American Union, as we all know, the different states which entered into it were separate colonies. They had no connection with each other further than that of having a common sovereign, just as with us at present. Their constitutions and their laws were different. They might and did legislate against each other, and when they revolted against the Mother Country they acted as separate sovereignties, and carried on the war by a kind of treaty of alliance against the common enemy. Ever since the union was formed the difficulty of what is called the 'State Rights' has existed, and this had much to do in bringing on the present unhappy war in the United States. They commenced, in fact, at the wrong end. They declared by their Constitution that each state was a sovereignty in itself, and that all the powers incident to a sovereignty belonged to each state, except those powers which, by the Constitution, were conferred upon the General Government and Congress. Here we have adopted a different system. We have strengthened the General Government. We have given the General Legislature all the great subjects of legislation.

We have conferred on them, not only specifically and in detail, all the powers which are incident to sovereignty, but we have expressly declared that all subjects of general interest, not distinctly and exclusively conferred upon the local governments and local legislatures, shall be conferred upon the General Government and Legislature.—We have thus avoided that great source of weakness which has been the cause of the disruption of the United States. We have avoided all conflict of jurisdiction and authority, and if this Constitution is carried out, as it will be in full detail in the Imperial Act to be passed if the colonies adopt the scheme, we will have in fact, as I said before, all the advantages of a legislative union under one administration, with, at the same time, the guarantees for local institutions and for local laws, which are insisted upon by so many in the provinces now, I hope, to be united.

I think it is well that, in framing our Constitution—although my honourable friend the member for Hochelaga sneered at it the other day, in the discussion on the Address in reply to the speech from the Throne—our first act should have been to recognize the sovereignty of her Majesty. I believe that, while England has no desire to lose her colonies, but wishes to retain them, while I am satisfied that the public mind of England would deeply regret the loss of these provinces—yet, if the people of British North America after full deliberation had stated that they considered it was for their interest, for the advantage of the future of British North America, to sever the tie, such is the generosity of the people of England,

that, whatever their desire to keep these colonies, they would not seek to compel us to remain unwilling subjects of the British Crown. If therefore at the Conference we had arrived at the conclusion, that it was for the interest of these provinces that a severance should take place, I am sure that her Majesty and the Imperial Parliament would have sanctioned that severance. We accordingly felt that there was a propriety in giving a distinct declaration of opinion on that point, and that, in framing the Constitution, its first sentence should declare, that 'The Executive authority or government shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered according to the well understood principles of the British Constitution, by the Sovereign personally, or by the Representative of the Sovereign duly authorized.' That resolution met with the unanimous assent of the Conference. The desire to remain connected with Great Britain and to retain our allegiance to her Majesty was unanimous. Not a single suggestion was made that it could, by any possibility, be for the interest of the colonies, or of any section or portion of them, that there should be a severance of our connection. Although we knew it to be possible that Canada, from her position, might be exposed to all the horrors of war by reason of causes of hostility arising between Great Britain and the United States—causes over which we had no control, and which we had no hand in bringing about—yet there was a unanimous feeling of willingness to run all the hazards of war, if war must come,

rather than lose the connexion between the Mother Country and these colonies. We provide that 'the Executive authority shall be administered by the Sovereign personally, or by the Representative of the Sovereign duly authorized.' It is too much to expect that the Queen should vouchsafe us her personal governance or presence, except to pay us, as the heir apparent of the Throne, our future Sovereign, has already paid us, the graceful compliment of a visit. The Executive authority must therefore be administered by her Majesty's Representative. We place no restriction on her Majesty's prerogative in the selection of her representative. As it is now, so it will be if this Constitution is adopted. The Sovereign has unrestricted freedom of choice. Whether in making her selection she may send us one of her own family, a Royal Prince, as a Viceroy to rule over us, or one of the great statesmen of England to represent her, we know not. We leave that to her Majesty in all confidence. But we may be permitted to hope, that when the union takes place, and we become the great country which British North America is certain to be, it will be an object worthy the ambition of the statesmen of England to be charged with presiding over our destinies.

Let me now invite the attention of the House to the provisions in the Constitution respecting the legislative power. The sixth Resolution says, 'There shall be a general legislature or parliament for the federated provinces, composed of a Legislative Council and a House of Commons.' This resolution has been cavilled at in the English

press as if it excluded the Sovereign as a portion of the Legislature. In one sense, that stricture was just—because in strict constitutional language, the Legislature of England consists of King, Lords and Commons. But, on the other hand, in ordinary parlance we speak of 'the King and his Parliament,' or 'the King summoning his Parliament,' the three estates—Lords spiritual, Lords temporal, and the House of Commons, and I observe that such a writer as Hallam occasionally uses the word Parliament in that restricted sense. At best it is merely a verbal criticism. The legislature of British North America will be composed of King, Lords, and Commons. The Legislative Council will stand in the same relation to the Lower House, as the House of Lords to the House of Commons in England, having the same power of initiating all matters of legislation, except the granting of money. As regards the Lower House, it may not appear to matter much, whether it is called the House of Commons or House of Assembly. It will bear whatever name the Parliament of England may choose to give it, but 'The House of Commons' is the name we should prefer, as showing that it represents the Commons of Canada, in the same way that the English House of Commons represents the Commons of England, with the same privileges, the same parliamentary usage, and the same parliamentary authority. In settling the constitution of the Lower House, that which peculiarly represents the people, it was agreed that the principle of representation based on population should be adopted, and the mode of applying that principle is fully

developed in these resolutions. When I speak of representation by population, the House will of course understand that universal suffrage is not in any way sanctioned, or admitted by these resolutions, as the basis on which the constitution of the popular branch should rest. In order to protect local interests, and to prevent sectional jealousies, it was found requisite that the three great divisions into which British North America is separated, should be represented in the Upper House on the principle of equality. There are three great sections, having different interests, in this proposed Confederation. We have Western Canada, an agricultural country far away from the sea, and having the largest population, who have agricultural interests principally to guard. We have Lower Canada, with other and separate interests, and especially with institutions and laws which she jealously guards against absorption by any larger, more numerous, or stronger power. And we have the Maritime Provinces, having also different sectional interests of their own, having, from their position, classes and interests which we do not know in Western Canada. Accordingly, in the Upper House—the controlling and regulating, but not the initiating, branch (for we know that here, as in England, to the Lower House will practically belong the initiation of matters of great public interest), in the House which has the sober second-thought in legislation —it is provided that each of those great sections shall be represented equally by 24 members. The only exception to that condition of equality is in the case of Newfoundland, which has an interest

of its own, lying, as it does, at the mouth of the great river St. Lawrence, and more connected, perhaps, with Canada than with the Lower Provinces. It has, comparatively speaking, no common interest with the other Maritime Provinces, but has sectional interests and sectional claims of its own to be protected. It, therefore, has been dealt with separately, and is to have a separate representation in the Upper House, thus varying from the equality established between the other sections.

As may be well conceived, great difference of opinion at first existed as to the constitution of the Legislative Council. In Canada the elective principle prevailed; in the Lower Provinces, with the exception of Prince Edward Island, the nominative principle was the rule. We found a general disinclination on the part of the Lower Provinces to adopt the elective principle; indeed, I do not think there was a dissenting voice in the Conference against the adoption of the nominative principle, except from Prince Edward Island. The delegates from New Brunswick, Nova Scotia and Newfoundland, as one man, were in favour of nomination by the Crown. And nomination by the Crown is of course the system which is most in accordance with the British Constitution. We resolved then, that the constitution of the Upper House should be in accordance with the British system as nearly as circumstances would allow. An hereditary Upper House is impracticable in this young country. Here we have none of the elements for the formation of a landlord aristocracy—no men of large territorial positions—

no class separated from the mass of the people. An hereditary body is altogether unsuited to our state of society, and would soon dwindle into nothing. The only mode of adapting the English system to the Upper House is by conferring the power of appointment on the Crown (as the English peers are appointed), but that the appointments should be for life. The arguments for an elective Council are numerous and strong; and I ought to say so, as one of the Administration responsible for introducing the elective principle into Canada. I hold that this principle has not been a failure in Canada; but there were causes —which we did not take into consideration at the time—why it did not so fully succeed in Canada as we had expected. One great cause was the enormous extent of the constituencies and the immense labour which consequently devolved on those who sought the suffrages of the people for election to the Council. For the same reason the expense—the legitimate expense—was so enormous that men of standing in the country, eminently fitted for such a position, were prevented from coming forward. At first, I admit, men of the first standing did come forward, but we have seen that in every succeeding election in both Canadas there has been an increasing disinclination, on the part of men of standing and political experience and weight in the country, to become candidates; while, on the other hand, all the young men, the active politicians, those who have resolved to embrace the life of a statesman, have sought entrance to the House of Assembly. The nominative system in this country was to a great

extent successful, before the introduction of responsible government. Then the Canadas were to a great extent Crown colonies, and the upper branch of thee Legislature consisted of gentlemen chosen from among the chief judicial and ecclesiastical dignitaries, the heads of departments, and other men of the first position in the country. Those bodies commanded great respect from the character, standing, and weight of the individuals composing them, but they had little sympathy with the people or their representatives, and collisions with the Lower House frequently occurred, especially in Lower Canada. When responsible government was introduced, it became necessary for the Governor of the day to have a body of advisers who had the confidence of the House of Assembly, which could make or unmake ministers as it chose. The Lower House in effect pointed out who should be nominated to the Upper House; for the ministry, being dependent altogether on the lower branch of the Legislature for support, selected members for the Upper House from among their political friends at the dictation of the House of Assembly. The Council was becoming less and less a substantial check on the legislation of the Assembly; but under the system now proposed, such will not be the case. No ministry can in future do what they have done in Canada before, —they cannot, with the view of carrying any measure, or of strengthening the party, attempt to overrule the independent opinion of the Upper House, by filling it with a number of its partisans and political supporters. The provision in the Constitution that the Legislative Council shall

consist of a limited number of members—that each of the great sections shall appoint twenty-four members and no more,—will prevent the Upper House from being swamped from time to time by the ministry of the day, for the purpose of carrying out their own schemes or pleasing their partisans. The fact of the government being prevented from exceeding a limited number will preserve the independence of the Upper House, and make it, in reality, a separate and distinct chamber, having a legitimate and controlling influence in the legislation of the country. The objection has been taken that in consequence of the Crown being deprived of the right of unlimited appointment, there is a chance of a deadlock arising between the two branches of the Legislature; a chance that the Upper House being altogether independent of the Sovereign, of the Lower House, and of the advisers of the Crown, may act independently, and so independently as to produce a deadlock. I do not anticipate any such result. In the first place we know that in England it does not arise. There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatever were it a mere chamber for registering the decrees of the Lower House It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body, but it will never

set itself in opposition against the deliberate and understood wishes of the people. Even the House of Lords, which, as an hereditary body, is far more independent than one appointed for life can be, whenever it ascertains what is the calm, deliberate will of the people of England, yields, and never in modern times has there been, in fact or act, any attempt to overrule the decisions of that House by the appointment of new peers, excepting, perhaps, once in the reign of Queen Anne, It is true that in 1832 such an increase was threatened in consequence of the reiterated refusal of the House of Peers to pass the Reform Bill. I have no doubt the threat would have been carried into effect, if necessary; but every one, even the Ministry who advised that step, admitted that it would be a revolutionary act, a breach of the Constitution, to do so, and it was because of the necessity of preventing the bloody revolution which hung over the land, if the Reform Bill had been longer refused to the people of England, that they consented to the bloodless revolution of overriding the independent opinion of the House of Lords on that question. Since that time it has never been attempted, and I am satisfied it will never be attempted again. Only a year or two ago the House of Lords rejected the Paper Duties Bill, and they acted quite constitutionally, according to the letter and, as many think, according to the spirit of the Constitution in doing so. Yet when they found they had interfered with a subject which the people's house claimed as belonging of right to themselves, the very next session they abandoned their position,

not because they were convinced they had done wrong, but because they had ascertained what was the deliberate voice of the representatives of the people on the subject. In this country, we must remember, that the gentlemen who will be selected for the Legislative Council stand on a very different footing from the peers of England. They have not, like them, any ancestral associations or position derived from history. They have not that direct influence on the people themselves, or on the popular branch of the legislature, which the peers of England exercise, from their great wealth, their vast territorial possessions, their numerous tenantry, and that prestige with which the exalted position of their class for centuries has invested them. The members of our Upper House will be like those of the Lower, men of the people, and from the people. The man put into the Upper House is as much a man of the people the day after, as the day before, his elevation. Springing from the people, and one of them, he takes his seat in the Council with all the sympathies and feelings of a man of the people, and when he returns home, at the end of the session, he mingles with them on equal terms, and is influenced by the same feelings and associations and events as those which affect the mass around him. And is it, then, to be supposed that the members of the upper branch of the legislature will set themselves deliberately at work to oppose what they know to be the settled opinions and wishes of the people of the country? They will not do it. There is no fear of a deadlock between the two houses. There is an infinitely greater

chance of a deadlock between the two branches of the legislature, should the elective principle be adopted, than with a nominated chamber—chosen by the Crown, and having no mission from the people. The members of the Upper Chamber would then come from the people as well as those of the Lower House, and should any difference ever arise between both branches, the former could say to the members of the popular branch: 'We as much represent the feelings of the people as you do, and even more so; we are not elected from small localities and for a short period; you as a body were elected at a particular time, when the public mind was running in a particular channel; you were returned to Parliament, not so much representing the general views of the country, on general questions, as upon the particular subjects which happened to engage the minds of the people when they went to the polls. We have as much right, or a better right, than you to be considered as representing the deliberate will of the people on general questions, and therefore we will not give way.' There is, I repeat, a greater danger of an irreconcilable difference of opinion between the two branches of the legislature, if the upper be elective, than if it holds its commission from the Crown. Besides, it must be remembered that an Upper House, the members of which are to be appointed for life, would not have the same quality of permanence as the House of Lords; our members would die, strangers would succeed them, whereas son succeeded father in the House of Lords. Thus the changes in the membership and state of opinion in our Upper

House would always be more rapid than in the House of Lords. To show how speedily changes have occurred in the Upper House, as regards life members, I will call the attention of the House to the following facts:—At the call of the House, in February, 1856, forty-two life members responded; two years afterwards, in 1858, only thirty-five answered to their names; in 1862 there were only twenty-five life members left, and in 1864, but twenty-one. This shows how speedily changes take place in the life membership. But remarkable as this change has been, it is not so great as that in regard to the elected members. Though the elective principle only came into force in 1856, and although only twelve men were elected that year, and twelve more every two years since, twenty-four changes have already taken place by the decease of members, by the acceptance of office, and by resignation. So it is quite clear that, should there be on any question a difference of opinion between the Upper and Lower Houses, the government of the day being obliged to have the confidence of the majority on the popular branch—would, for the purpose of bringing the former into accord and sympathy with the latter, fill up any vacancies that might occur, with men of the same political feelings and sympathies with the Government, and consequently with those of the majority in the popular branch; and all the appointments of the Administration would be made with the object of maintaining the sympathy and harmony between the two houses. There is this additional advantage to be expected from the limitation. To the Upper

House is to be confided the protection of sectional interests; therefore is it that the three great divisions are there equally represented, for the purpose of defending such interests against the combinations of majorities in the Assembly. It will, therefore, become the interest of each section to be represented by its very best men, and the members of the Administration who belong to each section will see that such men are chosen, in case of a vacancy in their section. For the same reason each state of the American Union sends its two best men to represent its interests in the Senate. It is provided in the Constitution that in the first selections for the Council, regard shall be had to those who now hold similar positions in the different colonies. This, it appears to me, is a wise provision. In all the provinces, except Prince Edward Island, there are gentlemen who hold commissions for the Upper House for life. In Canada, there are a number who hold under that commission; but the majority of them hold by a commission, not, perhaps, from a monarchical point of view so honourable, because the Queen is the fountain of honour,—but still, as holding their appointment from the people, they may be considered as standing on a par with those who have her Majesty's commission. There can be no reason suggested why those who have had experience in legislation, whether they hold their positions by the election of the people or have received preferment from the Crown—there is no valid reason why those men should be passed over, and new men sought for to form the Legislative Council of the Confederation. It is, there-

fore, provided that the selection shall be made from those gentlemen, who are now members of the upper branch of the Legislature in each of the colonies, for seats in the Legislative Council of the General Legislature. The arrangement in this respect is somewhat similar to that by which Representative Peers are chosen from the Peers of Scotland and Ireland, to sit in the Parliament of the United Kingdom. In like manner, the members of the Legislative Council of the proposed Confederation will be first selected from the existing Legislative Councils of the various provinces.

In the formation of the House of Commons, the principle of representation by population has been provided for in a manner equally ingenious and simple. The introduction of this principle presented at first the apparent difficulty of a constantly increasing body until, with the increasing population, it would become inconveniently and expensively large. But by adopting the representation of Lower Canada as a fixed standard —as the pivot on which the whole would turn— that province being the best suited for the purpose, on account of the comparatively permanent character of its population, and from its having neither the largest nor least number of inhabitants —we have been enabled to overcome the difficulty I have mentioned. We have introduced the system of representation by population without the danger of an inconvenient increase in the number of representatives on the recurrence of each decennial period. The whole thing is worked by a simple rule of three. For instance, we have

in Upper Canada 1,400,000 of a population; in Lower Canada 1,100,000. Now, the proposition is simply this—if Lower Canada, with its population of 1,100,000, has a right to 65 members, how many members should Upper Canada have, with its larger population of 1,400,000? The same rule applies to the other provinces—the proportion is always observed and the principle of representation by population carried out, while, at the same time, there will not be decennially an inconvenient increase in the numbers of the Lower House. At the same time, there is a constitutional provision that hereafter, if deemed advisable, the total number of representatives may be increased from one hundred and ninety-four, the number fixed in the first instance. In that case, if an increase is made, Lower Canada is still to remain the pivot on which the whole calculation will turn. If Lower Canada, instead of sixty-five, shall have seventy members, then the calculation will be, if Lower Canada has seventy members, with such a population, how many shall Upper Canada have with a larger population? I was in favour of a larger House than one hundred and ninety-four, but was overruled. I was perhaps singular in the opinion, but I thought it would be well to commence with a larger representation in the lower branch. The arguments against this were, that, in the first place, it would cause additional expense; in the next place, that in a new country like this, we could not get a sufficient number of qualified men to be representatives. My reply was that the number is rapidly increasing as we increase in education and wealth; that

a larger field would be open to political ambition by having a larger body of representatives; that, by having numerous and smaller constituencies, more people would be interested in the working of the Union, and that there would be a wider field for selection for leaders of governments and leaders of parties. These are my individual sentiments—which, perhaps, I have no right to express here—but I was overruled, and we fixed on the number of one hundred and ninety-four, which no one will say is large or extensive, when it is considered that our present number in Canada alone is one hundred and thirty. The difference between one hundred and thirty and one hundred and ninety-four is not great, considering the large increase that will be made to our population when Confederation is carried into effect.

While the principle of representation by population is adopted with respect to the popular branch of the legislature, not a single member of the Conference, as I stated before, not a single one of the representatives of the government or of the opposition of any one of the Lower Provinces, was in favour of universal suffrage. Every one felt that in this respect the principle of the British Constitution should be carried out, and that classes and property should be represented as well as numbers. Insuperable difficulties would have presented themselves if we had attempted to settle now the qualification for the elective franchise. We have different laws in each of the colonies fixing the qualification of electors for their own local legislatures; and we

therefore adopted a similar clause to that which is contained in the Canada Union Act of 1841, viz., that all the laws which affected the qualification of members and of voters, which affected the appointment and conduct of returning officers and the proceedings at elections, as well as the trial of controverted elections in the separate provinces, should obtain in the first election to the Confederate Parliament, so that every man who has now a vote in his own province should continue to have a vote in choosing a representative to the first Federal Parliament. And it was left to the Parliament of the Confederation, as one of their first duties, to consider and to settle by an act of their own the qualification for the elective franchise, which would apply to the whole Confederation. In considering the question of the duration of Parliament, we came to the conclusion to recommend a period of five years. I was in favour of a longer period. I thought that the duration of the local legislatures should not be shortened so as to be less than four years, as at present, and that the General Parliament should have as long a duration as that of the United Kingdom. I was willing to have gone to the extent of seven years; but a term of five years was preferred, and we had the example of New Zealand, a precedent which was carefully considered, not only locally, but by the Imperial Parliament, and which gave the provinces of those islands a general parliament with a duration of five years. But it was a matter of little importance whether five years or seven years was the term, the power of dissolution by the Crown

having been reserved. I find, on looking at the duration of parliaments since the accession of George III to the Throne, that, excluding the present parliament, there have been seventeen parliaments, the average period of whose existence has been about three years and a half. That average is less than the average duration of the parliaments of Canada since the union, so that it was not a matter of much importance whether we fixed upon five or seven years as the period of duration of our General Parliament.

A good deal of misapprehension has arisen from the accidental omission of some words from the 24th resolution. It was thought that by it the local legislatures were to have the power of arranging hereafter, and from time to time of readjusting, the different constituencies and settling the size and boundaries of the various electoral districts. The meaning of the resolution is simply this, that for the first General Parliament the arrangement of constituencies shall be made by the existing local legislatures; that in Canada, for instance, the present Canadian Parliament shall arrange what are to be the constituencies of Upper Canada, and to make such changes as may be necessary in arranging for the seventeen additional members given to it by the Constitution; and that it may also, if it sees fit, alter the boundaries of the existing constituencies of Lower Canada. In short, this Parliament shall settle what shall be the different constituencies electing members to the first Federal Parliament. And so the other provinces, the legislatures of which will fix the limits of their several constituencies in the session

in which they adopt the new Constitution. Afterwards the local legislatures may alter their own electoral limits as they please, for their own local elections. But it would evidently be unproper to leave to the Local Legislature the power to alter the constituencies sending members to the General Legislature after the General Legislature shall have been called into existence. Were this the case, a member of the General Legislature might at any time find himself ousted from his seat by an alteration of his constituency by the Local Legislature in his section. No; after the General Parliament meets, in order that it may have full control of its own legislation, and be assured of its position, it must have the full power of arranging and re-arranging the electoral limits of its constituencies as it pleases, such being one of the powers essentially necessary to such a Legislature.

I shall not detain the House by entering into a consideration at any length of the different powers conferred upon the General Parliament as contra-distinguished from those reserved to the local legislatures; but any honourable member, on examining the list of different subjects which are to be assigned to the General and Local Legislatures respectively, will see that all the great questions which affect the general interests of the Confederacy as a whole, are confided to the Federal Parliament while the local interests and local laws of each section are preserved intacts and entrusted to the care of the local bodies. As a matter of course, the General Parliament must have the power of dealing with the public debt,

and property of the Confederation. Of course, too, it must have the regulation of trade and commerce, of customs and excise. The Federal Parliament must have the sovereign power of raising money from such sources and by such means as the representatives of the people will allow. It will be seen that the local legislatures have the control of all local works; and it is a matter of great importance, and one of the chief advantages of the Federal Union and of local legislatures, that each province will have the power and means of developing its own resources and aiding its own progress after its own fashion and in its own way. Therefore all the local improvements, all local enterprises or undertakings of any kind, have been left to the care and management of the local legislatures of each province. It is provided that all 'lines of steam or other ships, railways, canals and other works, connecting any two or more of the provinces together or extending beyond the limits of any province,' shall belong to the General Government, and be under the control of the General Legislature. In like manner 'lines of steamships between the Federated Provinces and other countries, telegraph communication and the incorporation of telegraph companies, and all such works as shall, although lying within any province, be specially declared by the Acts authorizing them, to be for the general advantage,' shall belong to the General Government. For instance, the Welland Canal, though lying wholly within one section, and the St. Lawrence Canals in two only, may be properly considered national works, and for the general benefit of the whole

Federation. Again, the census, the ascertaining of our numbers and the extent of our resources, must as a matter of general interest, belong to the General Government. So also with the defences of the country. One of the great advantages of Confederation is, that we shall have a united, a concerted, and uniform system of defence. We are at this moment with a different militia system in each colony—in some of the colonies with an utter want of any system of defence. We have a number of separate staff establishments, without any arrangement between the colonies as to the means, either of defence or offence. But, under the union, we will have one system of defence and one system of militia organization. In the event of the Lower Provinces being threatened, we can send the large militia forces of Upper Canada to their rescue. Should we have to fight on our lakes against a foreign foe, we will have the hardy seamen of the Lower Provinces coming to our assistance and manning our vessels. We will have one system of defence and be one people, acting together alike in peace and in war. The criminal law too—the determination of what is a crime and what is not and how crime shall be punished—is left to the General Government. This is a matter almost of necessity. It is of great importance that we should have the same criminal law throughout these provinces—that what is a crime in one part of British America, should be a crime in every part—that there should be the same protection of life and property as in another. It is one of the defects in the United States system, that each separate state has or may have a criminal

code of its own, that what may be a capital offence in one state, may be a venial offence punishable slightly in another. But under our Constitution we shall have one body of criminal law, based on the criminal law of England, and operating equally throughout British America, so that a British American belonging to what province he may, or going to any other part of the Confederation, knows what his rights are in that respect, and what his punishment will be if an offender against the criminal laws of the land. I think this is one of the most marked instances in which we take advantage of the experience derived from our observations of the defects in the Constitution of the neighbouring Republic. The 33rd provision is of very great importance to the future well-being of these colonies. It commits to the General Parliament the 'rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island, and rendering uniform the procedure of all or any of the courts in these provinces.' The great principles which govern the laws of all the provinces, with the single exception of Lower Canada, are the same, although there may be a divergence in details; and it is gratifying to find, on the part of the Lower Provinces, a general desire to join together with Upper Canada in this matter, and to procure, as soon as possible, an assimilation of the statutory laws and the procedure in the courts, of all these provinces At present there is a good deal of diversity. In one of the colonies, for instance, they have no

municipal system at all. In another, the municipal system is merely permissive, and has not been adopted to any extent. Although, therefore, a legislative union was found to be almost impracticable, it was understood, so far as we could influence the future, that the first act of the Confederate Government should be to procure an assimilation of the statutory law of all those provinces, which has, as its root and foundation, the common law of England. But to prevent local interests from being over-ridden, the same section makes provision, that, while power is given to the General Legislature to deal with this subject, no change in this respect should have the force and authority of law in any province until sanctioned by the Legislature of that province. The General Legislature is to have power to establish a general Court of Appeal for the Federated Provinces. Although the Canadian Legislature has always had the power to establish a Court of Appeal, to which appeals may be made from the courts of Upper and Lower Canada, we have never availed ourselves of the power. Upper Canada has its own Court of Appeal, so has Lower Canada. And this system will continue until a General Court of Appeal shall be established by the General Legislature. The Constitution does not provide that such a court shall be established. There are many arguments for and against the establishment of such a court. But it was thought wise and expedient to put into the Constitution a power to the General Legislature, that, if after full consideration they think it advisable to establish a General Court of Appeal from all the Superior

Courts of all the provinces, they may do so.[1] I shall not go over the other powers that are conferred on the General Parliament. Most of them refer to matters of financial and commercial interest, and I leave those subjects in other and better hands. Besides all the powers that are specifically given, the 37th and last item of this portion of the Constitution confers on the General Legislature the general mass of sovereign legislation, the power to legislate on 'all matters of a general character, not specially and exclusively reserved for the local governments and legislatures.' This is precisely the provision which is wanting in the Constitution of the United States. It is here that we find the weakness of the American system—the point where the American Constitution breaks down. It is in itself a wise and necessary provision. We thereby strengthen the Central Parliament, and make the Confederation one people and one government, instead of five peoples and five governments, with merely a point of authority connecting us to a limited and insufficient extent.

With respect to the local governments, it is provided that each shall be governed by a chief executive officer, who shall be nominated by the General Government. As this is to be one united province, with the local governments and legislatures subordinate to the General Government and Legislature, it is obvious that the chief officer in each of the provinces must be subor-

[1] A Supreme Court was created in 1875; from it an appeal to the Privy Council lies by special leave of the latter body in all civil cases.

dinate as well. The General Government assumes towards the local governments precisely the same position as the Imperial Government holds with respect to each of the colonies now; so that as the Lieutenant-Governor of each of the different provinces is now appointed directly by the Queen, and is directly responsible, and reports directly to her, so will the executives of the local governments hereafter be subordinate to the Representative of the Queen, and be responsible and report to him. Objection has been taken that there is an infringement of the Royal prerogative in giving the pardoning power to the local governors, who are not appointed directly by the Crown, but only indirectly by the Chief Executive of the Confederation, who is appointed by the Crown. This provision was inserted in the Constitution on account of the practical difficulty which must arise if the power is confined to the Governor-General. For example, if a question arose about the discharge of a prisoner convicted of a minor offence, say in Newfoundland, who might be in imminent danger of losing his life if he remained in confinement, the exercise of the pardoning power might come too late if it were necessary to wait for the action of the Governor-General. It must be remembered that the pardoning power not only extends to capital cases, but to every case of conviction and sentence, no matter how trifling—even to the case of a fine in the nature of a sentence on a criminal conviction. It extends to innumerable cases, where, if the responsibility for its exercise were thrown on the General

Executive, it could not be so satisfactorily discharged. Of course there must be, in each province, a legal adviser of the Executive, occupying the position of our Attorney-General, as there is in every state of the American Union. This officer will be an officer of the Local Government; but, if the pardoning power is reserved for the Chief Executive, there must, in every case where the exercise of the pardoning power is sought, be a direct communication and report from the local law officer to the Governor-General. The practical inconvenience of this was felt to be so great, that it was thought well to propose the arrangement we did, without any desire to infringe upon the prerogatives of the Crown, for our whole action shows that the Conference, in every step they took, were actuated by a desire to guard zealously these prerogatives. It is a subject, however, of Imperial interest, and if the Imperial Government and Imperial Parliament are not convinced by the arguments we will be able to press upon them for the continuation of that clause, then, of course, as the overruling power, they may set it aside.[1]

There are numerous subjects which belong, of right, both to the Local and the General Parliaments. In all these cases it is provided, in order to prevent a conflict of authority, that where there is concurrent jurisdiction in the General

[1] In the constitution as finally adopted in the *British North America Act*, 1867, no power of pardon is given to the Lieutenant-Governors, but it has been held that, as part of the executive power, it belongs to them in respect of offences against provincial law.

and the Local Parliaments, the same rule should apply as now applies in cases where there is concurrent jurisdiction in the Imperial and in the Provincial Parliaments, and that when the legislation of the one is adverse to or contradictory of the legislation of the other, in all such cases the action of the General Parliament must overrule, *ex necessitate*, the action of the Local Legislature. We have introduced also all those provisions which are necessary in order to the full working out of the British Constitution in these provinces. We provide that there shall be no money votes, unless those votes are introduced in the popular branch of the Legislature on the authority of the responsible advisers of the Crown —those with whom the responsibility rests of equalizing revenue and expenditure,—that there can be no expenditure or authorization of expenditure by Address or in any other way unless initiated by the Crown on the advice of its responsible advisers. . . .

The last resolution of any importance is one which, although not affecting the substance of the Constitution, is of interest to us all. It is that 'her Majesty the Queen be solicited to determine the rank and name of the federated provinces.' I do not know whether there will be any expression of opinion in this House on this subject—whether we are to be a vice-royalty, or whether we are still to retain our name and rank as a province. But I have no doubt her Majesty will give the matter her gracious consideration, that she will give us a name satisfactory to us all, and that the rank she will confer upon us will

be a rank worthy of our position, of our resources, and of our future. Let me again, before I sit down, impress upon this House the necessity of meeting this question in a spirit of compromise, with a disposition to judge the matter as a whole, to consider whether really it is for the benefit and advantage of the country to form a Confederation of all the provinces; and if honourable gentlemen, whatever may have been their preconceived ideas as to the merits of the details of this measure, whatever may still be their opinions as to these details, if they really believe that the scheme is one by which the prosperity of the country will be increased, and its future progress secured, I ask them to yield their own views, and to deal with the scheme according to its merits as one great whole. One argument, but not a strong one, has been used against this Confederation, that it is an advance towards independence. Some are apprehensive that the very fact of our forming this union will hasten the time when we shall be severed from the Mother Country. I have no apprehension of that kind. I believe it will have the contrary effect. I believe that as we grow stronger, that as it is felt in England we have become a people, able from our union, our strength, our population, and the development of our resources, to take our position among the nations of the world, she will be less willing to part with us than she would be now, when we are broken up into a number of insignificant colonies, subject to attack piecemeal without any concerted action or common organization of defence. I am strongly of

opinion that year by year, as we grow in population and strength, England will more and more see the advantages of maintaining the alliance between British North America and herself. Does any one imagine that, when our population, instead of three and a half, will be seven millions, as it will be ere many years pass, we would be one whit more willing than now to sever the connexion with England? Would not those seven millions be just as anxious to maintain their allegiance to the Queen and their connexion with the Mother Country, as we are now? Will the addition to our numbers of the people of the Lower Provinces in any way lessen our desire to continue our connexion with the Mother Country? I believe the people of Canada East and West to be truly loyal. But, if they can by possibility be exceeded in loyalty, it is by the inhabitants of the Maritime Provinces. Loyalty with them is an overruling passion. In all parts of the Lower Provinces there is a rivalry between the opposing political parties as to which shall most strongly express and most effectively carry out the principle of loyalty to her Majesty, and to the British Crown. When this union takes place, we will be at the outset no inconsiderable people. We find ourselves with a population approaching four millions of souls. Such a population in Europe would make a second, or at least, a third rate power. And with a rapidly increasing population—for I am satisfied that under this union our population will increase in a still greater ratio than ever before—with increased credit—with a higher position in the eyes of Europe—

with the increased security we can offer to immigrants, who would naturally prefer to seek a new home in what is known to them as a great country, than in any one little colony or another—with all this I am satisfied that, great as has been our increase in the last twenty-five years since the union between Upper and Lower Canada, our future progress, during the next quarter of a century, will be vastly greater. And when, by means of this rapid increase, we become a nation of eight or nine millions of inhabitants, our alliance will be worthy of being sought by the great nations of the earth. I am proud to believe that our desire for a permanent alliance will be reciprocated in England. I know that there is a party in England—but it is inconsiderable in numbers, though strong in intellect and power—which speaks of the desirability of getting rid of the colonies; but I believe such is not the feeling of the statesmen and the people of England. I believe it will never be the deliberately expressed determination of the Government of Great Britain. The colonies are now in a transition state. Gradually a different colonial system is being developed—and it will become, year by year, less a case of dependence on our part, and of overruling protection on the part of the Mother Country, and more a case of a healthy and cordial alliance. Instead of looking upon us as a merely dependent colony, England will have in us a friendly nation—a subordinate but still a powerful people—to stand by her in North America in peace or in war. The people of Australia will be such another subordinate nation. And England

will have this advantage, if her colonies progress under the new colonial system, as I believe they will, that, though at war with all the rest of the world, she will be able to look to the subordinate nations in alliance with her and owning allegiance to the same Sovereign, who will assist in enabling her again to meet the whole world in arms, as she has done before. And if, in the great Napoleonic war, with every port in Europe closed against her commerce, she was yet able to hold her own, how much more will that be the case when she has a colonial empire rapidly increasing in power, in wealth, in influence, and in position? It is true that we stand in danger, as we have stood in danger again and again in Canada, of being plunged into war and suffering all its dreadful consequences, as the result of causes over which we have no control, by reason of this connexion. This, however, did not intimidate us. At the very mention of the prospect of a war some time ago, how were the feelings of the people aroused from one extremity of British America to the other, and preparations made for meeting its worst consequences! Although the people of this country are fully aware of the horrors of war—should a war arise, unfortunately, between the United States and England, and we all pray it never may—they are still ready to encounter all perils of that kind, for the sake of the connexion with England. There is not one adverse voice, not one adverse opinion on that point. We all feel the advantages we derive from our connexion with England. So long as that alliance is maintained, we enjoy, under her

protection, the privileges of constitutional liberty according to the British system. We will enjoy here that which is the great test of constitutional freedom—we will have the rights of the minority respected. In all countries the rights of the majority take care of themselves, but it is only in countries like England, enjoying constitutional liberty, and safe from the tyranny of a single despot or of an unbridled democracy, that the rights of minorities are regarded. So long, too, as we form a portion of the British Empire, we shall have the example of her free institutions, of the high standard of the character of her statesmen and public men, of the purity of her legislation, and the upright administration of her laws. In this younger country one great advantage of our connexion with Great Britain will be, that, under her auspices, inspired by her example, a portion of her empire, our public men will be actuated by principles similar to those which actuate the statesmen at home. These, although not material, physical benefits, of which you can make an arithmetical calculation, are of such overwhelming advantage to our future interests and standing as a nation, that to obtain them is well worthy of any sacrifices we may be called upon to make, and the people of this country are ready to make them. We should feel also sincerely grateful to beneficent Providence that we have had the opportunity vouchsafed us of calmly considering this great constitutional change, this peaceful revolution—that we have not been hurried into it, like the United States, by the exigencies of war—that we have not had a violent

revolutionary period forced on us, as in other nations, by hostile action from without, or by domestic dissensions within. Here we are in peace and prosperity, under the fostering government of Great Britain—a dependent people, with a government having only a limited and delegated authority, and yet allowed, without restriction, and without jealousy on the part of the Mother Country, to legislate for ourselves, and peacefully and deliberately to consider and determine the future of Canada and of British North America. It is our happiness to know the expression of the will of our Gracious Sovereign, through her Ministers, that we have her full sanction for our deliberations, that her only solicitude is that we shall adopt a system which shall be really for our advantage, and that she promises to sanction whatever conclusion after full deliberation we may arrive at as to the best mode of securing the well-being—the present and future prosperity—of British America. It is our privilege and happiness to be in such a position, and we cannot be too grateful for the blessings thus conferred upon us. I must apologise for having detained you so long—for having gone perhaps too much into tedious details with reference to the questions bearing on the Constitution now submitted to this House. In conclusion, I would again implore the House not to let this opportunity pass. It is an opportunity that may never recur. At the risk of repeating myself, I would say, it was only by a happy concurrence of circumstances that we were enabled to bring this great question to its present position. If

we do not take advantage of the time, if we show ourselves unequal to the occasion, it may never return, and we shall hereafter bitterly and unavailingly regret having failed to embrace the happy opportunity now offered of founding a great nation under the fostering care of Great Britain, and our Sovereign Lady, Queen Victoria.

4. THE RIGHT HONOURABLE EDWARD CARDWELL TO VISCOUNT MONCK

DOWNING STREET,
June 17, 1865.

MY LORD,

I have the honour to inform your Lordship that several conferences have been held between the four Canadian Ministers who were deputed, under the Minute of your Executive Council of March 24th, to proceed to England to confer with her Majesty's Government on the part of Canada, and the Duke of Somerset, the Earl de Grey, Mr. Gladstone, and myself, on the part of her Majesty's Government.

On the first subject referred to in the Minute, that of the Confederation of the British North American Provinces, we repeated on the part of the Cabinet the assurances which had already been given of the determination of her Majesty's Government to use every proper means of influence to carry into effect without delay the proposed Confederation.

On the second point, we entered into a full consideration of the important subject of the defence of Canada, not with any apprehension on either side that the friendly relations now happily subsisting between this country and the United States are likely to be disturbed, but impressed

with the conviction that the safety of the Empire from possible attack ought to depend upon its own strength and the due application of its own resources. We reminded the Canadian Ministers that on the part of the Imperial Government we had obtained a vote of money for improving the fortifications of Quebec. We assured them that so soon as that vote had been obtained the necessary instructions had been sent out for the immediate execution of the works, which would be prosecuted with despatch; and we reminded them of the suggestion her Majesty's Government had made to them to proceed with the fortifications of Montreal.

The Canadian Ministers, in reply, expressed unreservedly the desire of Canada to devote her whole resources, both in men and money, for the maintenance of her connexion with the Mother Country; and their full belief in the readiness of the Canadian Parliament to make known that determination in the most authentic manner. They said they had increased the expenditure for their militia from 300,000 to 1,000,000 dollars, and would agree to train that force to the satisfaction of the Secretary of State for War, provided the cost did not exceed the last-mentioned sum annually, while the question of confederation is pending. They said they were unwilling to separate the question of the works at Montreal from the question of the works west of that place, and from the question of a naval armament on Lake Ontario. That the execution of the whole of these works would render it necessary for them to have recourse to a loan, which could only be

raised with the guarantee of the Imperial Parliament. They were ready to propose to their Legislature on their return a measure for this purpose, provided that the guarantee of the Imperial Parliament was given now, and that they were authorized to communicate to the Parliament of Canada the assurance that, the occasion arising, England will have prepared an adequate naval force for Lake Ontario. They thought that if the guarantee were not obtained now it was probable that the Canadian Government and Parliament would think it desirable that the question of defensive works should await the decision of the Government and Legislature of the United Provinces.

On the part of Her Majesty's Government we assented to the reasonableness of the proposal that if the Province undertook the primary liability for the works of defence mentioned in the letter of Lieutenant-Colonel Jervois, and showed a sufficient security, her Majesty's Government should apply to Parliament for a guarantee for the amount required; and we said that her Majesty's Government would furnish the armaments for the works. But we said that the desire and decision of the Provincial Legislature ought to be pronounced before any application was made to the Imperial Parliament. On the subject of a Naval Force for Lake Ontario, we said that, apart from any question of expediency, the convention subsisting between this country and the United States rendered it impossible for either nation to place more than the specified number of armed vessels on the lakes in time of peace.

In case of war it would, as a matter of course, be the duty of any Government in this country to apply its means of naval defence according to the judgment it might form upon the exigencies of each particular time, and the Canadian Ministers might be assured that her Majesty's Government would not permit itself to be found in such a position as to be unable to discharge its duty in this respect. This was the only assurance the Canadian Ministers could expect or we could give.

Upon a review of the whole matter, the Canadian Ministers reverted to the proposal which has been mentioned above, that priority in point of time should be given to the Confederation of the Provinces. To this, we, on the part of her Majesty's Government, assented. In conformity, however, with a wish strongly expressed by the Canadian Government we further said that if, upon future consideration, the Canadian Government should desire to anticipate the Confederation, and to propose that Canada should execute the works, they would doubtless communicate to her Majesty's Government that decision; and we trusted that after what had passed in these conferences they would feel assured that any such communication would be received by us in the most friendly spirit.

On the third point, the Reciprocity Treaty,[1] the Canadian Ministers represented the great importance to Canada of the renewal of that treaty,

[1] Concluded by Lord Elgin with the United States Government in 1854. Its expiration in 1866 was followed by many efforts on the part of Canada to secure its renewal; cf. above, p. 289.

and requested that Sir F. Bruce might be put in communication with the Government of Lord Monck upon the subject. We replied that Sir F. Bruce had already received instructions to negotiate for a renewal of the treaty, and to act in concert with the Government of Canada.

On the fourth point, the subject of the North-western Territory, the Canadian Ministers desired that that territory should be made over to Canada, and undertook to negotiate with the Hudson's Bay Company for the termination of their rights, on condition that the indemnity, if any, should be paid by a loan to be raised by Canada under the Imperial guarantee. With the sanction of the Cabinet, we assented to this proposal, undertaking that if the negotiation should be successful we, on the part of the Crown, being satisfied that the amount of the indemnity was reasonable, and the security sufficient, would apply to the Imperial Parliament to sanction the arrangement and to guarantee the amount.

On the last point, it seemed sufficient that her Majesty's Government should accept the assurances given by the Canadian Ministers on the part of Canada, that that Province is ready to devote all her resources both in men and money to the maintenance of her connexion with the Mother Country, and should assure them in return that the Imperial Government fully acknowledged the reciprocal obligation of defending every portion of the Empire with all the resources at its command.

The Canadian Ministers in conclusion said, that they hoped it would be understood that the pre-

sent communications did not in any way affect or alter the correspondence which had already passed between the Imperial Government and the Governments of the British North American Provinces on the subject of the Intercolonial Railway. To this we entirely agree.

I have, &c.

EDWARD CARDWELL.

V

THE COMMONWEALTH OF AUSTRALIA

THE COMMONWEALTH OF AUSTRALIA

RIGHT HON. J. CHAMBERLAIN'S SPEECH ON THE INTRODUCTION OF THE CONSTITUTION BILL IN THE HOUSE OF COMMONS, MAY 14, 1900

I HAVE no doubt there are many Members of the House who will be inclined to envy me the privilege that has fallen to my lot in introducing this Bill for the federation of some of our greatest colonies—a Bill which marks an era in the history of Australia, and is a great and important step towards the organization of the British Empire. This Bill, which is the result of the careful and prolonged labours of the ablest statesmen in Australia, enables that great island continent to enter at once the widening circle of English-speaking nations. No longer will she be a congeries of States, each of them separate from and entirely independent of the others, a position which any one will see might possibly in the future, through the natural consequences of competition, become a source of danger or lead, at any rate, to friction and to weakness. But, if this Bill passes, in future Australia will be, in the words of the preamble of the Bill which I am about to introduce, ' an indissoluble federal Commonwealth firmly united for many of the most important functions of government.' After it has been passed there will be for Australia under

one Administration a uniform postal and telegraphic service, and provision is made making it possible hereafter for railway communication to be under similar control. In the meantime everything which has to do with the exterior relations of the six colonies concerned will be a matter for the Commonwealth, and not for the individual Governments; a common tariff will be established for all the colonies; there will be at the same time inter-colonial free trade, and, what is perhaps more important than all, in future there will be a common form and a common control of national defences. Now, this is a consummation long expected and earnestly hoped for by the people of this country. We believe that it is in the interest of Australia, and that has always been with us the first consideration. But we recognize that it is also in our interest as well; we believe the relations between ourselves and these colonies will be simplified, will be more frequent and unrestricted, and, if it be possible, though I hardly think it is, will be more cordial when we have to deal with a single central authority instead of having severally to consult six independent Governments. Whatever is good for Australia is good for the whole British Empire. Therefore, we all of us—independently altogether of party, whether at home or in any other portion of the Empire—rejoice at this proposal, welcome the new birth of which we are witnesses, and anticipate for these great, free, and progressive communities a future even more prosperous than their past, and an honourable and important position in the history of the

Anglo-Saxon race. I hope the House will not think I am taking up its time unnecessarily if, in a few brief words, I give some account of the history of this great movement. The House is aware that the first colonization of Australia took place in New South Wales in 1788, and that for nearly a generation after that time, as other settlements were made at vast distances along the coast, they all came in some measure under the control of what I may call the central Administration which existed at Sydney. But it will be readily seen that, as these settlements gradually became more populous and of greater importance, the difficulty of such a system of central administration became almost intolerable; and accordingly in 1825 what was then known as Van Diemen's Land became a separate colony under the name of Tasmania, and the example of Tasmania was followed in succession by Western Australia, South Australia, Victoria, and lastly by Queensland in 1859. Victoria, which was then known as the Port Philip Settlement, was separated from New South Wales by Act of Parliament in 1850, but in 1847, when giving assent to this proposal, Earl Grey, to whom we all must feel we owe most of the principles by which our colonial policy is guided, laid down the views then entertained by him and her Majesty's Government of the time in reference to the ultimate necessity for some central authority in Australia. He said:

It is necessary, while providing for local management of local interests, we should not omit to provide for the central management of all interests not local.

Questions having a bearing on the interests of the Empire may be left appropriately to the Imperial Parliament; but there are questions which, though local to Australia collectively, are not merely local in relation to one colony, though each may have part in a common interest, and in regard to which it may be essential to the welfare of all to have a single authority, and they may more appropriately and effectually be decided by a single authority in Australia than by the more remote, less accessible, and, in truth, less competent authority of Parliament.

It will be seen that Earl Grey foresaw that in the future, at any rate, this necessity would arise. He was a little before his time, for, when, in 1850, he introduced proposals for constituting such central authority, his proposals met with no general support, and the Bill, when it became an Act, was confined to the establishment of the colony of Victoria, separating it from the older colony of New South Wales. But from this time, and continuously down to the present day, the subject of some closer union between the separate Australian provinces or States has attracted the attention of all far-seeing and patriotic statesmen, especially in Australia. And among those who laboured in this movement I think it would be ungrateful not to mention the name of Sir Henry Parkes. Sir Henry Parkes was certainly a most remarkable individuality; he had his peculiarities, as most of us have, but no one would deny that he was a man of great capacity, of great power of work, of great resource, and of intense local patriotism; and I think that to-day, when the consummation of the work for which he laboured so long is clearly within sight, we may well bear

his memory in respectful regard. In 1867 the Dominion of Canada was established. This gave to Sir Henry Parkes an opportunity which he was not slow to seize, and, although he had raised the question before, he now again emphatically urged his fellow-Australians to follow the example of the Dominion of Canada. Still, however, no progress was made. A little later the somewhat sinister activity of certain foreign Powers in the Pacific brought the matter home in a clearer degree to the majority of the Australian people; and in 1883, accordingly, a conference was called, again at the instance of Sir Henry Parkes, of all the colonies, which resulted in certain recommendations, in the adoption of certain general principles, which led almost immediately[1] to the establishment of what is known as the Federal Council. The Federal Council, however, although very wisely designed as an experimental step at a time when there was still much to be done before the colonies themselves could see the necessity of a closer union—the Federal Council was not a very effective instrument; it had restricted legislative power, no executive power, it was neither more nor less than an advisory council, and under the circumstances it did not excite any warm popularity in Australia. The great colony of New South Wales refused from the first to attend its deliberations; South Australia subsequently withdrew from them; and now, having served its turn, this Federal Council will be abolished by the Bill which I am about to introduce. Then, again,

[1] In 1885 by the Imperial Act 48 & 49 Vict. c. 60.

after the establishment of the Federal Council, and coming down to 1890, a good deal of uneasiness, the result, I think, largely of what was known as the Russian scare, was felt in Australia as to the state of Australian defences, and accordingly another conference was then held in Melbourne. It was followed by a convention in Sydney in 1891, when the first great advance towards a federal union was at last made, because the convention of Sydney in 1891 produced a draft of a Commonwealth Bill which has been the foundation for all subsequent discussion. Those who are acquainted with this draft, which has, of course, very many points of resemblance with the present measure, will, I am sure, recognize the great constructive skill with which it was framed; and they may be interested to know that its great qualities are largely, if not chiefly, due to the labour given to it by Sir Samuel Griffith, the present Chief Justice of Queensland, and by Mr. Barton, who was then Attorney-General in Sir George Dibbs' Government, and who is now the distinguished representative of New South Wales among the delegates who have recently been our guests. Well, this draft was then submitted to the local Parliaments, but still, although quiet progress had been made, there was not sufficient popular force behind the movement to secure the Bill being brought into operation; and it was evident to those who were interested in the movement, and particularly I think to my honourable friend Mr. Barton, that the next step must be to educate the people of Australia themselves to the necessity and the

importance of this movement. Accordingly, I believe it is to him that we owe the formation of what is known as the Federal League, which went up and down the country throughout Australia informing the people of the nature of their proposal, explaining the draft, and urging the desirability of its adoption. And so successful was this educational movement that in 1895 the Premiers, meeting again, agreed to bring forward enabling Bills in their several Parliaments providing a convention of delegates which should be instructed and empowered to frame a constitution. This constitution was then to be submitted to the separate Parliaments sitting in Grand Committee—in Committee of the whole House—and the amendments which might be made in the several Parliaments were then to be referred back to another meeting of the convention and considered by them, and a final draft after such consideration was then to be submitted to the people of the several States in the shape of a general referendum. The convention, accordingly, was held at Adelaide in March, 1897 ; and certainly, I think, any one who reads the history of the debates which took place then will agree with me that it would have been absolutely impossible to have collected together more capable, more able, more efficient representatives of Australian feeling than met in that convention. I say that, but I must make one exception. Owing to circumstances on which I need not dwell, the Government of Queensland refused to pass an enabling Bill, and consequently at this convention Queensland was not represented; but the

other colonies were all present. The convention went to work in that businesslike spirit which we flatter ourselves distinguishes British proceedings throughout the world. In the first instance they considered and passed resolutions settling the principle upon which they would proceed; then these resolutions were divided amongst a number of committees, and considered by them, and the result was afterwards discussed and finally settled in the whole convention. The draft so prepared went to the different Parliaments, and was returned by them to the Sydney convention in 1897 with their amendments. That convention adjourned to Melbourne in 1898, and the final draft—as it was submitted to her Majesty's Government the other day by the Parliaments of the five colonies who may be described as the federating colonies—the draft as then submitted was finally passed by the convention. It had still to go through the ordeal of a referendum. The first referendum showed 219,000 votes for and 108,000 against the Bill. Unfortunately, or as it may be considered fortunately, the New South Wales majority, although there was a majority in favour of the Bill, did not reach the amount of 80,000 votes which had been fixed as the minimum to justify the adoption of the measure. Accordingly on that occasion the Bill was not passed by that colony. New South Wales then took the opportunity of proposing further amendments. These amendments were considered in a friendly spirit by another meeting of the Premiers, and they were to some extent adopted, the proceedings being, perhaps, rather

in the nature of a compromise. But still I think in substance the wishes of New South Wales were complied with, and arrangements were then made for a second referendum. On this occasion the referendum took place in the five colonies—I should have said previous to the first referendum taking place there were only four colonies, Queensland and Western Australia being excluded—but in the second and last referendum Queensland took part for the first time, and the results were 377,000 votes for the Bill and 141,500 against. Western Australia did not join in this decision, but pressed for certain further amendments, which, however, the Premiers decided it was too late for them to consider. And so the Bill is presented to us. It comes with the authority behind it of five federating colonies, and it is this Bill, with a few alterations, but substantially this Bill, with 128 clauses, and dealing with a vast number, probably with hundreds, or even thousands, of separate propositions of the greatest importance, which I have to ask leave to introduce. I think it will be admitted that this Bill is a Bill worthy of all the care and the labour which has been bestowed upon it. I think I may describe it as, and it certainly is, a monument of legislative competency. Of course, the framers of the Bill themselves are perfectly ready to admit that it may not be perfect, that amendments may ultimately be required in it, and that experience may show that something has been omitted, or that something has been placed within its four corners which might with advantage have been left out. But provision has been made

for any such amendment in the Bill itself; and, considering the magnitude and the variety of the interests that we are to deal with, the intricacy and the importance of the subjects with which the Bill has to deal, I think that no praise can be too high for those whose moderation, patience, skill, mutual consideration, and patriotism have been able to produce so great a result. It would be absolutely impossible for me, within anything like a reasonable time, to refer to the multifarious details of this great measure, nor do I think it necessary to do so, because I cannot conceive that the House will be inclined to discuss these details in any critical spirit; but I might be allowed, and it would interest the House, I think, if I call attention to the general scope of the measure and to some of its most striking features. I think it is true to say that, on the whole, this new Constitution, although it is in important respects unlike every other constitution at present existing, still in the main, and more than any other, follows the Constitution of the United States of America. But it would be, perhaps, more interesting to us to contrast it with the Constitution of our own colony of Canada. The differences between the Constitution of the Dominion and the Constitution of the new Commonwealth are, I think, to be explained in a certain fundamental diversity in the position of the two colonies, and also in the methods by which the Constitution has been brought into existence. In the case of Canada, the delegates came here and the Constitution was settled here in conference with her Majesty's Government, and was the result, to

some extent at any rate, of their advice and suggestion. In the case of Australia, the people of Australia, through their representatives, have worked alone, without either inviting or desiring any assistance from outside. In Australia, it must also be remembered, the separate States have enjoyed for a much longer period than had the provinces of Canada complete independent self-governing existence, and, accordingly, while in Canada the people had before them at the time that the Constitution was decided upon the warning, I might almost say, afforded by the civil war in America of the danger of exaggerating State rights, and while the special provinces had no desire to put forward those rights in too emphatic a manner, in Australia there was no such example to fear, and the separate colonies had enjoyed for so long such great powers that they were naturally unwilling to part with them to anything like the same extent. Accordingly, while in Canada the result of the Constitution was substantially to amalgamate the provinces into one Dominion, the Constitution of Australia created a federation for distinctly definite and limited objects of a number of independent States, and State rights have throughout been jealously preserved. In Canada everything that was not given expressly to the provinces went to the Central Government. In Australia the Central Government has only powers over matters which are expressly stated and defined in the Constitution. In Canada the Senate was a body which represented particular provinces substantially in proportion to their population. In Australia the

Senate consists of six members from all the States —that is to say, an equal number, whatever may be the size or the population; and the mode of the election of the Senate is also different from that of Canada, and, I believe, entirely novel. In Canada the Senate was nominated for life on the advice of the Ministers. In the United States, as we all know, the Senate is elected by the Legislatures of the several States. In Australia the Senate is to be elected at the same election as the Lower House, but each State is to vote, not in the separate constituencies into which it is divided for the purposes of the Lower House, but as one constituency—a *scrutin de liste*, in fact, as the French call it—except in the case of Queensland, where there may be divisions. The Upper House is to serve for six years instead of three; but those are the only differences which separate it in composition, qualification, or constitution from the composition of the Lower House. The Lower House is to be elected according to the electoral laws of the several States, but according to population, and a very ingenious device has been resorted to in order to prevent the numbers of the Lower House from ever becoming excessive. It is provided by the Constitution that the Members of the Lower House shall, as far as possible, be exactly double the numbers of the Upper House or Senate. I should add, perhaps, that the Members of both Houses will be paid, and paid the same salary. There is also an example which I cannot help thinking might be wisely imitated by ourselves. Ministers on taking office do not vacate their seats. Then there is a most ingenious

and complicated provision to prevent a possible deadlock between the two Houses; for although they are, as I have said, elected practically by the same constituency, I think it is evident that the differences in the manner of election may sometimes result in a diversity of opinion between the two chambers. In that case—and here, also, I cannot help thinking that hon. Members who are interested in the subject may find many useful suggestions—the course of the operation is this. Measures may be twice rejected by the Senate, as I understand, in two separate sessions of Parliament. After that the Government may dissolve both Houses. Both Houses will be re-elected at the same time. If, after that re-election the Senate should again—a third time—reject a measure, then there is to be a joint sitting of both Houses, and a decision is to be taken by a simple majority of both Houses. That applies to the case of ordinary measures, but, if the question between the two Houses is an amendment of the Constitution, then a somewhat different course is followed. The proposed amendment may be twice rejected by the Senate, and if after that the Houses do not come to an agreement, then the amendment will be settled by means of a referendum, and is to be decided by the majority of votes in a majority of the States. Now, to this new Parliament so constituted thirty-nine distinct subjects have been expressly referred. Amongst them are the tariff, post office and telegraph services, defence, currency, bankruptcy, marriage and divorce, and old-age pensions, and also the following matters—to which I call special

attention because they involve interests outside Australia as well as local—first, the fisheries in Australian waters, beyond the territorial limits of Australia; secondly, copyright; thirdly, legislation dealing with the people of any race not being natives of any of the States (I think that has in view legislation in regard to Asiatics); fourthly, 'external affairs,' a phrase of great breadth and vagueness, which, unless interpreted and controlled by some other provision, might easily, it will be seen, give rise to serious difficulties; and, fifthly, the relations with the islands of the Pacific, which also involves, of course, many questions in which foreign nations are concerned. It will be seen that almost all the points to which I have thus called special attention are matters in which the Imperial Government may have to deal with foreign countries. It is important, therefore—I say this in passing, although I shall deal with it more at length,—it is important that measures of this kind, which may involve the Imperial Government in the most serious responsibility, should be interpreted by a tribunal in which all parties have confidence. There are also in the Bill some complicated provisions for dealing with the division of the receipts from Customs among the several States, for the imposition of new duties, and the division of old ones. I have mentioned, at all events, the most important and the most interesting matters which are raised by this Bill, and I think it is evident, from even this very brief and inadequate résumé, that there are a great number of propositions in the Bill which, if it were a

case of freely discussing a Constitution of our own, would arouse much difference of opinion. If we had been invited to frame a Constitution, or if we had been consulted after the Constitution had been framed, it is quite possible—I do not say it would have been so—it is quite possible we might have had many suggestions to make and some amendments to offer. But that is not the position. The Bill has been prepared without reference to us. It represents substantially and in most of its features the general opinion of the Australian people; and although I differ totally from those who have said that the Australian people do not desire that this great measure, the result of the labour of their representatives, should receive in the Imperial Parliament the fullest consideration and even the fullest discussion; although I deny altogether that the Australian people have ever considered, or shown that they consider, the Imperial Parliament as merely a Court for the registration of their decrees; and although I am convinced that the Australian people will be neither offended nor insulted if we alter here a word or there a word, or even a clause, in this Bill, I think, on the other hand, they do expect that we shall have a reasonable regard to the labours which they have already expended upon this measure, and to the general feeling of the Australian people, wherever it has been really and conclusively shown, and to those rights of self-government of which they have made so magnificent a use and which we have so freely and gladly conceded. Now, it is therefore on these main principles that the Government

have proceeded in dealing with this Bill. On the one hand, we have accepted without demur, and we shall ask the House of Commons to accept, every point in this Bill, every word, every line, every clause, which deals exclusively with the interests of Australia. We may be vain enough to think that we might have made improvements for the advantage of Australia, but we recognize that they are the best judges in their own case, and we are quite content that the views of their representatives should be in these matters accepted as final; and the result of that is that the Bill which I hope to present to the House to-night is, so far as ninety-nine hundredths of it, I think I might almost say 999-thousandths of it is concerned—as regards the vast proportion of the Bill —exactly the same as that which passed the referendum of the Australian people. But the second principle which I ask the House to assent to, and to which we have given application by certain amendments we have made in the Bill, is that wherever the Bill touches the interests of the Empire as a whole, or the interests of her Majesty's subjects, or of her Majesty's possessions outside Australia, the Imperial Parliament occupies a position of trust which it is not the desire of the Empire, and which I do not believe for a moment it is the desire of Australia, that we should fulfil in any perfunctory or formal manner. As I say, we have applied these principles in dealing with the Bill. Two colonies—Western Australia and New Zealand—appealed to her Majesty's Government, and were represented here by special delegates, and asked us to

interfere to secure for them certain amendments in the Bill. I may say her Majesty's Government were inclined to sympathize with the desire of both these colonies. Her Majesty's Government would have been very glad indeed could their wishes have been complied with; but, as we considered that it was an entirely Australian question, as it was a difference of opinion arising between the Australian colonies, in which neither the Empire nor the Mother Country were themselves directly concerned, we felt we were not justified in pressing these claims, or in insisting upon securing their adoption as against the majority of the colonies in Australia. Western Australia asked for the right to come in as an original State, on terms slightly different from those provided in the Constitution. The differences arose as to the question of tariffs; and undoubtedly it was admitted by the five federating colonies, that, owing to the peculiar position of Western Australia, she was entitled to some period of interval before she adopted the common tariff of the Commonwealth; and accordingly five years were allowed her for that purpose, subject to the condition that each year one-fifth of any difference that might exist between the tariff of Western Australia and the tariff of the Commonwealth should be reduced. I confess that it seemed to me that a condition of that kind imposed, and I still think it imposes, on the financial system of Western Australia a very considerable strain. I do not envy the position of the Chancellor of the Exchequer who is beforehand tied down by a statutory and con-

stitutional law to reduce his tariff by one-fifth in every successive year for five years to come. It is perfectly evident that that must interfere to a considerable extent with the production of his annual budget. But, as I have said, having appealed to the Premiers, and having put forward the views of Western Australia, and having received from them the statement that they did not feel justified in assenting to any amendments, we reported the result of our inquiries to Sir John Forrest, the highly-respected Premier of Western Australia; and we ventured—although it was perhaps hardly our business—in the interest, as we believed, of Australia as a whole and even of Western Australia, to press upon him that his Government should now reconsider their position, and that in spite of the arrangements of which they complained they should seek to enter the Federation as an original State. I am very happy to say—as will be seen by the Blue Book which I have laid upon the table—that Sir John Forrest and his Government have assented to our request to take this step. Their Parliament will be shortly called together; and I hope the result will be that the Constitution will be submitted to the people of Western Australia,[1] and that her Majesty's Government will be able to proclaim the whole of the six colonies of Australia as taking part in this great scheme. The colony of New Zealand made several requests to us. Two of these were, I think, of minor impor-

[1] This step was duly taken, and a vote in favour of the entrance of Western Australia into the Commonwealth recorded.

tance. They were that they should have access to the Supreme Court of the new Federation, and that some arrangement should be made at once for common defence. We considered that there would be no difficulty in dealing with these very important questions as between New Zealand and the Federated Commonwealth after it was formed, and that it was unnecessary to delay the Commonwealth Bill during the discussion of matters which, no doubt, would require a considerable amount of time. The third proposal was that New Zealand should be allowed to enter as an original State at any time within the next seven years—I do not know that the period of seven years was a definite part of the proposition; but, at all events, a considerable period was to be given to them to make their choice. I confess that here also I should have been very glad if the Premiers had seen their way to accept the suggestion. The delegates, however, who were representing the five federating colonies explained, very ably, the difficulties that would arise from such a state of things. They pointed out that great inconvenience might be suffered, especially with regard to the establishment of a tariff, if the federating colonies were under a sort of compulsion to accept another partner at any time during a long period. I felt this decision the more particularly, because I do not hesitate to say that her Majesty's Government and the people of this country are under special obligations to the Government and people of New Zealand. Of all the colonies, all the possessions of her Majesty, including Canada and all the colonies of Australia

—I am excluding the colonies in South Africa—New Zealand, in proportion to her population, supplied the largest contingent to her Majesty's forces, and made the greatest sacrifices. I mentioned this matter in the House a few days ago; but I find I underestimated what New Zealand has done. I am told that, according to population, the New Zealand contingent in South Africa is equivalent to an army sent from this country of 107,000 men. I do think that is a most extraordinary proof of—what shall I say?—of affection and regard for the Mother Country; and if this point of difference had been between the Mother Country and New Zealand I feel quite certain the House would be inclined to make almost any concession that could be asked. But as it was exclusively a matter between New Zealand and the federating colonies, and as the Premiers again put in a *non possumus* and stated that they had no authority to consent at this period to any further amendments, we have had no course open to us but to accept, although we regret, that decision. We could not, I think, fairly press the opinion of a single colony against the unanimous opinion of five.

I now come to the points upon which we think amendment to be necessary. Substantially there is only one point of importance, but in order that I may be perfectly accurate I will mention others, as to which, I think, there will probably be very little debate or opposition. In the first place, there was a blank left in the draft Constitution Bill which it was intended we should fill up as soon as it was known whether Western Australia had joined. We have applied

for the figures requisite to fill up the blank, and, having received them from the Australian colonies, we shall insert them at their request. Then there are certain drafting alterations which are desirable, if not absolutely necessary, in consequence of the probability of the admission of Western Australia as an original State. We have submitted these amendments to the delegates, and, so far as I know at present, no objection of any kind is taken to their insertion. Then, in the third place, there is a matter of more importance, though I am happy to say it is one on which there is no division of opinion. We propose to make clear in the Bill the application of the Colonial Laws Validity Act to the Commonwealth.[1] Doubts have been expressed in the course of the discussion whether the Commonwealth is a colony within the meaning of the Act. The Act, as lawyers in the House are no doubt perfectly well aware, provides, among other things, that where a colonial Act is repugnant to an Imperial statute it shall not be wholly void, but shall only be void so far as repugnancy extends. It was intended as an enabling Act to prevent what otherwise might have occurred—the whole of the colonial statute being rendered void in consequence of its being repugnant on some point to Imperial legislation. The Act is one of great importance, because it defines the extent to which the paramountcy of Imperial legislation goes. The fact that Imperial legislation is paramount has always been admitted

[1] Passed in 1865 in order to remove doubts as to the extent of the power of Colonial legislatures to pass laws.

by the colonies, although the use of the constitutional power has, of course, been extremely rare. The kind of cases in which that paramountcy becomes of importance are such cases as those of the Foreign Enlistment Act and the Merchant Shipping Act. In both of these cases I think it will be admitted to be desirable that there should be legislation for the whole Empire and not conflicting legislation in different parts of the Empire. In the memorandum presented by the delegates on 23rd March they argue that this amendment is altogether unnecessary. They say the Commonwealth appears to the delegates to be clearly a colony and the Federal Parliament to be a legislature within the meaning of the Act; and they cannot think that the larger meaning given to the word 'colony' in Clause 6 can be held to take away the protection of the Act of 1865 for any law passed by the Federal Parliament. Now, I think that the House will feel that there is no difference of opinion as to the merits between us and the delegates. The only point is that they think the amendment is a work of supererogation, but we feel that the matter, involving as it does our foreign relations, is of such vast importance that we ought not to leave a shadow of doubt on the question. It is fair to say—and I wish to call the attention of the House to the fact—that in the last memorandum which was presented by the delegates only a day or two ago they raised for the first time a very very important question —namely, whether the Colonial Laws Validity Act as it stands is a law properly applicable to a great Commonwealth like the Dominion of Canada

and the new Commonwealth of Australia. Her Majesty's Government admit the importance of that question. They admit that it is a very fair point to raise. But, if there is to be any change in regard to the matter, which, as I have said, is of such infinite importance, the greatest care will have to be taken and very considerable delay must necessarily occur. We should have to consult Canada and other colonies before any amendment of that Act could be adopted. I do not object on behalf of her Majesty's Government that the matter is not worthy of consideration. All I say is we have to deal with a provisional period. We cannot delay the passing of the Federation Act in order to discuss this matter. We must have a proper understanding before any change is made; but it will be open to the Federation of Australia and the Dominion of Canada, if they see fit, to raise the matter at a subsequent period, and no doubt, in that case, any views they may express will receive the most careful consideration by her Majesty's Government. Now I come to what I have described as the substantial point of alteration, which of course is the point affecting the question of appeal. This is the only point, I think, on which there can possibly be any important subject of controversy or difference of opinion between ourselves and the Australian representatives. Sir, I wish at the outset to repudiate in the strongest and clearest terms the possibility that any difference of opinion upon what is a great constitutional point, which has hitherto been discussed by the delegates with ourselves in the

most friendly and cordial spirit, can, by any possibility, be a matter of serious conflict between ourselves and the colonies of Australia. I saw with regret a speech made only a few days ago by the right hon. Gentleman the Member for East Fife, at Colchester, and I must say that I think he was a little premature. He certainly prejudged this question without having heard one single word of the case which her Majesty's Government had to put before the House; and he seemed to be speaking from a brief which was supplied, of course, by a single one of the parties.

Mr. Asquith (Fifeshire, E.): No, no!

Mr. Chamberlain: Well, speaking from information—I do not know that the right hon. Gentleman will take exception to that word—speaking from information that came from one side only. Now that is what I complain of; and I think I ought to persuade the right hon. Gentleman to withdraw his speech on this subject. I regret his allusion in connexion with this matter that the revolutionary war in America is a warning to us. Sir, what connexion does the right hon. Gentleman suppose there can be between the two cases? Then, in another part of his speech, he referred to Canada as being exemplar and model. Well, I do not ask for anything more than Canada and South Africa have already most willingly granted.

Mr. Asquith: As far as my memory goes—I have not got the speech with me—my reference to the revolution was in a totally different connexion. It had nothing whatever to do with this question of the appeal.

Mr. Chamberlain: I am extremely glad to have elicited that statement from the right hon. Gentleman. The report which I saw, I confess, was a condensed report.

Mr. Asquith: It was a condensed report.

Mr. Chamberlain: I understood him to refer to the revolution in connexion with this difference of opinion, which as I say must under no circumstances be exaggerated. It is important, of course, but it must be discussed by all parties, and it will be discussed by Australia as well as by ourselves, in a perfectly friendly spirit. I am going very much further than I have done hitherto. We have got to a point in our relations with our self-governing colonies in which I think we recognize, once for all, that these relations depend entirely on their free will and absolute consent. The links between us and them at the present time are very slender. Almost a touch might snap them. But, slender as they are, and slight as they are, although we wish, although I hope, that they will become stronger, still if they are felt irksome by any one of our great colonies, we shall not attempt to force them to wear them. One of these ancient links is precisely this right of appeal by every subject of her Majesty to the Queen in Council. The Bill weakens that—there is no doubt about that—and thereby there opens up, as I shall show, a prospect of causes of friction and irritation between the colonies and ourselves which, in my opinion, would be more numerous and more serious than anything that is likely to result if the right of appeal is retained. Well, how shall we deal with this question? I

am sure the House will feel that there is no man in the House who is more anxious to maintain the good feeling between ourselves and our colonies than I am. Ever since I have been in office that has been my chief desire. Sir, in a case of this kind nothing is more easy than to concede; nothing is more difficult than to refuse. At the same time, believing firmly, as the Government do, that what is asked for in this Bill, as it originally came to us, is not only injurious to the best interests of Australia, but that it would lead to complications which might be destructive of good relations and prejudicial to the unity of the Empire, we feel that we are bound to ask the House to reconsider it. Sir, we believe further—and this is an important point—that opinion has not yet been definitely formed on the subject in Australia, and before, therefore, assenting to a change which may have such serious results, we hold it will be our duty to be quite certain that the demand is a demand that has behind it the whole force of Australian opinion. Now, the new clause, Clause 74, as submitted, would allow no appeal in any matter involving the Federal Constitution, or the constitution of a State, unless the 'public interests' of some part of her Majesty's dominions other than Australia are involved; and it further provides—a matter to which sufficient attention has not been directed—that the Federal Parliament may in the future make laws limiting further the matters on which appeal is to lie. Now, the right hon. Gentleman the Member for East Fife, unless he has been again misrepresented, said that the Bill did not take away

any right already existing. He will find that that is a mistake. It does take away the right of appeal from a State where the State Constitution is in question: and that right exists at the present time. And further, as I have pointed out, by a proposal in this solemn instrument expressly to authorize the newly-created Parliament to further limit the right of appeal, it almost makes it impossible for her Majesty in future, in reference to this subject, to exercise the right of veto which, of course, is inherent in the prerogative.

Mr. Asquith: Only as regards appeals from the new High Court. The Parliament can limit no other right of appeal.

Mr. Chamberlain: Pardon me. Surely an appeal from a State might very likely come to the High Court, and then no appeal would lie to her Majesty in Council. I will not argue the legal point with my right hon. friend, but I think it will be found that, inasmuch as any appeal may come from the Supreme Court of a State to the High Court, there will be a very considerable limitation of the right of appeal, because there would be no appeal from the High Court to the Judicial Committee of the Privy Council. I go on to another point to which I wish to call attention. Although this Bill does not in direct terms limit the right of veto, which is a right, although undoubtedly reserved to the Crown, which must, nevertheless, always be exercised with the most scrupulous care and consideration—although it does not take away that right, it would make it almost a stultification on the part of her Majesty if the Crown were advised to exercise that right

in a matter which we had expressly referred and delegated to the new Parliament. Now, these are the proposals. What are the main objections to these proposals? The matter was under discussion in the convention at Adelaide. When the Australian Premiers were here in the Jubilee year in 1897, I had the honour of discussing the subject with them, to which some public reference was made in Papers presented to this House. The conversations were as a rule in the nature of private discussions, but at the request of Mr. Reid, who was, as it were, the Dean of the representatives from Australia—being the Prime Minister of New South Wales, the mother colony —I handed to him a memorandum on the part of her Majesty's Government of the amendments on the draft proposal, which we had seen, which we thought were desirable; and I specially called his attention to the probability that the Imperial Parliament would think it its duty to interfere if there were any limitation of the right of appeal. In this memorandum I quoted a passage from a memorandum of the Privy Council, which gave in very succinct terms the main objections to any proposal of the kind. In 1871, it appears, a question was raised at the instigation of some of the Australian colonies, and then the Privy Council in their memorandum said:

> The appellate jurisdiction of her Majesty in Council exists for the benefit of the colonies, and not for that of the Mother Country; but it is impossible to overlook the fact that this jurisdiction is part of her Majesty's prerogative, and which has been exercised for the benefit of the colonies since the date of their

settlement. It is still a powerful link between the colonies and the Crown of Great Britain, and secures to every subject throughout the Empire the right to claim redress from the Throne. It provides a remedy in many cases not falling within the jurisdiction of the ordinary courts of justice. It removes causes from the influence of local prepossession; it affords the means of maintaining the uniformity of the laws of England and her colonies which derive a great body of their laws from Great Britain, and enables them, if they think fit, to obtain a decision in the last resort, from the highest judicial authority, composed of men of the greatest legal capacity existing in the metropolis.

The Australian colonies in 1871 recognized the validity of these reasons, and the matter was allowed to drop. It was raised again in 1875, by the passing of the Act by which the Dominion of Canada was created; and again the Privy Council pointed out that—

This power had been exercised for centuries over all the dependencies of the Empire by the Sovereign of the Mother Country sitting in Council. By this institution, common to all parts of the Empire beyond the seas, all matters whatever requiring a judicial solution may be brought to the cognizance of one Court in which all have a voice. To abolish this controlling power and abandon each colony and dependency to a separate Court of Appeal of its own would obviously destroy one of the most important ties connecting all parts of the Empire in common obedience to the courts of law, and to renounce the last and most essential mode of exercising the authority of the Crown over its possessions abroad.

There are other reasons, besides these which are stated by the Privy Council, which we have now to bear in mind. This Constitution is to be an

Imperial Act, and it is, in substance, the delegation of powers to an authority which is created by the Imperial Parliament. Is it reasonable that when questions arise, as they certainly will arise, as to the interpretation of the powers of the clause by which this authority is delegated, the Imperial power which made the delegation shall not be represented upon the Court which is to give a decision? Then, Sir, there is another point. The terms of the clause are such as certainly to introduce confusion where uniformity is most desired. No appeal is to lie except where the 'public interests' of a portion of her Majesty's dominions outside Australia are concerned. The advice which I have received on the subject goes to show that there may be endless litigation as to the precise nature of the cases in which public interests will arise. I believe there is no legal authoritative definition of what constitutes public interest. I believe it to be extremely difficult to say whether in the case of a number of individuals, subjects of her Majesty but not, of course, constituting in themselves part of her Majesty's possessions, whether in that case it would be held that the public interests of her Majesty's possessions were involved. And if I am rightly informed, therefore, a clause of this kind, instead of lessening litigation, would increase it, and would bring up to the Judicial Committee of the Privy Council for its decision case after case in which it was a question whether or not the public interests of her Majesty's possessions were or were not involved. But there is something still more serious than that. I am not going to dwell upon it,

because it is so exclusively legal that I would rather leave it to my hon. friend the Attorney-General to explain later in the discussion. But I am told that under this proposal, as it stands, it is almost certain that in the confusion of appeals there might be conflict of authority between the new High Court and the Judicial Committee of the Privy Council.[1] Can there be anything worse than two co-equal Courts concurrently giving diverse decisions in matters of the greatest importance that may be submitted to them affecting the British Empire? Lastly, there is also the question, to which I have already referred, that the Constitution empowers the new Parliament to deal with maritime jurisdiction, with the Pacific islands, with foreign enlistments, and with external affairs. The responsibility for the action of the Parliament of Australia and its legislation rests with us. We may be brought into a hostile position in regard to any foreign country in consequence of the action of the Colonial Court. Is it reasonable that while we still undertake to co-operate with the colonies in their defence, while the whole strength of the Empire would be brought to bear in order to protect the interests of the colonies—is it reasonable that the question whether or not their Parliament has gone beyond the powers delegated to it, in some matter in which a foreign country—not one of her Majesty's possessions—is concerned, should be settled without an appeal to the Privy Council? For these and other reasons—but I have stated the principal ones—her Majesty's Government, as soon as they

[1] This conflict actually took place.

obtained the Bill from the Premiers, were desirous of making some amendments. There were several points in regard to which we desired to make changes, but this was the principal one; and we cordially invited the Governments of the federating colonies to send delegates to this country to represent them, to give the necessary explanations, and to assist us with information in the course of the passage of this Bill through the House. We must joyfully acknowledge that the Australian colonies could not have paid us a greater compliment than to send us gentlemen so able and so representative as those who constitute the delegation; and I am delighted to say that, whatever differences may have arisen upon such points as this to which I have been referring, our personal relations, ever since their arrival, have been of the most cordial and friendly description. Now, most unfortunately, as we think, when the delegates arrived in this country we found that they held themselves precluded by their mandate—by the fact that the referendum had been taken on the Bill, and that, as they contended, public opinion had been expressed—from accepting any amendments at all. They argued, and they have argued since, that the result of the referendum upon the question whether this Bill should or should not pass, whether there should be federation or should not, did in fact imply agreement with every line and every word of the Bill. Of course, holding that view, it became impossible that we should come to a full agreement. It is true that in the first instance the delegates used language which filled our minds with hope,

because they said that they interpreted their mandate as one to get this Bill passed intact if they could, and, if not, with the slightest amendment possible. But unfortunately they have not been able to tell us that the slight amendments which they had in view included anything so important as the amendment which we have thought it our duty to make. In these circumstances the next step was to ask the Governments of the federating colonies to enlarge the instructions of their delegates, and that was done in a Paper which has been presented to the House. The reply of the Premiers is also in the possession of the House. It is interpreted by the delegates as a confirmation and approval of the attitude which they have taken up. Of course, every one must be allowed to offer his own opinion upon this matter. I confess that to me it does not seem to go as far as the delegates think. It is not, in effect, so irreconcileable, because while it does undoubtedly indicate the desire of the Premiers that the Bill should pass as it stands, while it does undoubtedly indicate their opinion that they have no authority to accept the amendment, it does not seem to me to imply that if her Majesty's Government, upon its own responsibility, were to make the particular amendment suggested there would be any strong feeling in Australia, but that the people and Governments of Australia would be prepared in all good feeling to accept the suggestion. We are called upon, therefore, to make our decision. It has been recognized by none more strongly or more eloquently than by the delegates themselves that the position of the Imperial Parliament

is that of trustee for the Empire, and that, although the policy of reconstruction may be a different matter, the right of reconstruction undoubtedly rests with us. If, therefore, it were a fact that Australia as a whole was absolutely united on this question, if the clause exactly as it stands had been taken as the irrevocable and final decision of the Governments and the people of Australia, our position would no doubt be a very delicate and very difficult one, because, as I have already pointed out, we recognize fully the unwisdom—I had almost said the impossibility—of pressing views on great self-governing communities to which they are absolutely opposed. However great we might think the mistake that they are making, and however great we might think the injury to the Empire, still we should have to set against that the danger of interfering with those rights which they regard as their undoubted palladium. I do not know to what conclusion we should have come if that had been the position. We should have had to consider not the wishes of Australia alone. We should have had to consider also that, if we accept their view as to right of appeal, our decision will react upon other colonies just as much entitled to consideration as the great colonies of Australia—on Canada, on South Africa, on New Zealand. I read the other day a statement attributed to a distinguished man—to Sir Henry de Villiers, Chief Justice of the Cape, and recently appointed member of the Judicial Committee of the Privy Council. Sir Henry de Villiers deprecated any change in the existing right of appeal. He went on to say that if such

a change were made it would be impossible, or it would be unlikely, that either South Africa or other parts of the British Empire would rest content without a similar, or some equal, change being made in reference to their position also. What would be the result? The result would be the weakening and, probably, ultimately the destruction of the Court of Appeal for the Empire, and this Court of Appeal, whatever defects it may have possessed, has, at all events, worked well in the past. It has been acknowledged to have been of importance and value to the great colonies, and it has within it the germs of a still greater, a still more important, and a still more beneficent institution. Now I come to what is perhaps the most pleasant portion of my task. Fortunately, her Majesty's Government are not placed in this difficult position. We have not to choose between what we firmly believe to be the interests of the Empire on the one hand and the united and absolutely convinced opinion of Australia on the other. For my part, I do not understand at all that in assenting to the Bill by a referendum the majority who voted for it intended to preclude the Imperial Parliament from considering the Bill and from making amendments. On the contrary, I have information from some of the Governments that their intention was exactly the reverse, and that they always believed that this great mother of Parliaments, as a proof of its good-will, would give its best consideration to this important matter, and, if it saw fit, would suggest amendments and changes. It is putting too great a strain on the principle of the referen-

dum to say that a referendum on a Bill like this, which contains such an enormous number of difficult and different propositions, carries with it assent to every one of these propositions. To say anything of the sort would be directly contrary to the argument used by some of the representatives themselves by which the referendum was carried. The people of Australia were told —'It is not so much your duty at the present moment to look to the individual parts of the Bill, to this clause or to that section of a clause to which you may possibly take exception. You have got to consider this great work as a whole, and, if as a whole you agree to it and are willing to accept it, then vote for the referendum.' That is the argument, but that is an argument entirely inconsistent with the present view that the referendum carries with it absolute agreement with every line of the Bill. That that is so is proved also by the action of the great colony of Queensland. Queensland accepted the referendum. Queensland, by one of the largest majorities, accepted this Bill. And yet the delegate of Queensland, the Government of Queensland, the Ministers of Queensland, and the people of Queensland are at the present time urging, with all the strength in their power, that her Majesty's Government shall restore the right of appeal. Queensland, one of the five original federating States; Queensland, represented by one of the Premiers who refused the other day to enlarge the power of the delegate; Queensland, who has sent to us a delegate in common with the other colonies, is entirely opposed to the view taken by

four of the delegates, and is strongly in favour of the line which her Majesty's Government ventured to commend to the House. I go much further. It is not merely a question of Queensland. Since this matter has been discussed here, this particular question of appeal—not the Bill as a whole—has been raised in Australia as well as in this country. It has been raised as a point for separate discussion and decision; and, while I do not want to exaggerate my own case, I can conclusively show to the House that there is no such unanimity among the four colonies of Australia whose delegates are pressing this change as would justify us in sacrificing the interests of the Empire to the views which are formulated in the Bill. The clause was introduced after lengthened discussions in convention after convention, in the course of which different conclusions were arrived at at different times. The final decision was arrived at by comparatively small majorities. I think only thirty-six members were present out of a convention of fifty members. I do not doubt, however, that it represented the view of the convention at that time, but I may point out that Queensland was then absent, and that if the Queensland delegates, ten in number, had been present, the decision of the Conference would have been reversed. Australasia has seven colonies. Five of them are federating now. One of them is contemplating the possibility of federation. Of those seven colonies the Governments of three are strongly in favour of our view. The proportion of opinion as represented by the public statements of the Governments concerned in

Australasia is as three to four. But that is not all. The Premier of Queensland declares that the Government and the people of Queensland are strongly in favour of the alteration. In Western Australia the Ministers are unanimously in favour of the amendment of Clause 74. They are of opinion—

> That by the possession of one Court of Appeal for the whole British race, whose decisions are final and binding on all the Courts of the Empire, there is constituted a bond between all British people which should be maintained inviolate as the keystone of Imperial unity.

The Government of New Zealand say that—

> In the best interests of the Empire the right of appeal on constitutional grounds is one of the strongest links binding us to the Mother Country.

That is sufficient, I think, to show the character of the opinion in three out of the seven colonies. But what about the remainder? What about New South Wales? New South Wales is the mother colony. When the Constitution was submitted to the Legislature of New South Wales both Houses passed resolutions urging amendments to maintain the right of appeal. They were subsequently outvoted in the convention, but their opinion remains, and I think it is also the opinion of the majority of the people. Yesterday I received a telegram in which it is stated that the Prime Minister is reported by the newspapers to have made a speech in which he empha-

sizes his loyalty to federation—at one time, I believe, he was opposed to federation—and declared that at the recent conference of Premiers at Melbourne the Premiers took a constitutional course; that they also intimated that they did not think the alteration suggested by me would jeopardize the Bill; that her Majesty's Government would probably amend the Bill if only on account of the desirability of making the appeal uniform in all British colonies, without which uniformity the rights of British subjects would differ in different places; and that they hoped her Majesty's Government would not amend the Bill in any other clause, as, if any other changes were attempted, it would be a source of great danger to the rest. That, of course, is a condensed report, and I give it for what it is worth; but certainly the implication of that report is that if the changes were confined to the particular change I am advocating there would be no serious objection on the part of New South Wales. Then I come to a remarkable expression of opinion, that of the Chief Justices of the Colonies in Australia. The seven Chief Justices are unanimously in favour of the maintenance of the right of appeal. In the newspapers this morning I saw a letter from my right hon. friend Mr. Kingston, the delegate from South Australia, in which there were expressions which I very much regret and which I am inclined to hope he himself will regret having rather hastily used. He suggests that the Chief Justices of Australia are moved in the opinion they have given by the hope of being appointed to the new Court of Appeal which may hereafter be created.

Let me remind my right hon. friend and also those Members of the House who are inclined to cheer that statement that one of the arguments most eloquently pressed on us by the delegates in their memorandum is that the Bench in Australia is as pure, as high-minded, and has as great judicial capacity as can be found anywhere in the British dominions. We have welcomed that assertion, we agree with that assertion; but then you cannot, at the same time, apply to this self-same Bench the sordid and unworthy motive which has been suggested. I do not believe there is any motive at all, either in the opinion which has been given by the Chief Justices, or in the opinion which has been given on the other side by lawyers who possibly may profit by retaining the appeal at home. In neither case do I believe that either party has been moved in the slightest degree by any feeling other than a desire that the best interests of Australia should be considered. I say it is a most remarkable and a very strong feature in my case that the Chief Justices, who are all men of the highest capacity, who have enjoyed the greatest respect and popularity in Australia, and who are recognized here as most distinguished men, should be unanimously in favour of the alteration. I inquired about newspaper opinion. I knew no other way of getting at popular opinion; and what do I find? I find that the enormous preponderance of newspaper opinion is in favour of the repeal of this clause. Just before I entered this House I received a telegram from Victoria, the other great colony, next in population to New South Wales. This

telegram, which is from the officer administering the Government, says:

> The amendment of Section 74 of the Federation Bill is vigorously supported in all the newspapers of Victoria to-day. I have ascertained the opinion of as many trustworthy persons of all classes as possible. I have not met one opposed to your amendment. If the amendment is substantially confined to Section 74 you will be enthusiastically approved throughout all Victoria.

The Chambers of Commerce of Sydney, Adelaide, and Brisbane have all communicated through the Prime Ministers of these colonies urging the maintenance of the appeal; public bodies like the Melbourne Metropolitan Board of Works, representatives of trade in public meetings, representatives of the Bar, the banks, insurance corporations, and others—representative bodies whose interests are, of course, largely concerned in this matter—all are unanimously in favour of maintaining the appeal, and, to the best of my knowledge and belief, there has not been held one single meeting throughout Australia against the proposal. I do not wish to attach too much importance to what may be one-sided opinion. I do not deny, in fact, I most readily admit, that there is a strong opinion in favour of the Bill which is not represented by any of the quotations I have read to the House, and which has not come to me in the course of these discussions except from the statements of the delegates who are in this country. I admit that there is a strong, and I have no doubt an equally patriotic opinion; but what I say, and what I think the House will

be absolutely convinced of, is that there is no such unanimity as should make us hesitate in a matter of this vast importance, at all events to take time, and for the present, at any rate, retain the right of appeal as it now exists. It is under these circumstances that I have no hesitation in recommending the amendments—very small in point of extent, involving the alteration of only a few words or a few lines, but no doubt substantial in importance—which will preserve for Australia precisely the same right of appeal as is now enjoyed by Canada, South Africa, and India. I believe that it is called for by the interests of the Empire, and I trust and believe that it will be accepted by the people of Australia as made in a spirit of co-operation and not at all of antagonism, and in full belief in our sincere interest in and approval of the great work which they have carried out.

Mr. Asquith: Are the amendments set out in the Blue-book?

Mr. Chamberlain: No; but I think they are substantially the same. There is only one other point to which I wish to call the attention of the House. In the conferences which her Majesty's Government held with the delegates from Australia allusion was made to a desire which has long been entertained by her Majesty's Government to reconsider the constitution of the Supreme Court of the Empire. What the Lord Chancellor, as representing specially the Government in this matter, has had in view has been an amalgamation of the Judicial Committee of the Privy Council with the appeal jurisdiction of the

House of Lords. But the House will readily see —the legal Members perhaps more readily than others—that this would be a very great change, involving very difficult and important constitutional questions, about which it would be of the highest importance to consult Canada and the other colonies and dependencies interested. Therefore, in this matter, as in the matter I previously referred to of the application of the Colonial Laws Validity Act, we have to provide for the immediate future without prejudice to what may be done hereafter. I would remind the House that the present position is not satisfactory. When we came into office we found a Bill prepared by my predecessor by which it was proposed to call to the Privy Council one representative of Canada, South Africa, and Australia to assist in the deliberations of the Privy Council. I found that scheme in the pigeon-holes of the Colonial Office. Her Majesty's Government adopted it because, although they thought it was not satisfactory, still it was a tentative step which would give us some experience, and seemed to meet the wish, already expressed, of the colonies. That was passed in the first session of the present Parliament. The result has been as we expected. It made no proposal for paying these gentlemen. The Australian colonies and the other colonies concerned—I am not quite certain about Canada—did not propose to pay themselves, and that confined the selection, and the gentlemen actually selected were Judges of high distinction, but who were still engaged in judicial functions in the several colonies. The result was

that they could not be here permanently to deal with colonial cases in which they were interested. Another subsidiary result was that, when they were here and a colonial case came up, it might be one with which they had already dealt in their judicial capacity in the colonies. Practically, therefore, although some of these Judges—I believe all of them—have taken their seats and have assisted in the deliberations of the Judicial Committee, we have not secured, by means of that Act, such a permanent constitution of the Judicial Committee as would make it certain that on every occasion when a colonial case was involved there was a colonial Judge with full knowledge of local conditions well qualified to advise his colleagues. Therefore, what we propose, pending further consideration which must be given to any greater scheme, is to appoint for seven years a representative from each of these colonies and India, to be members of the Privy Council, who shall also act during that period as Lords of Appeal, and upon whom will be conferred life peerages, so that they may continue to sit in the House of Lords, although they will not act as Judges after the term of their service has expired. It may be that those services will be renewed, and provision may be taken to renew them if thought desirable. The Judges so appointed will be paid the same salaries as the Lords of Appeal are now paid, and payment will be made at the cost of the Imperial Parliament. Sir, that is the proposal which I hope will be submitted to the other House of Parliament in a very few days, and which I hope will be

approved by Parliament as a whole.[1] I feel I ought to apologize to the House. I have travelled over a great number of subjects in the course of this long review of an intricate subject. I have now only to ask the House to consent to the introduction of this Bill. I hope they will be content subsequently to pass it exactly as it has been introduced.[2] I am quite certain that no more important measure of legislation has ever been presented to Parliament, and that nothing throughout the whole course of the Queen's reign will be a more beneficent feature in that long and glorious history.

Motion made, and Question proposed, "That leave be given to introduce a Bill to constitute the Commonwealth of Australia."—*Mr. Secretary Chamberlain.*

[1] This proposal was ultimately dropped.

[2] After much discussion the clause as to appeals was finally altered so as to preserve intact the right of the Privy Council to hear appeals from the High Court of the Commonwealth, except in cases in which the constitutional rights of the Commonwealth and the States or the States *inter se* are concerned, in which case the decision of the High Court is final, unless it grants leave to appeal to the Judicial Committee of the Privy Council. In practice the interpretation of the Commonwealth constitution has thus been carried out by the High Court, while in the case of Canada the final interpretation has been given to the British North America Act by the Privy Council.

VI

THE UNION OF SOUTH AFRICA

1. RIGHT HON. WINSTON CHURCHILL'S SPEECH ON THE TRANSVAAL CONSTITUTION

HOUSE OF COMMONS, DECEMBER 17, 1906.

THE Under-Secretary of State for the Colonies (Mr. Churchill, Manchester, N.W.), in moving 'That this House approves the grant of Constitutions conferring responsible government upon the peoples of the Transvaal and Orange River Colonies,' said:

'Letters Patent have been issued during the last week[1] conferring a Constitution upon the Transvaal Colony. These instruments have now been for some days at the disposal of the House, and this afternoon affords an occasion for their discussion. Other Letters Patent conferring a Constitution upon the Orange River Colony are in an advanced state of preparation, and I think it would be for the general convenience of the House if I were to make a general statement as to the character and scope of that Constitution. With that view I have, by the direction of the Prime Minister, placed upon the Paper the Resolution which I now move, and which permits a general discussion upon the constitutional arrangements which we are making both in the

[1] December 6, 1906.

Transvaal and in the Orange River Colony. Now, Sir, by the Treaty of Vereeniging,[1] Great Britain promised full self-government to the peoples of the two Boer Republics which had been conquered and annexed as the result of the war. This intention of giving responsible government did not arise out of the terms of peace, although it is, of course, solemnly expressed in them. It has always been the settled and successful colonial policy of this country during the last fifty years to allow great liberties of self-government to distant communities under the Crown, and no responsible statesman and no British Cabinet, so far as I know, ever contemplated any other solution of the South African problem but that of full self-government. The idea which I have seen put forward in some quarters, that in order to get full satisfaction for the expense and the exertions to which we were put in the war we are bound to continue governing those peoples according to our pleasure and against their will, and that that is, as it were, an agreeable exercise which is to be compensation for our labours, is an idea which no doubt finds expression in the columns of newspapers, but to which I do not think any serious person ever gave any countenance. No, Sir, the ultimate object was not lost sight of even in the height of the war, namely, the bestowal of full self-government; and, as all parties were agreed that some interval for reconstruction must necessarily intervene, the only questions at issue between us have been questions of manner and questions of time. First as to manner. I notice

[1] May 31, 1902.

that the right hon. Gentleman the Member for St. George's, Hanover Square, the other day said that the manner in which we had given this Constitution to the Transvaal was a breach of the terms of peace.

Mr. Lyttelton: I do not think I said that.

Mr. Churchill: I do not press the point if the right hon. Gentleman did not say so. He was certainly reported to that effect.

Mr. Lyttelton: I do not think I said it.

Mr. Churchill: Then we are agreed as to the manner, in so far as it is not suggested that there is any breach of the terms of peace in the omission of the representative Government stage. I am very glad to have that admission, because I was about to assert most clearly that, so far from being a breach of the spirit of the terms of peace, the step we are taking in the Transvaal to give full responsible government at once is a more precise and punctual fulfilment of those terms. Then, Sir, how much difference is there between parties in this House as to time? It is now more than three years since Lord Milner, speaking in the Inter-colonial Council, bore emphatic testimony to the faithfulness with which the Boers—those who had been fighting against us—had observed their side of the terms of peace. Lord Milner said:

> It is perfectly true that the Boer population, the men who signed the terms of peace at Vereeniging, have loyally observed those terms and have carried them out faithfully. They profess to-day, and I absolutely believe them, that no idea of an armed rising or unlawful action is in their minds. I may say

I am in constant, perhaps I should say frequent, communication with the men who in the war fought us so manfully and then made manful terms. We differ on many points, no doubt, and I do not expect them to rejoice with us in what has happened, or to feel affection for a man who, like myself, has been instrumental in bringing about the great change which has come over the Constitution of the country. But I firmly believe their word when they come forward and meet us, and, without professing to agree in all respects with the policy of the Government, declare that they desire to co-operate in all questions affecting the prosperity of the country and the maintenance of public order. I accept the assurance they give in that respect, and I think it is practically impossible to put your hands on anything done by myself or any member of the Government which can be regarded as a manifestation of distrust of the men who have shown themselves, and do show themselves, men of honour. Let me say then, I am perfectly satisfied that so great is the influence of their leaders over the minds of the main section of the Boer population that so long as those leaders maintain that attitude a general rising is out of the question.

Those are the words which Lord Milner used three years ago, and I think they are words which do justice to the subject and to the speaker. But more than two years have passed since the representations were made to the right hon. Gentleman the Member for St. George's, Hanover Square, which induced him to confer a measure of self-government on the Transvaal. Those representations laid stress on the fact that the desire for self-government was not put forward only by the Boers, but that both sections of the community in the Transvaal desired to take the control of affairs into their own hands. The right hon.

Gentleman published a Constitution. That Constitution conferred very great and wide powers. It conferred upon an overwhelming elected majority the absolute power of the purse and control over legislation. But it has always been my submission to the House that that Constitution had about it no element of permanence, that it could not possibly have been maintained as an enduring, or even a workable, settlement; and I am bound to say—I do not wish to be controversial this afternoon if I can avoid it—that, when I read the statement that this representative Government stage would have been a convenient educative stage in the transition to full self-government, the whole experience of British colonial policy does not justify such an assumption. The system of representative Government without responsible Ministers, without responsible powers, has led to endless friction and inconvenience wherever and whenever it has been employed. It has failed in Canada, it has failed in Natal and Cape Colony. It has been condemned by almost every high colonial authority who has studied this question. I do not think I need quote any more conclusive authority upon that subject than that of Lord Durham. Lord Durham, in his celebrated Report, says of this particular system:

> It is difficult to understand how any English statesmen could have imagined that representative and irresponsible Government could be successfully combined. There seems, indeed, to be an idea that the character of representative institutions ought to be thus modified in Colonies; that it is an incident of

colonial dependence that the officers of government should be nominated by the Crown without any reference to the wishes of the community whose interests are entrusted to their keeping. It has never been very clearly explained what are the Imperial interests which require this complete nullification of representative Government. But, if there is such a necessity, it is quite clear that a representative Government in a Colony must be a mockery and a source of confusion, for those who support this system have never yet been able to devise or exhibit in the practical working of colonial government any means for making so complete an abrogation of political influence palatable to the representative body.

I contend that the right hon. Gentleman's Constitution would have broken down in its first session, and that we should have then been forced to concede grudgingly and in a hurry the full measure of responsible Government which, with all due formality and without any precipitancy, the Letters Patent issued last week have now conferred. But even the right hon. Gentleman himself did not intend his Constitution to be a permanent settlement. He intended it to be a transition, and a brief transition; and in the correspondence which passed on this subject two or three years is sometimes named as the period which such a constitution might conveniently have endured—two or three years, of which, let me point out to the House, nearly two years have already gone. Seeing how little difference there is between us upon that question, I dispense with further argument as to the grant of a Transvaal Constitution, as I see the course we have adopted does commend itself to the good sense of all parties in this country and is sustained

at almost every point by almost every person conversant with South African affairs. It is said, we have heard it often said, 'It may be wise to grant responsible Government to the Transvaal, but it is not wise to give it to the Orange River Colony. Why should you give it to the Orange River Colony too?' I say, 'Why not?' Let us make it quite clear that the burden of proof always rests with those who deny or restrict the issue of full Parliamentary liberties. They have to make their case good from month to month, and from day to day. What are the reasons which have been advanced against the issue of a constitution to the Orange River Colony? A variety of reasons has been put forward. We have been told that the Colony is not ripe for self-government. When you have very small communities of white men in distant and immense territories, and when those communities are emerging from a wild into a more settled condition, then it is very necessary and very desirable that the growth of self-governing institutions should be gradual. But that is not the situation in the Orange River Colony. The Orange Free State was the model small republic of the world. The honourable traditions of the Free State are not challenged by any who take the trouble to study its history either in the distant past, or in the years just immediately preceding the South African War. The right hon. Gentleman the Member for West Birmingham himself, speaking in this House on 7th December, 1900, used language which, I think, should go far to dissipate the idle fears which we hear expressed in various

quarters upon the grant of self-government to the Orange River Colony:

> We do not propose [said the right hon. Gentleman], that the constitution of the Orange River Colony should necessarily be the same as the Constitution of the Transvaal Colony, either at starting or in the immediate future. It will be dealt with upon its own merits, dealt with separately, and we think it possible——

I ask the House to mark this—

> from the circumstances with which every one is familiar, that an earlier beginning to greater political liberty may be made in the Orange River Colony than in the Transvaal. That is due to the fact that the Government of the Orange River Colony previous to the war was by common consent a very good Government, and consequently, speaking generally, of course, and not of individuals, we shall find there probably the means to creating a satisfactory administration more quickly than we can do in the case of the Transvaal Colony.

Then we have been told that responsible government presupposes party government, and that in the Orange River Colony there are not the elements of political parties, that there is not that diversity of interests which we see in the Transvaal, that there are not the same sharp differences between town and country, or the same astonishing contrasts between wealth and poverty which prevail in the Transvaal. And we are told that, in order that responsible government should work properly, that party government should be a success, there must be the essential elements of party conflict. I suppose we are all in this House admirers of the party system of government; but

I do not think that we should any of us carry our admiration of that system so far as to say that the nation is unfit to enjoy the privilege of managing its own affairs unless it can find some one to quarrel with and plenty of things to quarrel about. Then we are told that—'The country is prospering as it is. Why change now? The land is tranquil, people are regaining the prosperity which was lost in the war. It is a pity to make a change now; now is not the moment.' I admit the premise—I shall have something to say before I sit down about the economic conditions of the Orange River Colony—but I draw exactly the opposite conclusion from that premise. It is just for that reason that we should now step forward, and, taking occasion by the hand, make an advance in the system of government. How often in the history of nations has the golden opportunity been allowed to slip away! How often have rulers and Governments been forced to make in foul weather the very journey which they have refused to make prosperously in fair weather! Then we are told that Imperial interests would be endangered by this grant. I do not believe that that is so. The Boer mind moves by definite steps from one political conception to another. I believe they have definitely abandoned their old ambition of creating in South Africa a united state independent of the British Crown, and have accepted that other political ideal which is represented by the Dominion of Canada and the Commonwealth of Australia. At any rate, no people have a greater right to claim respect on the ground of their loyal adherence to treaty engage-

ments than the people of the Orange River Colony; for every one knows that it was with a most faithful adherence to their engagements, with almost Quixotic loyalty, that they followed, many of them knowing where their fortune was going to lead them, knowing full well what would be the result of their action, their sister State into the disastrous struggle of the South African War. It is quite true that there is in existence at the present time, and I think Lord Milner has pointed it out, no bond of love between the men who fought us in that war and this country. I was reading the other day a speech by Mr. Steyn. Mr. Steyn is, of course, one of the most clearly avowed opponents of the British power. But Mr. Steyn is quite clear upon this point. He says there is no bond of love, and it would be untruthful and dishonest on their part to say that such a bond existed. But, he says, there is another bond, there is such a thing as a man's word of honour; 'We gave our word of honour at Vereeniging, and it is our intention to abide strictly by that.' I state my opinion as to the safety of this step we propose to take, but I cannot expect right hon. Gentlemen opposite to set much store by that, although it is an honest and sincere opinion. But I will quote them an authority which I am sure they will not dismiss without respect. As soon as the right hon. Member for West Birmingham returned from South Africa, while his experiences in that country were fresh in his mind, while he had but newly been conversing with men of all parties there on the spot, the scene of the struggle, he made a

speech in this House which really ought not to be overlooked by persons dealing with this question.

Great importance [said the right hon. Gentleman] seems to be attached to the view that in the interests of the two Colonies it is desirable that a certain time, not a long time, in the history of a nation, but still a certain time should elapse before full self-government is accorded. Whether a long time will elapse I really cannot say. One thing is clear; if the population of the Transvaal and Orange River Colony, both Boer and Briton, by a large majority, desire this self-government, even although it might seem to us to be premature, I should think it unwise to refuse it. I do not myself believe there is any such danger connected with Imperial interests that we should hesitate to accord it on that ground. The ground on which I should desire that it might be delayed is really the interest of the two Colonies themselves, and not any Imperial interest.

Mr. Swift Macneill: What date was that?

Mr. Churchill: 19th March, 1903, three years ago. The peace and order of the Orange River Colony establishes this case on its merits. It is a State bound to moderation by the circumstance of its geographical position. In all its history in South Africa it has been largely dependent on the good-will of its neighbours, good-will and friendly relations maintained with Natal and the Transvaal on the one hand, and with the Cape Colony on the other. It is inconceivable that a State so situated in regard to its railways and its economical position generally should be a disturbing influence from the point of view of the different States of South Africa. But there is another fact which justifies this grant, and that is the extraordinary crimelessness in a political sense of the whole of

that country. Let the House remember that there had been three years' war, of which two years were fierce guerilla fighting, and that on all sides there were to be found desperate men who had been for a long period holding their lives in their hands and engaged on every wild and adventurous foray. Peace is agreed on, and what happens? Absolute order exists and prevails throughout the whole country from that moment. There has not been a single case of violent crime except, I believe, one murder committed by a lunatic—hardly a case of sedition—and not a single case of prosecution for treason of any kind. I say without hesitation that in order to find a similar instance of swift transition from violent warfare to law-abiding peace you have got to look back to the days when the army of the Parliament was reviewed and disbanded at the Restoration. I submit to the House that a case for conferring responsible Government on the Orange River Colony is established on its merits. But that is not the whole question before us this afternoon. We have not merely to decide whether we will give a Constitution to the Orange River Colony, but whether having given a Constitution to the Transvaal we will deliberately withhold one from the Orange River Colony; and that is an argument which multiplies the others which I have used. On what ground could we refuse the equal treatment of the Orange River Colony? There is only one ground which we could assign for such a refusal, and that is that in the Orange River Colony there is sure to be a Dutch majority. I cannot conceive any more fatal assertion that

could be made on the part of the Imperial Government than that on this specific racial ground they were forced to refuse liberties which otherwise they would concede. I say such a refusal would be an insult to the hundreds and thousands of loyal Dutch subjects the King has in all parts of South Africa. I say that this invidious treatment of the Orange River Colony would be the greatest blunder, a fitting pendant to all that long concatenation of fatal mistakes which has marked our policy in South Africa for so many years; and I say it would be a breach of the spirit of the terms of peace, because we could not say, 'We promised you self-government at the terms of peace, but what we meant by that was that before you were to have self-government enough persons of British origin should have arrived in the country to make quite sure you would be outvoted.' If we were to adopt such a course we should be false to that agreement, which is the great foundation of our policy in South Africa. I hope the House will earnestly sustain the importance of that Vereeniging agreement. For the first time in many years the two white races dwelling together in South Africa have found a common foundation on which they can both build, a foundation much better than Boomplaats,[1] or the Sand River Convention,[2] or the Conventions of 1881 and 1884, far better than Majuba Hill or the Jameson Raid. They have found a founda-

[1] The scene of Sir Harry Smith's victory over the Boers, August 29, 1848.

[2] Recognizing the independence of the Transvaal Boers, January 17, 1852.

tion which they can both look to without any feeling of shame, on the contrary with feelings of equal honour, and I trust also with feelings of mutual forgiveness. On those grounds, therefore, we have decided to give to the Orange River Colony full responsible government. We eschew altogether the idea of treating them differently from the Transvaal, or interposing any state of limited self-government between them and the full enjoyment of their right. There is to be a Legislature which will consist of two Chambers, as in the Transvaal. The first Chamber will be elected upon a voters' basis and by manhood suffrage. The residential qualification will be the same as in the Transvaal, six months. The distribution of seats has been settled by general consent. The Committee which we sent to South Africa, and which was so very successful in arriving at an adjustment between the parties in the Transvaal, have made similar investigations in the Orange River Colony, and I think we may accept with confidence their recommendation. They recommend that the number of members should be thirty-eight. The old Volksraad had sixty members, but it was found to be much too large for the needs of the country, and on several occasions efforts were made to reduce the representation. Those efforts were not successful, from the fact, which we all can appreciate, that it is very difficult indeed to get a representative body to pass a self-denying ordinance of that character which involves the extinction of its own members. There will be separate representation of towns in the Orange River Colony.

In the Volksraad there was such a representation, there were forty-two rural members and eighteen urban members. Out of the thirty-eight we propose that there shall be twenty-seven rural members and eleven urban members; rather less than a third of the representation will be that of the small towns. That is a proportion which is justified by the precedent of the old Constitution, and also by the latest census, of 1904. As in the case of the Volksraad, every magisterial district will be represented. The allocation of members among the constituencies thus delimited will proceed on an arithmetical basis. We take the adult males in the census of 1904, and arrive at our quota for distribution, which is 1,058. Half a quota entitles a town or a district to a member, and an additional whole quota entitles a town or district to a second member. That is an arithmetical device to govern the working of automatic redistribution, and to regularise a distribution otherwise supported by precedent and by general agreement. I will read the schedule of the constituencies. There will be two members each to the districts of Bloemfontein, Kroonstad, Rouxville, and Winburg; one member each to the districts of Bethlehem, Bethulie, Boshof, Edenburg, Ficksburg, Frankfort, Harrismith, Heilbron, Hoopstad, Ladybrand, Lindley, Philippolis, Senekal, Smithfield, Thaba 'Nchu, Vrede, Vredefort, and Wepener; one member to the districts of Fauresmith and Jacobsdal together. The following are the towns: Bloemfontein, five members; Harrismith and Kroonstad, one each; one member for Bethlehem, Fouriesburg, and

Ficksburg together; one for Jagersfontein and Koffyfontein together; one for Parys, Vredefort, and Heilbron together; and one for Ladybrand and Thaba 'Nchu together. There will be a Second Chamber, and, as in the Transvaal, it will be nominated, and for the first time only. It will be nominated by the Governor under instructions from the Secretary of State, and vacancies will be filled up by the Governor in Council—that is to say, the Governor on the advice of his responsible ministers. A Second Chamber is not, perhaps, a very pleasant object for us to contemplate; but, at any rate, it is not an hereditary Chamber; and it may be, therefore, assumed that the distribution of parties in that Chamber will be attended by some measure of impartiality, and that there will be some general attempt to select only those persons who are really fit to exercise the important functions entrusted to them. But even so protected, the Government feel that in the ultimate issue, in a conflict between the two Chambers, the lower and representative Chamber must in the end prevail. The other body may review its proceedings, may delay them, but if measures are sent up in successive sessions from the representative Chamber and no agreement can be reached, we have introduced the machinery which appears in the Constitution of the Australian Commonwealth, that both Chambers shall sit together, debate together, vote together, and the majority shall decide. The whole success of that operation depends upon the numerical proportion observed between the two Chambers. In the Australian Commonwealth the proportion

is rather more than two to one, but in the Transvaal the proportion will be more than four to one, namely, sixty-five to fifteen; and in the Orange River Colony it will be thirty-eight to eleven. Members of both Chambers will receive payment for their services; £300 a year is the maximum that can be paid to any member; £150 is paid to a member with £2 a day extra for every day of attendance in the course of the session. I am sure that such a wise provision will have the effect of limiting the length of the session very much, and no doubt, if it were included in a measure for the payment of members introduced in this House, it would receive the widest support from all parties. The other provisions of the Constitution will mainly follow the lines of the Transvaal. There will be the same reservation in regard to legislation which imposes a difference between man and man on account of race. These reservations are common in all colonial Constitutions. I think we could not do more; we could not, I am sure, have done less. There will be a schedule of pensions for retiring officers of the Executive, as in the case of the Transvaal, and that schedule will be calculated strictly upon the Treasury rule which prevails in this country. For every year of service one-sixtieth of the salary is allowed, but on account of the abolition of office, when the service has exceeded five years, five years additional will be allowed, and in the case of professional attainments, following the Treasury rule in this country, ten years extra will be allowed in the case of the Attorney-General, both of the Transvaal and the Orange River

Colony. The sums involved are smaller sums than have attended the grant of self-government in other Colonies. There will be very nearly the same reservation in respect to land settlement. I will remind the House that on 5th July last I had to outline certain proposals which we intended to make to various parties in South Africa. We inquired whether any local support would be given to the plan for continuing the planting of new settlers on the land. We could get none. No effective support of any kind was forthcoming for the continuance or the expansion of that system. Even those gentlemen who undertook to underwrite the loan of £10,000,000 which was to be repaid to this country evinced no special desire to come forward and apply a smaller proportion of that sum for the purpose of land settlement. Therefore the Government have abandoned the matter altogether. But in regard to the existing settlers we feel under a distinct obligation. We feel that a sympathetic administration was one of the essential conditions of their tenancies, and we feel that a Land Board, nominated and formed as outlined in the Transvaal Letters Patent, is the only effective way of interposing a screen between mortgagor and mortgagee. But in making this arrangement I repudiate altogether any slur upon the humanity or sense of justice of the Boers or any other section which will vote in the election of the new Parliament. The Boers, indeed, are the last people to be uncharitable to the farming people. But we are bound to deal directly with the settlers. We have been informed—and although I do not like

the language which has been used, I cannot quarrel with it in substance—that it is an obligation of honour upon the Imperial Government to relieve these settlers from any anxiety which they genuinely feel, and which is shared by hon. Gentlemen opposite. Therefore we have decided to elect a Land Board as described—a Land Board which will have no power to put any more new settlers on the land, which will last only five years to enable the existing settlers to take root, and which may be dissolved sooner if it is found satisfactory to all parties. In regard to the contribution which it was proposed to secure to this country as a payment towards the expenses of the war, the Government fully and frankly forgive and obliterate, and let us trust also forget, any obligation which may have been incurred on that head. We put that away. Let the House not overlook the fact that in the expectation of a payment of that character this House was induced to guarantee the interest of the loan of £35,000,000, the saving thus effected amounting to £350,000 a year; or, in other words, a permanent endowment of £350,000 a year has been conferred upon the people of the two colonies. That fact must be regarded as establishing an acquittance in full on the part of the Imperial Government for any claims—for any further compensations or for any outstanding obligation—no matter where or by whom they may be in future brought forward. What is the condition of the Orange River Colony to whom we are now going to entrust a Parliament for the management of its own affairs? It has long been noticed how very rapidly a country

devastated by war recovers from the effects of war. That is especially true of the Orange River Colony. Not only has the ruin of the country been most swiftly repaired, but every evidence shows that when the live stock have multiplied, as they must in the course of a few years, the country will have risen to a level of prosperity far above anything it has ever known before. The population has increased from 96,000 before the war to 143,000. The railways have doubled, from 400 miles to 800 miles. Telegraphs have more than doubled, from 1,700 to 3,700. In 1898 Customs amounted to £1,190,000, and yielded £160,000 in duty at a cost of £8,500 in collection. In 1904-5 Customs amounted to £4,050,000, yielded £314,000, and cost in collection £8,100. Although there has been no extra taxes, except the 10*s.* poll tax, ear-marked for educational purposes, and no grant-in-aid, and large railway rebates have been made, the revenue of the country, which before the war was £301,000, has increased to between £700,000 and £800,000 a year, and, after providing improved Government buildings of all kinds, museums, colleges, and hospitals, there remains a balance of £150,000, accumulated out of annual savings. Schools have been rebuilt and multiplied. Before the war there were 8,000 children in 200 schools, with 313 teachers. There are now 16,000 children in 262 schools and 515 teachers. Mails have increased from 17,000,000 in 1898, to 43,000,000 last year. The Bloemfontein monthly delivery alone has increased from 1,900 to 56,000. Against all that it must be stated that there is a debt charge on

the country. What the amount of the debt is one cannot accurately ascertain; but it is something under £10,000,000, and that is the ghost of the ruin of the war which is now passing away for ever from the land. These figures reflect great credit on Sir Hamilton Goold-Adams and those who have been associated with him in the work of restoring the industry and prosperity of the Orange River Colony. I say that with all the more satisfaction, because when my knowledge of the country was not so full as it has since become I used a phrase which might possibly be considered disparaging of the work which Sir Hamilton Goold-Adams and his assistants have brought in so short a space of time to so marvellous a completion. The Constitution of the Orange River Colony will become effective as soon as possible. It will be necessary to prepare Letters Patent, as in the case of the Transvaal, and these I should hope will be issued before Parliament meets after the Christmas holiday. Before the Letters Patent come out we shall set to work to form a register of voters and appoint a Boundaries Commission.[1] The work of this Commission will take a considerable time, and I do not expect it will be completed until June of next year. So I should think that the new Parliament might assemble in Bloemfontein some time during the autumn of next year. When that work has been completed, and the new Parliament has assembled, the main direction of South African affairs in these Colonies will have passed from our hands; and I am sure it will be the wish of this

[1] The Letters Patent were dated June 5, 1907.

democratic House of Commons, which has created these new Parliaments in the first year of its life, to secure to them in the fullest manner the enjoyment of the liberties with which we have endowed them.

Motion made, and question proposed, 'That this House approves the grant of Constitutions conferring responsible government upon the peoples of the Transvaal and Orange River Colonies.'—*Mr. Churchill.*

2. THE EARL OF CREWE'S SPEECH ON THE SOUTH AFRICA BILL

HOUSE OF LORDS, JULY 27, 1909

MY LORDS, I rise to ask your Lordships to give a Second Reading to the South Africa Bill, a Bill which closes one chapter in the history of South Africa and begins a new one. It closes a chapter which has been varied and sometimes agitated, but on the whole not inglorious or unfruitful. It opens one in turning the first pages of which we feel hopes for the future which we believe that the circumstances fully justify. My Lords, this is not the time or the place for anything like a long historical disquisition on the causes which have led up to this proposal for the Union of South Africa; but I think it is not unsuitable that I should endeavour to trace very briefly some points in that history and some of those causes.

Of all the Dominions of his Majesty the King, South Africa is the one which least of any represents a long, conscious attempt towards a White settlement and the development of a great White community. During the 400 years and more that South Africa has been known to Europe—during the greater part of those 400 years it has been

treated as a stopping-place on the great highway to the East, rather as a wayside inn than as a place of permanent sojourn. Both the Portuguese and the Dutch, and finally the British, who have in turn occupied different parts of the country, have, in the main, so regarded it; and it is from this fact that we can trace many of the vicissitudes of government through which South Africa has passed, and what may be almost called the fortuitous birth of the colonies which compose it.

Some of the colonies started simply as ports of call on the coast, and filled up from time to time by refugees and others from Europe they gradually pushed their way inland, often, as we know, with serious opposition and difficulty caused by the native tribes. Other colonies represent the work of pioneers who pushed their way far into the wilderness, for the most part escaping what they conceived to be an unsympathetic form of government. From the time when the Cape became British, in the year 1814, history tells us that there has been from time to time more than one movement to escape from the somewhat uninformed control exercised from this country. The most famous of those movements was what is known as the Great Trek of 1836. I am afraid, my Lords, it must be admitted that the domestic virtues of Downing-street have sometimes been Imperial vices. The whole tone and trend of policy of a great part of the nineteenth century certainly did not tend towards the union or amalgamation of the different races which by that time had found in considerable numbers their

homes in South Africa. To abolish slavery was a good thing in itself, but even slavery may be abolished in a sympathetic spirit and with due regard to the losses which those who owned the slaves might sustain. But, my Lords, for many years past there have been gropings in the direction of union of which I may venture briefly to remind your Lordships.

The man who, I think, might be described as the father of the idea of South African union was that very distinguished Colonial Governor, Sir George Grey. When Sir George Grey was there in 1858 the Orange Free State made advances towards some system of federation or union—advances which he, the man on the spot, of whom we have heard so much since, was in favour of meeting. But in those days, as I have said, the idea of such union was not very palatable at home. The Colonial Secretary of that day was Sir Edward Bulwer-Lytton, whom I have heard Mr. Gladstone describe as in many respects one of the best of Colonial Secretaries, and the Under-Secretary was Lord Carnarvon. Neither of these men was prepared to take this particular responsibility. Lord Carnarvon, if I remember rightly, described Sir George Grey as a very dangerous man, and the result was that nothing was done.

But later on the mind of Lord Carnarvon became affected by different influences. In 1867 he was responsible to a great extent for the British North America Bill, by which the Dominion of Canada was created, and the success of that measure undoubtedly induced him to make some further attempt towards uniting the Colonies of

South Africa. Accordingly, in 1876 and 1877, that movement towards union took place, which unfortunately came to nothing, inspired, as it was, by high motives, but not, perhaps, carried out with complete understanding. It failed in one respect, if I may adopt a phrase used by my noble friend Lord Selborne—it failed because it was not home-made. It was suggested and was almost attempted to be forced on the colonies from here, and consequently it was abortive.

Then, as your Lordships know, in 1877 the Transvaal was annexed and in 1881 it was restored, and I need not remind your Lordships of the chequered series of events which finally led up to the war between this country and the Dutch Republics. I will only remind your Lordships that in 1872 Cape Colony received full responsible government and that Natal received it in 1893. My Lords, after the war, when peace was declared in 1902, a new section of history naturally began, and from that time the movement for union which culminates in this Bill has been progressing.

If I may diverge for one moment, I have remarked with some amusement, but also, I confess, with some regret, the fear which has been publicly expressed by some of those who do not agree with us in politics that his Majesty's Government are likely to claim an undue share of credit for this Act of Union. I do not know exactly what we have done to excite those fears. But the result has been that, both freely in the Press and also, I think, freely on the platform, attempts have been made to show that a great part of the

credit for this Act belongs to our predecessors, in particular to Mr. Chamberlain and to the noble Viscount on the Cross Benches, Lord Milner. I have no intention of entering into any discussion of questions of this kind on the present occasion. Neither the right hon. Gentleman nor the noble Viscount has, so far as I know, put forward any such claim on his own account. They would prefer, I have no doubt, just as I greatly prefer, to leave questions of that kind to the verdict of history. The Macaulays and the Froudes of the future, in writing the history of this time, will have their heroes and their malefactors, as their predecessors have had. Indeed, I am not sure that some gentlemen, perhaps not exactly Macaulays or Froudes, have not already started the process. But the historian of the future, whoever he may be, and without raising any question of credit, will undoubtedly point out that this particular Act of Union has been made possible by the action of the Government of the late Prime Minister, Sir H. Campbell-Bannerman, in sending the Commission to South Africa in 1906, with the result that the two Colonies—the Transvaal and the Orange River Colony, as it was then called—obtained responsible government. And when dealing with questions of credit the historian will, I think, point out that that action was undoubtedly due to the general political creed held by the Government, to their more robust faith in the virtues of self-government as such than their predecessors probably held. I do not think I should be greatly wronging the party of noble Lords opposite if I were to say that they would

prefer in the main to adopt the eighteenth-century maxim,

> For forms of government let fools contest,
> Whate'er is best administered is best.

and to hold that outside this island self-government is a remedy which should be administered with the greatest possible caution. The historian of the future may perhaps point out—perhaps he will—that in these matters to do the thing at the right moment counts for much, and that if that act had been much longer postponed it was at any rate possible that there might have arisen on the one side a hard temper of ascendancy and on the other side a sullen spirit of dissatisfaction which might have rendered it difficult to perform the act at all. If that be so, then I do think that credit is especially due to two men—to the late Prime Minister, Sir Henry Campbell-Bannerman, and my predecessor, Lord Elgin—for the part they took in that matter.

My Lords, when we pass from how this Union was made possible to how it was carried out, we can then abolish the figure of the historian and can distribute the necessary credit without any fear of being in error. First and foremost, credit belongs to the remarkable band of statesmen in South Africa, representing all parties and both races, who have set to work and carried through this business. We are glad to know that almost all of them have been able to come to this country and see their work through. They have been welcomed here, and will be welcomed as long as they stay with us, by persons of every class and

every party. Their names are, most of them, household words to us all. I will only mention one, because he presided over the delegation, my friend Sir Henry de Villiers, to whose skill and experience so much of the success of this measure is due. The others I will dispose of in a single line—

> Ductoresque alii quos Africa terra triumphis
> Dives alit.

Then, my Lords, I must not forget to acknowledge the help that was given by the different Governors representing his Majesty in South Africa, and in particular I must mention my noble friend Lord Selborne, who for the time being is out of the main rushing current of politics and seated in a placid back water on the Cross Benches of your Lordships' House. We have all been grateful for the industry and the skill which Lord Selborne has shown in the part which he has played.

Now, there were two great motive forces which propelled South Africa towards union. In the first place, there were the Imperial considerations which made South African statesmen desire to form a union which could take a place in the Empire beside the Dominion of Canada, the Commonwealth of Australia, and the Dominion of New Zealand, and that was undoubtedly a strong motive. But in addition to this, there were, of course, local and practical considerations of the first importance. In the first place, there was an obvious and desirable economy in working the four colonies as one. In the second place—and this, I think, perhaps more than anything, was

the immediate cause which brought practical men to see how necessary union was—there were the difficulties and complications arising out of the railway systems of the different Colonies. What those difficulties were I will not trouble your Lordships with at this moment; but I may, perhaps, be allowed to say that when Lord Milner was administering both the Transvaal and the Orange River Colony he did his best to diminish those difficulties and differences by amalgamating as far as possible the railway systems of those two Colonies. Then, there were questions arising out of the Customs, also a complicated subject with the details of which I will not trouble the House. All these practical considerations affected the minds of practical men there, and the result was that early in the year 1907 a communication was made first from the Cape which inspired an important and interesting Memorandum on the subject prepared by Lord Selborne, with which, I dare say, some of your Lordships are familiar. The year 1908 was taken up with conferences which led to the formation of the Convention, which, as your Lordships know, met first at Durban, where we were glad to be able to send a squadron of the British Navy to do honour to the occasion, afterwards at Cape Town, and, lastly, at Bloemfontein. Now the Bill having passed the respective South African Parliaments, the delegation have come here, and the result is this measure which I now submit to your Lordships.

The form of this Bill, I may say in passing, follows rather the Canadian than the Australian model. The second part of the Bill, which

describes the union, leads me to remark that, in my judgement, South Africa was wise to decide on a system of union rather than on a system of federation. The system of federation is one which is always naturally favoured by the smaller members of a great polity. A system that makes Delaware and Nevada the equivalents, for the purposes of the Constitution, of New York and of Pennsylvania is one which is naturally favoured by the former States. It was naturally in Natal that the greatest doubts arose as between federation and unification, and I should like to bear witness to the wise and steady guidance of the Natal Government in this matter, which resulted in the gratifying fact that when the Bill was submitted to a popular referendum a majority for it was obtained in every district to which it was referred. My Lords, I need not dwell on the appointment of the Governor-General, who naturally replaces the existing Governors, or on the formation of the Executive which follows the usual rule in such matters. But I pass to the fourth part of the Bill, which deals with the constitution of Parliament.

The Parliament, as is the invariable rule in the British Empire, will consist of two Houses. The Upper House—the Senate—consists of eight gentlemen elected from each of the four Colonies, with eight others nominated, four of whom, as I particularly beg you to observe, are to be selected owing to their acquaintance with native affairs. Provisions are made in Clauses 25 and 26 of the Bill for the future election of the Senate. The House of Assembly consists of 121 members drawn

in varying proportions from the different colonies, a certain preference in numbers being given to the smaller provinces, as they will become. There is a provision for increasing their number as population increases, and on that I ask your Lordships to note that the quota for that increase is confined entirely to the European male adults. The country will be divided into electoral divisions, and in the 40th Clause there are five considerations indicated which the Commission may bear in mind in delimiting—such as physical features, means of communication, sparsity and density of population, with the possibility of allowing fifteen per cent. margin on the quota either way.

When we come to the qualification for sitting in either House we approach a point which has been the subject of much discussion and as to which many protests have been made. Those who sit in either House of Parliament have to be of European descent. So far, the position is that in the Cape Colony no such restriction has hitherto existed. On the other hand, no one not of European descent has ever sat in the Cape House of Assembly. I say frankly that there does seem to me to be a strong case against the insertion of such a provision in this Act or in any Act. There are men not of European descent who are of high standing, of high character, and of high ability. They regard this provision as a slight, and we regret that any loyal subjects of the King should consider themselves slighted.

On the other hand, the difficulties which have confronted those who have prepared this Bill were no doubt considerable. In the first place, it is

only in the Cape that the native has a vote; and therefore it would seem anomalous to allow a man to sit in an Assembly for which the class to which he belongs have not a vote in the greater part of the Union. It is also fair to point out that in the Australian Commonwealth a similar restriction exists, so that therefore, this cannot be said to be without precedent. It is also true that the grievance is probably not a practical one, because if it was the case that no coloured member was elected to the Cape Assembly in the past it is extremely improbable, at any rate for a long time to come, that any such would be elected to the Union Parliament. The fact which has decided us in not attempting to press this matter against the wishes of the South African delegates has been that this is undoubtedly one of those matters which represents a delicately balanced compromise between themselves. As a Government we cannot take—and personally I am not prepared to take—the responsibility for the possible wrecking of this Union measure altogether by a provision of this kind; and I am assured that such would be the result of any attempt to insert such a provision in the Bill. The cause of those who desire this change to be made has been pressed with deep feeling and much eloquence by some of the natives themselves, and by those who specially represent their cause. But I do feel that if this change is to be made it must be made in South Africa by South Africans themselves, and that it is not possible for us, whatever we may consider to be the special merits of the case, to attempt to force it upon the great representative body which

with absolute unanimity demands that it should not appear.

I pass to the question of the franchise, which is one that has also raised a consideration of some difficulty. At present in the Cape Colony any man, whatever his colour, who possesses £75 worth of property or £50 a year, and who can write his name and address, can get a vote. In Natal the provisions for obtaining a vote are somewhat similar; but, as a matter of fact, the native has to obtain what is called a letter of exemption, with the result that very few natives indeed are on the register. In the Transvaal and in the Orange River Colony there is manhood suffrage for Whites, and no native vote at all. It is obvious from that description how difficult the problem was if there was to be any question of instituting a uniform franchise all over the Union. It was ultimately decided that Parliament was to prescribe the form of the franchise, it being, however, provided that the Cape vote should be saved to the native unless it was decided by a two-thirds majority of both Houses sitting together to abolish the native franchise there. This is said by those who desire to see the interests of the native in every way protected to involve a somewhat serious risk that the Cape franchise itself might be done away with. I think we may assume that, as far as the rest of the Union is concerned, it will be in future a white franchise.

It would require, as you see, some 106 members of both Houses sitting together to abolish the franchise at the Cape. I think it may be assumed

that it would require more than this, because it is not likely that the nominated Senators, especially those who are appointed for their interest in the natives, would be likely to join in a venture of that kind. Therefore, from that point of view, as far as South Africa itself is concerned, there does not seem to be much risk. It has also to be remembered that this is a matter on which we could not say that the power of disallowance which, of course, belongs to the Crown, would not be exercised. Certainly it is not too much to say that the disfranchisement of a class who had held this power of voting so long would be viewed here with very deep disappointment. Disfranchisement is always an odious thing in itself, and if it were to be applied in this particular manner I am bound to say that it would assume a somewhat specially odious form. Consequently I myself refuse to believe that there is any probability that this particular provision will be carried into effect. Looking at it as a purely abstract question, we could wish that the safeguard might be even stronger, but such as it is I am prepared to consider it strong enough. I may remind your Lordships also that there is a provision for the reservation of all constitutional Bills, and for reservation subject to instructions received from the Crown; and all Bills which desire to alter any provision in the Schedule are automatically reserved.

I will touch briefly on the creation of the new provinces. They will be governed by administrators appointed for a term of years by the Government and by Councils, and it is worth

noting that as far as the Cape is concerned the natives can both vote for and sit on the Provincial Councils. The Ordinances of the Provincial Councils will be subject to the approval of the Governor-General in Council. There is a list of subjects with which the Provincial Councils may deal, and there is a provision for purely local subjects being reserved to them. But all such matters as Crown lands, public works, mines, and so forth are by the Bill left in charge of the Union Parliament.

I pass quickly over the creation of the judiciary. It is a great thing that the whole of the judicial body of South Africa should be united into one High Court. I merely touch on the question of appeal to the Privy Council, to say that if it should appear to any one who studies these provisions that the right of appeal is more restricted in this Act than it is in some other Acts dealing with the self-governing dominions, it is due to the fact that this single High Court is created for the whole of South Africa. Nor do I dwell on Part VII of the Bill, which deals with finance and railway matters, further than once more to enforce the opinion as to the immense gain which it is to bring the railway system of South Africa under one control and one management. Clause 137 prescribes equality between the two languages, and Clause 147 makes special provision for the control of subjects affecting Asiatics being left to the Union Parliament. As your Lordships know, there have been in more than one Colony some difficulties in the past arising out of the presence of Asiatics there and out of

the regulations made concerning them. It will be a still further benefit if the establishment of this Union enables South Africa to dispose of those difficulties, and I sincerely hope that such may prove to be the case.

Then the native lands are safeguarded by the same clause. That brings me to Clause 151 of the Bill, the clause which enables what are known as the Protectorates possibly at some future time to be transferred to the care of the Union under regulations provided for in a Schedule. The South African Union finds itself in a unique position—a different position from that of any other part of the Empire. Not only has it got a vast native population within its borders, but just outside its borders, and in one case entirely surrounded by the Union itself, there are whole countries, hitherto directly administered by the Crown, in some cases almost entirely inhabited by natives and carried on under the immemorial tribal system. Those Protectorates have been under our direct administration, and towards them we feel that we have a very solemn duty indeed. They were, speaking generally, not conquered by the arms of Great Britain, but came voluntarily under our control. They feel a profound confidence in the British Government, a confidence which has been largely inspired by able men who from time to time have administered them, and, when the question of union became urgent, we had to consider what was the best course to take in view of our honourable obligations towards the Protectorates. We felt bound to regard ourselves as trustees for these

bodies of natives, and considering that it does not do for a trustee to hand over his trust to another man, however great his personal confidence may be in him, without a guarantee that the trust itself will be taken over, we decided to ask South Africa to accept the provisions embodied in the Schedule. Some opposition has been raised to the Schedule from two very different quarters. Some think that under no circumstances ought the native Protectorates to be handed over to the Union at all.

Here I may say that we have no desire, we are in no hurry, to hand over these areas to any one. They are contented, they are not otherwise than prosperous, and we have no desire to part with them; in fact, they have expressed themselves as averse to passing from under the direct administration of the Crown. But we do feel that in any case that suggestion involves an impossibility. It does not seem conceivable that for an indefinite future these areas should remain administered from here and that the new South African Union should have no lot or part in their administration. Nor do I believe, in view of the varying circumstances of these districts, that it is possible to name a time limit and say, at any rate, we will not hand over a particular area for a fixed number of years. That is a course which might have its attractions, but, if you do that, it seems to me you cannot combine that provision in the Bill with the existence of the terms embodied in the Schedule, because although we do desire not to hand over the Protectorates, yet the existence of the Schedule undoubtedly con-

templates their being possibly handed over at some time to be fixed by agreement.

On the other hand, there are those who contemplate the Protectorates being handed over, but consider that it is not necessary to make any preliminary arrangement with regard to them, and that it would be better to wait and deal with each case as it arises. To my mind there are strong objections to that course. It is extremely advantageous to lay down, as we have laid down in the Schedule, with the full concurrence of South African opinion, certain general principles in order that continuity of administration may exist, and in order that, above all, uncertainty may be avoided. By introducing this Schedule we at any rate obtain a certain uniform and agreed standard of administration. What weighs with me as much as anything is that the natives themselves are not anxious to be transferred, but, admitting that they may be some day transferred, actively desire the incorporation of a charter such as this in the Act itself. To me those reasons seem conclusive for the existence of this somewhat unusual form of provision in the form of a Schedule.

I will now give a brief outline of what the Schedule does. The Schedule lays down that the Government should legislate for and administer the Protectorates when they are taken over; and when I say the Protectorates I, perhaps, need hardly say that I am alluding to Basutoland, though strictly it is not a Protectorate, to Bechuanaland, and to Swaziland. It is the name by which they have for convenience been

described. The Government will legislate by Provisional Order, which will be laid on the Table of the House of Parliament in the ordinary way. It may be asked, What is the object of this provision? If these native territories are going to be handed over, why not let them be legislated for by Parliament like the rest of the country? One may have an almost unqualified admiration for Parliamentary government, and yet may be disposed to think that a Parliament in which certain people are not represented may not be the best machine for administering the daily life of those people, particularly when the constituents of those who sit in the Parliament may have interests at direct variance with the interests of those for whom it is proposed to legislate. Consequently it is the absence of representation—because no one supposes that if taken over these natives will be represented in Parliament—which is the basis of the proposals in the Schedule. Those proposals involve the institution of something in the nature of a permanent buffer between the territories and Parliament. The Prime Minister, or a regularly appointed deputy nominated by him, is to be the Minister responsible for the government of these territories, and he will be advised by a Commission which will undoubtedly be composed of men of distinction and experience, not removable except by a vote of both Houses of Parliament. This will involve, as we hope, and secure that continuity which of all possible considerations in dealing with natives is perhaps the most necessary of any.

There is always a danger, in attempting to govern

a native country, of causing the natives to become the plaything of the varying policy of parties—parties the existence of which may depend on entirely extraneous matters with which they themselves have no concern. We have here been able to keep clear of that difficulty and danger by being so far removed in our Parliament from those great areas which we administer directly. But it is a difficulty which I am certain might probably arise in South Africa without the creation of some such body. For that reason I am glad to know its creation is welcomed by many South African statesmen. This body possesses a certain analogy—though not an analogy that must be ridden too hard—both in its composition and its functions with the Council which in London advises the Secretary of State for India. It has, however, certain powers, larger than those of my noble friend's Council, of recording dissent.

Then the Schedule provides against the alienation of native lands, which involves the prohibition of indiscriminate prospecting; it provides against the supply of liquor to natives; and it provides that the restrictions which may exist in any of these territories on the supply of liquor to other than natives shall not be weakened if the territories are taken over. It also provides for the permanence of the native assemblies which have existed heretofore. These are the securities which we conceive to be given by the Schedule. It would not have been proposed from South Africa itself; but I believe it has been frankly accepted by South Africa, and that its actual provisions obtained the approval in the main

of those who are entitled to speak for the Union.

One point has been raised, and may possibly be raised again. It might be said, What security have you when the Union is formed and the customs and the railways of South Africa are in one hand, that these territories, while they are still under your control, may not be subjected to differential duties or to differential railway rates? We do not guard in the Act against action of that kind. But I am assured that the delegates see no reason whatever to doubt that the liberal policy pursued in regard to these matters—that is to say, by which the territories have been admitted to the Customs Union—will be continued so long as the territories remain under our control. I am quite prepared frankly to accept that opinion—which is as much, no doubt, as it is possible for the delegates to give, because they cannot answer for the doings of a Government which is not yet formed—I am prepared to accept that opinion and to agree. I do so for two reasons—first, because that opinion was freely and willingly given; and, secondly, because any action of the kind directed against a territory under the administration of the Crown would be so grave from every point of view, would approach so nearly to what, in the language of diplomacy, would be described as an unfriendly act, that I do not for a moment contemplate the possibility of any such occurrence.

Before I sit down I should like to ask you to consider for a moment what the Union does. I have spoken of the political and economic advan-

tages which it must bring in its train to South Africa. What may the Union be also expected to do in the less visible but not less important sphere of human relations? This union of colonies marks, as I believe, a great advance in the fusion of the races which inhabit South Africa. The inhabitants of South Africa are some of British, some of Dutch, and some of French Huguenot descent. Their ancestors through many years of history suffered and fought for freedom. They underwent forfeiture and exile and imprisonment, and on the scaffold and on many battlefields they bore witness in the cause of civil and religious liberty. It would have been one of the most tragic ironies of all history if men descended from such races as those had remained permanently estranged. Now I hope we may look forward to seeing them joined in a free union under the supremacy of the British Crown, with a guaranteed freedom, for as many years in front of us as the imagination of man can venture to look.

It has been the peculiar good fortune of this movement towards union that some of the actual work of union has been done in the process of discussion by bringing into intimate personal relations the different South African statesmen, soldiers, and lawyers who before that time may have known but little of each other. The result of union will be that the whole past history of South Africa will become the common possession for ever of all the races. The famous names of South African history will become the joint property of them all—names familiar to many of us in a different relation from that which those who

bore them ever expected. We may think of the chivalrous figure of Sir Harry Smith, whose name is still extant, and of his wife, so romantically won, whose name survives still more familiarly in association with recent events to which both races may look back with pride. Then there was Sir Benjamin D'Urban, one of the Governors who suffered from not being entirely understood at home. I have mentioned Sir George Grey, and I might mention many more. But we must not forget the names of the distinguished men who filled the office of President in the Dutch Republics, and here I will say that we are particularly glad to welcome here among the delegates from South Africa Mr. Steyn, whose whole-hearted advocacy of union has been of the greatest assistance to the cause. Nor can we forget the now common property of the whole Union in the name of Cecil Rhodes, who amid all the agitations of political life always dreamed of the union of South Africa. These men lived their lives, they enjoyed their triumphs, they suffered their failures, and we now in the fulness of time are able to see that where they succeeded, and even where they failed, they often unconsciously were working towards the consummation of this great act of union. Therefore, without distinction of race, party, or creed, we can now say that we honour them all.

I will now say one word from the Imperial standpoint. It is not necessary for us to roll up the map of the British Empire as Mr. Pitt desired to roll up the map of Europe, but it is tolerably safe to say that, so far as we can venture to see ahead, this Act of Union places the self-governing

Dominions of the King in something like their final form. There is the great American group, the great Pacific group, and the great African group. There may be some rearrangement and some modification, but it is, I think, reasonable to say that for many years to come, longer than the life of any of us here, these three great divisions will form the three main self-governing parts of the British Empire outside these islands. This fact will enable the advisers of the Crown here and in the Colonies and Dominions abroad to deal with questions of Imperial defence with more certainty and with greater freedom than they have been able to deal with them hitherto. That is one point of gain. I will go further. If it should ever be the fact, as I hope it may, that it is found possible to solve the very difficult problem of co-operation all over the Empire in the policy of the Empire, to that achievement this Act of African Union is a necessary preliminary. I believe, therefore, that there will be no part of the Empire which will not give a most hearty welcome to the new South Africa, with earnest prayers that she may both merit and enjoy the rewards of prosperity and the blessings of peace. My Lords, in moving the Second Reading of this Bill I commend it to your good offices, and I trust that it may pass in this House, and also in another place, without amendment.

VII

THE AUTONOMY IN INTERNAL AFFAIRS OF THE SELF-GOVERNING DOMINIONS

1. THE CANADIAN POLICY OF PROTECTION

(1) *The Duke of Newcastle to the Right Honourable Sir Edmund Head, Bart.*

DOWNING STREET,
August 13, 1859.

SIR,

I have the honour to transmit to you the copy of a Memorial which has been addressed to me by the Chamber of Commerce and Manufactures at Sheffield, representing the injury anticipated to their commerce by the increased duties which have been imposed on imports by the late Canada tariff.

I request that you will place this representation in the hands of your Executive Council, and observe to that body that I cannot but feel that there is much force in the argument of the Sheffield manufacturers. Practically, this heavy duty operates differentially in favour of the United States, in consequence of the facility for smuggling which so long a line of frontier affords, and the temptation to embark in it which a duty of 20 per cent offers. Regarded as a fiscal expedient, the measure is impolitic; for whilst any increase

of contraband trade must be at the expense of the Exchequer, the diminution of foreign importations will probably more than neutralise the additional revenue derived from the higher duty.

Whenever the authenticated Act of the Canadian Parliament on this subject arrives, I may probably feel that I can take no other course than signify to you the Queen's assent to it, notwithstanding the objections raised against the law in this country; but I consider it my duty no less to the Colony than to the Mother Country, to express my regret that the experience of England, which has fully proved the injurious effect of the protective system, and the advantage of low duties upon manufactures, both as regards trade and revenue, should be lost sight of, and that such an Act as the present should have been passed. I much fear the effect of the law will be that the greater part of the new duty will be paid to the Canadian producer by the colonial consumer, whose interests, as it seems to me, have not been sufficiently considered on this occasion.

I have, &c.

NEWCASTLE.

ENCLOSURE

CHAMBER OF COMMERCE AND MANUFACTURES, SHEFFIELD.
August 1, 1859.

My LORD DUKE,

I have the honour to enclose a Memorial from this Chamber of Commerce respecting the greatly

augmented duties levied upon manufactured imports into the Canadian Colonies.

This Memorial is presented in accordance with a wish expressed by your Grace at an interview granted to a deputation from this Chamber on Wednesday the 20th of July last.

It sets forth the main points in which these greatly increased duties are burdensome to home commerce; and this Chamber begs that the subject may receive your Grace's attention.

I have, &c.

CHARLES E. SMITH,
Honorary Secretary.

His GRACE the DUKE of NEWCASTLE, K.G.

To His Grace the Duke of Newcastle, Secretary of State for the Colonies

CHAMBER OF COMMERCE AND MANUFACTURES, SHEFFIELD.
August 1, 1859.

MY LORD DUKE,

IN accordance with a promise made by us on the 20th ultimo, when we had the honour of waiting upon your Grace on behalf of the merchants and manufacturers of Sheffield, to represent the injury anticipated to the trade of this town from the recent advance of the import duties of Canada, we now beg respectfully to re-state the reasons why such injury is apprehended. These reasons may be said to be twofold; first, those arising from a conviction that it is the

deliberate policy of the Government of Canada to foster native manufactures by fiscal protection and every other means in their power, and, second, those arising from a consideration of the fact that there exists close to the Canadian frontier a body of competing United States manufacturers, to whom such contiguity more than counterbalances the fact that they have to pay the same duties as ourselves.

For proof that we are not mistaken about what the policy of the Canadian Government is, we would refer your Grace to the tone of the whole press of Canada, to the speeches of members of the Canadian Parliament, on both sides of the House, and especially to the steady increase of duties levied on Sheffield goods under every successive tariff. It will be sufficient to say on the last point, that within 18 years or less, the duty levied on Sheffield goods has been steadily advanced from 2½% to 20%. We would remind your Grace, in the second place, that, while there is a protection in favour of Canadian manufactures against Sheffield of from 35% to 40%, consisting of land carriage, freight, insurance, commission, shipping expenses, duty, &c.,—owing to the close contiguity of, and cheap transit from the competing seats of American industry, similar goods can be sent across the Canadian frontier by United States manufactures at a cost of from 22½ to 25%. It is, therefore, plain that the United States manufacturer has actually an advantage over the Sheffield manufacturer of from 12½ to 15%. As this is a natural protection, however, and consequently one which remains

about the same, be the Canadian duty what it may, we only name it to show your Grace how great the obstacles are naturally against which Sheffield labour has to struggle, and for the purpose of remarking as another objection to any increase of duty, that it is actually the interest of American manufacturers that the Canadian duties should be raised, since any hindrance or confusion caused to Sheffield manufacturers can only tend to divert the demand towards markets easier of access, and with which intercourse is more quickly exchanged than with Sheffield. It is important, too, to remember that the American manufacturer has more than 1,000 miles of unguarded frontier across which he can smuggle with impunity. The merchants and manufacturers of Sheffield have no wish to obtain special exception for themselves, and do not complain that they are called upon to pay the same duty as the American or the German, neither do they claim to have their goods admitted free of duty; all they ask is, that the policy of protection to native manufactures in Canada should be distinctly discountenanced by her Majesty's Government, as a system condemned by reason and experience, directly contrary to the policy solemnly adopted by the Mother Country, and calculated to breed disunion and distrust between Great Britain and her Colonies. It cannot be regarded as less than indecent, and a reproach, that, while for fifteen years the Government, the greatest statesmen, and the press of this country have been not only advocating, but practising the principles of free trade, the Government of one of her most

important Colonies should have been advocating monopoly and protection. Under the artificial stimulus of this system, extensive and numerous hardware manufactories have sprung up both in Canada East and West, and the adoption of increasing duties has been the signal for more to be commenced. We are aware that the fiscal necessities of the Canadian Government are urged as the chief cause for passing the late Tariff Bill. This is not the whole truth; no one can read the papers of the provinces and the speeches of the Members of both Houses, and be deceived for an instant; but even if that were the cause, we conceive that her Majesty's Government has a right to demand that what revenue is needed shall be raised in some other way than that which is opposed to the acknowledged commercial policy of the Imperial Government, and destructive of the interests of those manufacturing towns in Great Britain which trade with Canada. As some evidence that this new tariff is objectionable on colonial grounds, we would draw your Grace's attention to the following extract:

The New Canadian Tariff.—Mr. Galt's tariff is bearing with dreadful severity on our trade. The imports at Toronto for the first six months of 1859 were 1,939,928 dollars, while those of the corresponding period last year were 1,534,131 dollars, showing an increase of only 27 per cent. The duties collected in the same period, in 1858, were 168,161 dollars, and in 1859, 286,100 dollars, which shows an augmentation on the burdens of the people of very nearly 70 per cent. The exports, during the six months of 1859, were only 147,444 dollars; 37,069 dollars less than in 1858, and 138,656 dollars less than we paid in

duties alone. With decreased means of payment we have imported more and paid more to the Government than last year. How can a country prosper under such burdens as the present Government have imposed ?—Toronto (W.C.), *Globe* of July 8.

We remain, &c.
CHARLES ATKINSON,
Mayor of the Borough of Sheffield.
ROBERT JACKSON,
Master Cutler,
For JOHN JOBSON SMITH,
President of the Chamber of Commerce.
CHARLES E. SMITH,
Honorary Secretary.

(2) *Right Honourable Sir Edmund Head, Bart., to the Duke of Newcastle*

GOVERNMENT HOUSE, QUEBEC,
11 *November*, 1859.

MY LORD DUKE,

I did not fail immediately to call the attention of my Council to your Despatch of 13th August, No. 23. The subject was by them referred to the Finance Minister, Mr. Galt, who has reported thereon.

According to the recommendation of the Council, I now forward for your Grace's consideration a copy of this Report.

I have, &c.,
EDMUND HEAD.

Copy of a Report of a Committee of the Executive Council approved by his Excellency the Governor-General, on the 12th of November 1859

On the Report of the Honourable the Minister of Finance, dated 25th October ultimo, submitting certain remarks and statements upon the Despatch of his Grace the Duke of Newcastle, dated 13th August, and upon the Memorial of the Chamber of Commerce of Sheffield, dated 1st August, transmitted therewith,—

The Committee concur in the views expressed by the Minister of Finance, and recommend that a copy of his Report be forwarded by your Excellency to her Majesty's Secretary of State for the Colonies.

Certified,
WILLIAM H. LEE, C.E.C.

REPORT

The Minister of Finance has the honour respectfully to submit certain remarks and statements upon the Despatch of his Grace the Duke of Newcastle, dated 13 August, and upon the Memorial of the Chamber of Commerce of Sheffield, dated 1 August, transmitted therewith.

It is to be deeply regretted that his Grace should have given to so great a degree the weight of his sanction to the statements in the Memorial, without having previously afforded to the Govern-

ment of Canada the opportunity of explaining the fiscal policy of the province and the grounds upon which it rests. The representations upon which his Grace appears to have formed his opinions are those of a provincial town in England, professedly actuated by selfish motives; and it may fairly be claimed for Canada, that the deliberate acts of its Legislature representing nearly three millions of people, should not have been condemned by the Imperial Government on such authority, until the fullest opportunity of explanation had been afforded. It is believed that nothing in the Legislation of Canada warrants the expressions of disapproval which are contained in the Despatch of his Grace, but that on the contrary due regard has been had to the welfare and prosperity of her Majesty's Canadian subjects.

From expressions used by his Grace in reference to the sanction of the Provincial Customs Act, it would appear that he had even entertained the suggestion of its disallowance; and though happily her Majesty has not been so advised, yet the question having been thus raised, and the consequences of such a step, if ever adopted, being of the most serious character, it becomes the duty of the Provincial Government distinctly to state what they consider to be the position and rights of the Canadian Legislature.

Respect to the Imperial Government must always dictate the desire to satisfy them that the policy of this country is neither hastily nor unwisely formed; and that due regard is had to the interests of the Mother Country as well as of the Province. But the Government of Canada

acting for its Legislature and people cannot, through those feelings of deference which they owe to the Imperial authorities, in any manner waive or diminish the right of the people of Canada to decide for themselves both as to the mode and extent to which taxation shall be imposed. The Provincial Ministry are at all times ready to afford explanations in regard to the acts of the Legislature to which they are party; but, subject to their duty and allegiance to her Majesty, their responsibility in all general questions of policy must be to the Provincial Parliament, by whose confidence they administer the affairs of the country; and in the imposition of taxation it is so plainly necessary that the Administration and the people should be in accord, that the former cannot admit responsibility or require approval beyond that of the local Legislature. Self-government would be utterly annihilated if the views of the Imperial Government were to be preferred to those of the people of Canada. It is, therefore, the duty of the present Government distinctly to affirm the right of the Canadian Legislature to adjust the taxation of the people in the way they deem best, even if it should unfortunately happen to meet the disapproval of the Imperial Ministry. Her Majesty cannot be advised to disallow such acts, unless her advisers are prepared to assume the administration of the affairs of the Colony irrespective of the views of its inhabitants.

The Imperial Government are not responsible for the debts and engagements of Canada. They do not maintain its judicial, educational, or civil

service; they contribute nothing to the internal government of the country, and the Provincial Legislature acting through a ministry directly responsible to it, has to make provision for all these wants; they must necessarily claim and exercise the widest latitude as to the nature and extent of the burthens to be placed upon the industry of the people. The Provincial Government believes that his Grace must share their own convictions on this important subject; but, as serious evil would have resulted had his Grace taken a different course, it is wiser to prevent future complication by distinctly stating the position that must be maintained by every Canadian Administration.

These remarks are offered on the general principle of colonial taxation. It is, however, confidently believed, that had his Grace been fully aware of the facts connected with the recent Canada Customs Act, his Despatch would not have been written in its present terms of disapproval.

The Canadian Government are not disposed to assume the obligation of defending their policy against such assailants as the Sheffield Chamber of Commerce; but as his Grace appears to have accepted these statements as correct, it may be well to show how little the memorialists really understood of the subject they have ventured to pronounce upon so emphatically.

The object of the Memorial, is 'to represent the injury anticipated to the trade of this town (Sheffield), from the recent advance of the import duties of Canada.' To this it is sufficient reply

to state that no advance whatever was made on Sheffield goods by the Customs Act in question; the duty was 20 per cent. on these articles enumerated in the former tariff, and the only difference is, that they are now classed as un-enumerated, paying the same duty. But on the other hand, by the present tariff, the raw material, iron, steel, &c., used in the manufacture of such goods, has been raised from 5 per cent. to 10 per cent.; consequently under the Act of which the Memorialists complain, their position in competing with the Canadian manufacturer is actually better than under the previous tariff. The establishment of this fact entirely destroys the force of the whole argument in the Memorial, as regards the trade they especially represent.

The Chamber of Commerce, in their anxiety to serve the interests of their own trade, have taken up two positions from which to assail the Canadian tariff, which are, it is conceived, somewhat contradictory. They state that it is intended to foster native manufactures, and also that it will benefit United States manufacturers. It might be sufficient to say that the tariff cannot possibly effect both these objects, as they are plainly antagonistic; but it may be well to put the Chamber of Commerce right on some points connected with the competition they encounter from the American manufacturers. There are certain descriptions of hardware and cutlery which are manufactured in a superior manner by the American and Canadian manufacturers, and these will not, under any circumstances, be imported from Sheffield. In these goods there is really no com-

petition; their relative merits are perfectly well known, and the question of duty or price does not decide where they shall be bought. In regard to other goods in which Sheffield has to compete with the United States, it can be easily shown that no advantage can by possibility be enjoyed by the foreigner in the Canadian market, because Sheffield is able now to export very largely of these very goods to the American market, paying a duty of 24 per cent., and competing with the American maker. Certainly, then, in the Canadian market Sheffield, paying only 20 per cent. duty, can have nothing to fear from American competition, which is subject also to the same duty, and even if admitted absolutely free, would yet be somewhat less able to compete than in the United States. The fact is, that certain goods are bought in the Sheffield market, and certain in the American. We have in Canada tradesmen who make goods similar to the American, but not to the Sheffield; and if our duty operates as an encouragement to manufacturers, it is rather against the American than the English manufacturer, as any one acquainted with this country well knows.

The Chamber of Commerce is evidently quite ignorant of the principle upon which the valuation of goods for duty is made by Canada, which is on the value in the market where bought. The Sheffield goods are therefore admitted for duty at their price in Sheffield, while the American goods are taken at their value in the United States. This mode of valuation is clearly in favour of the British manufacturer, and is adopted with the

deliberate intention of encouraging the direct trade, as will be shown hereafter.

The calculations offered by the Chamber of Commerce as to the cost of delivering Sheffield and American goods in Canada are wholly erroneous; they state the cost as 35 per cent. to 40 per cent., against 22½ per cent. to 25 per cent.; but their whole case rests upon the assumption that the original cost of both is the same, which is manifestly absurd, both as shown, indirectly, by Sheffield being a large exporter to the States, and, directly, from the fact that, in the case of the American maker, his raw material has to pay a duty of 24 per cent., while he requires higher interest both for his fixed and working capital, and has to pay larger wages for skilled labour.

The Chamber of Commerce attaches much weight to their allegation, that Canada has 'more than 1,000 miles of unguarded frontier'; this is, like most of those in the Memorial, a mere reckless assertion, made in ignorance of facts. The frontier of Canada is not crossed by a road of any description but one (the Kennebec) east of the 45° parallel of latitude; it extends about 120 miles along the parallel to the River St. Lawrence; thence up the river about 100 miles to Lake Ontario, above which it is separated from the United States by the Great Lakes, averaging 60 miles in width, to the extreme west of Lake Superior; with the two exceptions of the Niagara river, 30 miles, for a considerable extent impassable, and by the Detroit and St. Clair rivers, 70 miles. The lakes are not navigated in winter,

and in summer offer great obstacles to smuggling, from causes which it would take too much space to recite; consequently, the frontier which offers any avenues for smuggling is limited in reality to about 320 miles in all; and so far from being unguarded, a most efficient and zealous staff of officers is employed upon it, occupying every available route. Railways have also to a great extent removed the temptation and ability to smuggle; the goods are all brought from the United States to the frontier by rail, and it is cheaper to pay the duty demanded on goods generally (say, 20 per cent.) than to incur the additional expense of seeking another mode of conveyance, combined with the risk of a contraband trade. Smuggling, to a certain extent, no doubt takes place, but it is generally for the mere supply of frontier villages and settlements, and in most cases of seizure we find that the goods are of the most portable description; whisky and manufactured tobacco are the only bulky articles ever smuggled, and on these articles the duties are 70 per cent. and 40 per cent. They would not be smuggled were public opinion satisfied with the imposition of a lower duty, say 20 per cent.

The Chamber of Commerce has chosen to allege, as its authority for assailing the present Canadian Customs duties, the newspaper statements to which they have had access, and the memorialists have permitted themselves, on such authority, to use most unbecoming language towards the Government of Canada. It would have been more proper had they quoted the statements of the policy of the Government made by its Finance

Minister, rather than those of the public press, and on this point there is now submitted an extract from the remarks made by Mr. Galt on the introduction of the new tariff, which were fully reported in all the leading newspapers:

There is no more important question that can engage the attention of any country than its commercial policy. There are some who would do away with customs' duties altogether, and have resort to direct taxation. Others, again, are in favour of a tariff which shall afford protection to native industry, and avoid the necessity of importing goods from abroad. I think it is impossible for Canada to adopt altogether either of those measures as a final policy. I think we must have reference to what are the great interests of the country in reference to taxation. The first of them undoubtedly is agriculture. There is also a large portion of the people engaged in the manufacture of timber, and the commercial interest is by no means small. There is also a manufacturing interest growing up, but it has not yet attained the magnitude of the others of which I have spoken. I do not believe that the adoption of a protective policy is possible in Canada, on account of the extensive frontier that she has to protect. It is plain that if we raise the duties beyond a certain point we offer a reward to unscrupulous persons to engage in contraband trade; and again, if by raising the duty on those articles too high we prevent their introduction, we must necessarily have recourse to direct taxation. I do not think it possible or desirable that taxation should be raised to the rate adverted to. The duties imposed are moderate, and, since they had been raised from 12½ per cent. to 15, various manufactories have been created, have thriven, and are still thriving, and I am not aware that during the recent extraordinary monetary crisis they have suffered to any extent. It is right, in raising a revenue, to have respect to the possibility of finding employment for a portion of the population, but, on the other hand, it is not proper to create a hot-bed to force

manufactures. The revenue we have to raise permitted the putting on of duties which would give some encouragement to parties to embark in manufactures. When a person did so under a system of moderate duties, he had reasonable ground of assurance that the system would not be altered to his disadvantage; but if the duties were high the system would be regarded as one of class legislation, and as not likely to be permanent. The true object to be accomplished was to make provision for the public wants, and so to distribute the burdens as to make them press as equally as possible upon all, or to afford equal encouragement to all interests.

The nature and value of the information obtained by the Chamber of Commerce may be judged by their appending to their Memorial an extract from a paper bitterly opposed to the Government, which, taking up the results of six months of trade of Toronto, a port of only third-rate magnitude, pretends to give the result of a tariff which had only been in operation for three months out of the six months, from which the statement was made. It will be hereafter shown what the real operation of the new tariff has thus far been, and it will then clearly appear that the apprehensions of his Grace as to the failure of the measure financially have not been realized.

The Minister of Finance would not have considered it necessary to give any refutation to the statements of the memorial from Sheffield, had it not been virtually adopted by his Grace the Duke of Newcastle. He would have preferred at once entering upon an explanation of the financial position, requirements, and policy of Canada, which he now respectfully submits, and which

will, he believes, abundantly prove that, under the most serious difficulties, the policy of Canada, so far from being opposed in principle to that of the Mother Country, has been in accord with it, as far as differing circumstances would permit.

A statement is herewith appended, showing the total imports, duty, and free goods imported into Canada since the union.

The policy of the Mother Country was protective and discriminative until 1846, and that of Canada was made as far as practicable in harmony. Differential duties in favour of the direct trade with Great Britain existed till 1848, when they were repealed. And in 1854, the principles of free trade were still more fully adopted by Canada in the legislation connected with the Reciprocity Treaty. The repeal of the Navigation Laws took place in 1849. The policy of Canada has thus at three periods, of 1841 to 1848, 1849 to 1854, and 1855 to this date, followed that of Great Britain. Our markets have been thrown open on equal terms to all the world. Our inland waters are navigated by foreign vessels on the same terms as by Canadian; the necessaries of life entering into the ordinary consumption of the people have all been made free. Our vast timber and ship-building interests have been thus developed and our fisheries encouraged, and, as a general principle, all raw materials have also been admitted free: the only exception in the latter case being precisely that which most conclusively shows that the fiscal policy of Canada has been based upon revenue as the primary object, as, for the manufacture of the description of goods

which has provoked the criticism of the Sheffield Chamber of Commerce, iron and steel are the raw material, and on these very articles the duty has been steadily raised to 10 per cent., which is quite in proportion to the increased duty imposed upon the manufactured article.

The analysis of the statement herewith gives some curious and instructive results. For the eight years from 1841 to 1848, during which the protective policy existed, the total imports of Canada were £27,543,319 0*s.* 6*d.*, Halifax currency, the total duty collected £2,808,507 11*s.* 10*d.* and the total free goods £619,886 1*s.* 8*d.*; the averages being £3,442,915, £351,063, and £77,486; the duty being thus about 10¼ per cent.; and the free goods only 2¼ per cent. of the whole imports.

For the next period of six years to the passing of the Reciprocity Acts, and general adoption of more liberal views, 1849 to 1854, the total imports, duty, and free goods were respectively £35,806,420 6*s.* 1*d.*, £4,709,372 11*s.* 11*d.*, £2,448,381 13*s.* 2*d.*, averaging £5,967,736, £798,395, and £408,063 per annum, the duty being thus about 13¼ per cent., and the free goods nearly 7 per cent. of the total imports.

For the last period of four years from 1855 to 1858, which is that which has more particularly excited the apprehensions of his Grace, and the criticism of the Sheffield Chamber of Commerce, the following results are shown: imports, £37,044,920 10*s.* 2*d.*; duty, £3,835,276 6*s.* 5*d.*; free goods, £10,789,705; the annual averages having been £9,261,230, £958,819, and £2,697,426;

the duty being 10¼ per cent. and the free goods 29 per cent. of the imports.

The following comparative result appears:

1841 to 1848, average total imports . .	£3,442,915
1849 to 1854, ,, ,, . .	5,967,736
1855 to 1858, ,, ,, . .	9,261,230
1841 to 1848, duty 10¼ per cent.: goods, 2¼ per cent.	free
1849 to 1854, duty 13¼ per cent.; goods 7 per cent.	free
1855 to 1858, duty 10¼ per cent.; goods, 29 per cent.	free

These comparative statements abundantly prove that the policy of Canada in its Customs duties has neither been repressive of trade nor onerous upon the people. It is, however, necessary to draw attention to the fact that from causes which will be hereafter stated the results for 1858 would somewhat differ from the above average, the late Minister of Finance, Mr. Cayley, having found it necessary to make a considerable addition to the Customs duties by an Act which took effect on the 7th August 1858, which gave the following results for that particular year, and which must be borne in mind when it is necessary to explain the nature of the Customs Act of March 1859.

1858, imports to 7th August . .	£3,970,703
Duty, £439,643 14*s.* 6*d.*	Free goods, £1,161,728 5*s.*
Duty, 11 per cent. .	Free goods, 29 per cent
1858, from 7th August to 31st December, under tariff of 1858, imports .	£3,298,928 15*s.*
Duty, £405,703 13*s.* 1*d.*	Free goods, £931,675 5*s.*
Duty, 12½ per cent. .	Free goods, 28½ per cent.

The fiscal policy of Canada has invariably been governed by consideration of the amount of revenue required. It is no doubt true that a large and influential party exists, who advocate a protective policy, but this policy has not been adopted by either the Government or Legislature, although the necessity of increased taxation for the purposes of revenue has to a certain extent compelled action in partial unison with their views, and has caused more attention to be given to the proper adjustment of the duties, so as neither unduly to stimulate nor depress the few branches of manufacture which exist in Canada. The policy of the present Government in re-adjusting the tariff has been, in the first place, to obtain sufficient revenue for the public wants; and, secondly, to do so in such a manner as would most fairly distribute the additional burthens upon the different classes of the community, and it will undoubtedly be a subject of gratification to the Government if they find that the duties absolutely required to meet their engagements should incidentally benefit and encourage the production in the country of many of those articles which we now import. The Government have no expectation that the moderate duties imposed by Canada can produce any considerable development of manufacturing industry; the utmost that is likely to arise is the establishment of works requiring comparatively unskilled labour, or of those competing with American makers for the production of goods, which can be equally well made in Canada, and which a duty of 20 per cent. will no doubt stimulate. That these results

should flow from the necessity of increased taxation is no subject of regret to the Canadian Government, nor can it be alleged as any departure on their part from the recognized sound principles of trade, as it will shortly be shown that the Government were compelled to obtain increased revenue, and it is believed that no other course could be relied on for this result than that adopted.

The increase of taxation is never a popular step, and his Grace might have well believed that no Government would adopt it, without the strongest conviction that good faith demanded it. It is unpleasant enough to be exposed to attack in Canada for an unavoidable increase of duties; but it is certainly ungenerous to be reproached by England, when the obligations which have caused the bulk of the indebtedness of Canada have been either incurred in compliance with the former policy of Great Britain, or more recently assumed, to protect from loss those parties in England who had invested their means in our railways and municipal bonds.

The indirect public debt of Canada in 1858 was £7,630,643 16*s.* 7*d.*, bearing 6 per cent. interest, which, prior to 1857, had not been a charge upon the revenue. In that year, owing to the commercial crisis, it became necessary to make large payments upon it; and in 1858, almost the whole amount had to be met from the general revenue. In addition to the commercial depression, the harvest of 1857 was below an average, and that of 1858 was nearly a total failure. It became manifest that the indirect debt must for many years be a charge upon the country; and

Parliament was required to make provision for it. The interest on the public debt, direct and indirect, thus required in 1858 £774,612 13*s.* 4*d.*, and without flagrant breach of faith, it could neither be postponed nor repudiated. The pressure had come suddenly and heavily upon the people of Canada; but neither the Government nor the Legislature hesitated in making such provision as in their judgement would meet the exigencies. The Customs Act of 1858 was therefore passed, and subsequently, with the same objects in view and others which will be hereafter explained, the Customs Act of 1859 was also passed.

His Grace the Duke of Newcastle has not, it is feared, given his consideration to the official documents showing the income and expenditure of Canada for 1858, or he would have seen the absolute necessity under which the Government was acting, in proposing their financial measures for last year. His attention is now respectfully requested to the official Report of the Finance Minister attached to the public accounts of 1858, wherein he will perceive the exact position in which the affairs of the province stood, and that a deficiency of no less than 2,500,000 dollars had occurred in that year.

After subjecting the engagements of the province to the strictest possible scrutiny, the Government were of opinion that it was possible to reduce the annual outlay on many items of expenditure, and the accompanying estimate submitted to Parliament will satisfy his Grace that the best efforts of the Government have been directed towards economy, the ordinary expenditure in

1858 having been 8,943,013 dollars, and the estimate for corresponding service in 1859 being 7,497,000 dollars. But, after making every possible reduction, it was manifest that, unless an increase of revenue could be obtained, a serious deficiency must occur in 1859. The opinion of the Government was that, having ascertained the probable amount required for the service of the year, it was their duty to recommend such measures to Parliament as would supply the deficiency; and that although during the crisis it might have been justifiable to borrow money for this purpose, it was no longer so. A revival of trade was confidently looked to, but owing to the bad harvest of 1858, it could not be rapid; and it was deemed proper to recommend certain additions to the Customs duties, to provide for a possible diminution in our ordinary importation.

The Customs Act introduced by the present Minister of Finance is evidently believed by his Grace, and by others in England who draw their information apparently from the political press opposed to the Government, to have imposed very large additional taxation on imported goods, whereas, in reality, such was neither the intention nor the fact. The new tariff was designed certainly with the intention of obtaining an increased revenue of about 500,000 dollars on the estimated importations of 1859, but the real increase was looked for from a revival of trade; the main object of the new tariff was to readjust the duties so as to make them press more equally upon the community by extending the *ad valorem* principle to all importation, and thereby also encouraging

and developing the direct trade between Canada and all foreign countries by sea, and so far benefiting the shipping interests of Great Britain, an object which is partly attained through the duties being taken upon the value in the market where last bought. The levy of specific duties for several years had completely diverted the trade of Canada in teas, sugars, &c. to the American markets, and had destroyed a very valuable trade which formerly existed from the St. Lawrence to the Lower Provinces and West Indies. It was believed that the completion of our canal and railroad systems, together with the improvements in the navigation of the Lower St. Lawrence, justified the belief that the supply of Canadian wants might be once more made by sea, and the benefits of this commerce obtained for our own merchants and forwarders. Under this conviction it was determined by the Government to apply the principle of *ad valorem* duties (which already extended to all manufactured goods) to the remaining articles in our tariff.

A step of this nature, having for its effect to give a slight advantage to the direct trade, via the St. Lawrence, with Great Britain and the rest of the world, and whose tendency was somewhat to interfere with the existing close commercial relations between Western Canada and the United States, excited the bitter hostility of all the interests prejudicially affected, and both in Parliament and in the press the most absurd and false statements were made on the subject. The opposition in Parliament, strangely enough, adopted as their strongest ground of attack upon

the tariff, that it receded from the protective principle said to have been adopted by Mr. Cayley in the previous year; and, for the purpose of defeating the Government, those in opposition in the House who admitted the justice and propriety of the proposed changes, actually voted with the pure protectionists. Notwithstanding all the combined efforts of their opponents, the Government adhered to and carried their measure; and it may now be interesting to observe, from the short period during which the tariff has been in force, how far it has produced the results contended for by the Government or their opponents.

The Minister of Finance stated to the House that he did not intend materially to alter the rate of duty paid on the bulk of the imports, but only to change the principle upon which they should be levied. The articles on which he proposed to obtain additional revenue were, cotton goods to be raised from 15 per cent. to 20 per cent., and iron, steel, &c., from 5 per cent. to 10 per cent. This was the whole extent of increased taxation, and it was expected to yield 500,000 dollars additional. The changes in teas, sugars, &c., were all merely nominal, and, as already explained, were proposed as being upon a more correct principle. The imports for the first three quarters of 1859, say to 30th September, have been, imports, £6,574,128 5*s*., duty, £888,946 15*s*. 4*d*., free goods, £1,915,603, the duty being 13½ on the imports, and the free goods being 29 per cent. of the whole.

The attention of his Grace is respectfully requested to this statement as showing, first, that

the increased rate of duty as compared with the tariff of 1858, as given in a previous part of this memorandum, has only been from 12½ to 13½ per cent., which can scarcely be deemed excessive; while, so far from the apprehensions of his Grace being verified through a diminution of imports and consequent loss of revenue, in both cases the estimates of the Government are borne out as nearly as could be expected, considering the state of the country, and its gradual recovery from depression. Until the close of the year the comparison cannot fairly be made, inasmuch as we are only now beginning to benefit from our late good harvest; but, as an indication of the result, it may be stated that, in the case of cotton goods, which were raised from 15 to 20 per cent., the importation for the first nine months of 1857, 1858, and 1859, were as follows:

	Dollars.
1857	4,379,672
1858	2,862,734
1859	4,323,750

The Minister of Finance can also point with satisfaction to the fact that the proportion which free goods bear to the whole importation is exactly that of 1858, and of the average for the four previous years, viz., 29 per cent of the imports. This may be assumed to indicate that the new tariff has not produced any disturbance of trade, nor checked importations, for it is remarkable that where so large an increase has taken place in the imports as from £5,500,542 in the first nine months of 1858, to £6,574,128 5*s.* in

the corresponding period of 1859, the proportion of free goods to the whole remains the same.

The Minister of Finance relies upon these statements to convince his Grace that he has scarcely done justice to the Government of Canada in his Despatch of 13th August, and that, in many important respects, the Chamber of Commerce has been entirely misinformed. He will now proceed to indicate the causes which have induced the Government and Legislature of Canada to seek in an increase of their Customs duties the means of meeting the large and unexpected demands upon them. But, before finally leaving the subject of the burdens upon the people of Canada, it is proper to remark that the rate of duty levied under the present tariff of 1859, covering the cost of all our canal and railway expenditure, is only 13½ per cent., while in the period from 1841 to 1848, when the province had neither canals nor railways, it was 10¼ per cent., and from 1849 to 1854, when it had only canals, but not railways, it was 13¼ per cent. If it were necessary to offer an argument on the subject, it might be very easily shown that any increase of duty which has been placed on English goods is quite indemnified by the decreased cost at which our canals, railways, and steamships enable them now to be delivered throughout the province, and that, if the question were one of competition with Canadian manufacturers, the English exporter is quite as well off as before, while, as compared with the American, his position is greatly improved.

In proceeding to offer some observations upon the principle upon which taxation is imposed in

Canada, the Minister of Finance may remark that the views of the Chamber of Commerce on the question of free trade seem to be based upon the assumption that it is both the principle and practice of Great Britain, and should be adopted by Canada irrespective of its financial necessities.

It certainly appears singular that Canada should be reproached with a departure from sound principles of finance when, in order to pay her just debts, she imposes higher duties on the articles she herself consumes and pays for, when in England itself the same means are resorted to, and no less than £28,000,000 sterling obtained from Customs duties, and £17,000,000 from Excise. If in Great Britain, where such an enormous amount of realized wealth exists, it has only as yet been found possible to raise one-sixth of the revenue by direct taxation, it need require no excuse if Canada has to raise her revenue almost wholly by indirect means.

Free trade in the abstract must be taken to mean the free exchange of the products of industry of all countries, or of the inhabitants of the same country, and it is perfectly immaterial whether that industry be applied to the production of a pound of sugar or tobacco, or of a ten-penny nail or a bushel of malt; it is equally an interference with the principle to levy Customs duties or Excise on any. But it is, and probably will continue to be, impossible to abandon Customs duties or Excise as a means of revenue; they afford the means of levying large sums by the taxation of articles of consumption, distributing the burden in almost inappreciable quantities,

and in one respect have this advantage, that if fairly imposed, each individual in the community contributes in a tolerably fair proportion to his means. In Great Britain it may be possible to adjust the taxation, so as to make realized property contribute more than it now does to the wants of the State, but in a country like Canada, no such resource exists, and it would be perfectly hopeless to attempt to raise the required revenue by direct taxation; we neither possess the required machinery to do it, nor are the people satisfied that it is the more correct principle. Customs duties must, therefore, for a long time to come, continue to be the principal source from which our revenue is derived.

Admitting, therefore, the necessity of raising a certain amount for the wants of the State, and that such amount can only be obtained through Customs duties, the Government of Canada, like that of Great Britain, have to consider how that necessary interference with the true principle of political economy can be effected with least disturbance to trade, and judging of the fiscal policy of the present Government by this rule, it is contended that, with some trifling exceptions which must arise in all human legislation, the Customs duties are imposed in the manner least calculated to disturb the free exchange of Canadian labour with that of other countries. A large class of articles, termed raw materials, are admitted free, amounting to 29 per cent. of the total imports. Another large class, consisting of iron, steel, metals, and articles entering into the construction of railways, houses, ships, and agricultural

implements, &c., are admitted at 10 per cent. duty, leather and partially manufactured goods pay 15 per cent., manufactured goods made from raw materials or articles paying 10 per cent. duty are admitted at 20 per cent., manufactured goods made from articles paying 15 per cent. duty are charged 25 per cent., but this is exceptional, and very limited, while luxuries, comprising wines, tobacco, cigars, and spices, &c., are charged at rates varying from 30 to 40 per cent., but the bulk are of 30 per cent.; spirits are charged 100 per cent., tea, sugar, and molasses pay 15 per cent. and 30 per cent.

The distribution of duties on the whole imports therefore stands thus:

	Duties.	Imports.
Free goods . . .	—	29 per cent.
Goods paying 10 per cent.	4½	6½ ,,
,, 15 ,,	7	6½ ,,
,, 20 ,,	61	41 ,,
,, 25 ,,	1½	1 ,,
,, Over 25 per cent. including spirits .	9¾	4 ,,
Tea, sugar, and molasses	6¼	12 ,,
	100	100 ,,

The foregoing statement will show that, if the attempt were made to reduce the duty on manufactured goods paying 20 per cent., it would necessitate an advance on the other items, unless

such reduction produced a corresponding increase in consumption to make good the deficiency. Assuming, then, that the duty were reduced from 20 to 10 per cent., it will not be contended that this reduction, though affecting the revenue one-half on these articles, would induce double the consumption; on the contrary, it is believed that it would not affect the consumption at all, as is borne out by the statistics of previous years, and of the present year. It would then become necessary to meet the deficiency by increased duties elsewhere; and in selecting the articles it is, in the first place, impossible to touch the bulk of the free goods, most of which are free under the Reciprocity Treaty, and the remainder entitled to continue free, according to sound principles of trade. Passing to the next class of 10 per cent. goods, it will not, surely, be contended that the scale of duty should be raised on quasi-raw materials to a rate in excess of that imposed on manufactures. There is, then, nothing left but the articles paying over 25 per cent.; and it must be observed that they form only 4 per cent. of the imports, and pay 9¾ per cent. of the duties; if, therefore, it were necessary to make good the deficiency arising from a reduction of duty on manufactures, the proportion of duty to the whole they would have to pay would be increased from 9¾ per cent. to 40 per cent., and the average rate of duty on these articles, instead of 32 per cent. or thereabout, would be increased to nearly 130 per cent.

It is scarcely necessary to point out that such an increase would be utterly incompatible with

revenue, and the result would be a financial failure.

On tea, sugar, &c., it has been found impossible to maintain higher duties than those now imposed, as they are free in the United States, and unfavourable comparisons are even now instituted by our agricultural population.

Apart from such modifications in detail, as experience may suggest, the Government of Canada believe that, in order to raise the revenue imperatively required to preserve the good faith of the province, and to maintain its institutions, the scale of Customs duties is not excessive, and that it has been adjusted in general accordance with sound principles of political economy. Reductions in the scale of duties can only take place as the increasing population and wealth of Canada swell the importations, and it will be a subject of the highest gratification to the present Government, when such reduction is possible.

A. T. GALT,
Minister of Finance.

QUEBEC, 25 *October* 1859.

N.B.—The values are all given in Halifax currency, except where the present decimal currency is used.

2. THE JESUITS' ESTATES ACT OF QUEBEC

Lord Stanley of Preston to Lord Knutsford

CANADA, CITADEL, QUEBEC,
8 *August*, 1889.

MY LORD,

I have the honour to state that a short time ago, while absent from the seat of government, I received an application, forwarded through the Secretary of State at Ottawa, asking when I would receive an influential deputation, the members of which were desirous of personally presenting to me petitions for the disallowance of the Jesuits' Estates Act.

At the express wish of the minister, I received the deputation here on the 2nd instant, and I enclose for your Lordship's information a report from the Quebec *Morning Chronicle* which gives a fairly accurate account of what took place.

I do not think it necessary for me to trouble your Lordship with any further observations upon this matter, which, although it continues to be hotly discussed in Ontario, and in a limited portion of the province of Quebec, does not seem to excite much feeling in other parts of the Dominion.

I have thought it best to await the arrival of

your Lordship's despatch, referred to in a recent telegram, before allowing any public intimation of the opinion of the Imperial Law Officers to be made.

The Act by lapse of time passes into law to-day.

I have, &c.,

STANLEY OF PRESTON.

His Excellency's Speech

His Excellency the Governor-General then replied as follows:

'It has not been usual to receive such a deputation as this, but, in view of the importance of the subject, I am willing to create a precedent. At the same time it is one which I do not think should be too often followed. The difficulty experienced by a person in my situation in receiving deputations is that one may lay oneself open to the charge of arguing for or against the measures in which the deputations are interested. But with the sanction of my advisers I am disposed to let the deputation know what has been the aspect of the case, as it presented itself to me. There is no disrespect to those who have so ably stated their views, if I express neither concurrence with nor dissent from them, lest I should drift into what might be construed as argument, however unintentionally.

'Previously to my arrival in the country, or about that date, the legislature of Quebec had passed the Act in question. The history of the Jesuits' Estates is so well known that I need not refer to it in detail. Large amounts of property have

lain virtually idle, because, when the provincial Government had endeavoured to sell, protests had been made by the claimants, and, in fact, no one would accept so doubtful a title.

'I cannot agree with the view expressed in the second paragraph of one of the petitions, that the act in question recognizes a right on the part of the Pope to interfere in the civil affairs of Canada.

'There were two sets of claimants, at least, to the Jesuits' estates. It was necessary to arrange to whom compensation should be paid, and to ensure a division which would be accepted by all. It is true that the Pope, as an authority recognized by both sets of claimants, was to be called upon to approve or disapprove the proposed division so far as Roman Catholic claimants were concerned, but this appears to me to relate not to the action of the legislature of the Province, but to the division of the funds after they had been paid over. It is arguable that, as a matter of fact, there is no reference to the Pope's authority at all in the executive portion of the Act. It is undoubtedly the case that the preamble to the Act (an unusually long one, by the way) contains a recital of events which led to the introduction of the bill, and that, in the correspondence so set out, authority has been claimed on behalf of the Holy See, to which, however, the First Minister did not assent. The introduction of the name of the Pope may be unusual, and very likely unpalatable to some, as Protestants, but, as it appears in the course of a recital of facts, which had previously occurred (and which of course

legislation could not obliterate or annul), and there being moreover (as I have before stated) no such reference in the body of the Act, I did not consider that her Majesty's authority was in any degree weakened or assailed, nor that I was compelled, in the exercise of my duty as her representative, to disallow the Act on that account.

'Now with regard to the third paragraph of the petition, as to the question of policy—that is not one on which I feel at liberty to pronounce an opinion. I believe, and am confirmed in my belief by the best authorities whom I can consult, that the act was *intra vires*. There my power of interference is limited. For the Act does not appear to do more than to seek to restore to a certain society, not in kind but in money, a portion of the property of which that society was in years gone by deprived, without compensation; and it professes to give a compensation therefor in money of the province which had become possessed of the property and was profiting by it.

'As to the recognition (spoken of in paragraph four) of the rights of the Jesuits' Society to make further demands, it seems to me that this Act leaves so-called "rights" exactly where they were.

'It is by no means uncommon for the Crown to recognize such a moral claim, and I can speak from my personal experience when Secretary of the Treasury (ten or twelve years ago) and when it constantly happened that in cases of intestacy, escheats, and other forfeitures to the Crown, the moral claim of other persons was admitted, and remissions were made not as a matter of legal

right, for the right of the Crown was undisputed, but as a matter of grace. There are also many parliamentary precedents to the same effect. Such cases, it seems to me, must in each instance be decided upon their own merits.

'As to paragraphs five and six, you will pardon my saying that I am not concerned either to admit or deny your statement. But, as a matter of fact, I do not find any evidence that in this Dominion, and in this nineteenth century, the Society of Jesus have been less law-abiding or less loyal citizens than others. With regard to paragraph six, it appears to me that the legal status of the Society was settled by the Act of 1887 (to which little or no objection was taken). I cannot see anything unconstitutional in that respect, in the payment of the money in question to a society duly incorporated by law.

'The Governor-General, both by the written law, and by the spirit of the constitution, is to be guided by the advice of his responsible ministers. If he disagrees with them on questions of high policy, as being contrary to the interests of her Majesty's empire, or if he believes that they do not represent the feeling of Parliament, it is constitutionally his duty to summon other advisers, if he is satisfied that those so summoned can carry on the Queen's Government and the affairs of the Dominion. As to the first, I cannot say that I disagree with the course which, under the circumstances, ministers have recommended, believing it, from the best authorities to which I have access, to be constitutional. The Parliament of the Dominion, by 188 to 13, has expressed the

same view. And with reference to what has been said to the effect that the vote of Parliament does not represent the opinion of the Dominion, I decline entirely to go behind recorded votes. Members of Parliament are elected not as the delegates, but as the representatives of the people, and it is their duty to guide themselves according to that which they believe to be the best interests of the high function which they have to discharge. Again, I would ask, do the dissentients represent the majority? I find that the 188 represent 916,717 voters, whereas the 13 members represent 77,297, and moreover the body of the constitutional opposition appears to have voted for the approval of the allowance of the bill. I have been asked, though not by you, to disallow the Act, though otherwise advised by ministers and though contrary to the sense of Parliament. Would it be constitutional for a moment that the Governor-General should do so, if it were a question of commerce or finance, or of reforming the constitution? It is by the constitution we have to be governed, and I cannot conceal for a moment the doubt which I feel that, however careful the Governor-General may be in receiving such a deputation as this, there may be some risk of his being held up as a court of appeal on questions of constitutional government as against the Parliament with which it is his duty to work in concert. Then it has been said: Why not facilitate a reference to the Privy Council? I believe that my advisers have a perfectly good answer, that, having no doubt of the correctness of their view, they have good reason for not doing so. I have

been asked to dissolve the House of Commons in one of the petitions to which I am replying. A dissolution of Parliament, in the first instance, except under the gravest circumstances, and perhaps with great reservation even then, should not be pronounced except upon the advice of responsible ministers. It causes the disturbance of the various businesses of the country. The expense, both to the country and to all concerned, is such that it is a remedy which should be exercised only as a last resort: and I must say, though I do so with great deference to those present, that excepting in the provinces of Ontario and Quebec there does not appear to have been any general feeling in this matter, such as would warrant the Governor-General to use this remedy. I recognize the influence of the two provinces, but I cannot leave the rest of the Dominion out of sight, and I may express the personal hope that this Parliament may exercise for some time to come a wise constitutional influence over the affairs of this country.

'I think my answer has been made substantially to the other petitions which have been presented to me. For the reasons which I have given, I am unable to hold out to you any hope that I shall disallow the Act. You cannot suppose the course taken by my advisers and approved by me was taken without due consideration. Nothing has taken place to alter the views then entertained. Nor could the Government recommend the reversal of an allowance already intimated.

'Gentlemen, I cannot conceal from you the personal regret with which I feel myself address-

ing a deputation, and returning such an answer as it has been my duty to do to the petitions which have been presented to me; but I have endeavoured to make my statement colourless, I have endeavoured to avoid argument, and I can only hope that I have done something to dissipate alarm. I will only close by making an earnest appeal—an appeal which by anticipation has already, I am certain, found weight with you, and that is, that in this question we should, as far as possible, act up to that which we find to be for the welfare of the Dominion. During late years we have hoped that the animosities which unfortunately prevailed in former years had disappeared, and that the Dominion, as a united country, was on the path of prosperity and peace. I earnestly call upon all the best friends of the Dominion, as far as possible, while holding their own opinions, to be tolerant of those of others, and, like our great neighbour, to live and let live, that we may in time to come feel that we have the one object of promoting the prosperity and welfare of the Dominion and the maintenance of loyalty and devotion to the sovereign.'

3. THE NOMINATION OF ADDITIONAL MEMBERS TO THE UPPER HOUSE OF NEW ZEALAND

(1) *The Earl of Glasgow to Lord Knutsford*

WELLINGTON,
8th August, 1892.

MY LORD,

I have the honour to forward herewith a memorandum from my Ministers, dated 5th August, calling your attention to a difference which has occurred, to my deep regret, between myself and them, regarding appointments to the Legislative Council. I addressed a Despatch on the 22nd day of June, giving all information on the subject up to date, and I now annex a schedule containing a list of papers bearing on the subject, the papers themselves accompanying this Despatch.

I submit that the memorandum contains something more than a statement of the difference between us; it is also an expression of opinion that greater power should be given to Ministers than they at present possess. I would now respectfully offer a few remarks upon the result of granting the powers Ministers think should be given them.

Let it be supposed that in a Colony possessing

representative institutions, Ministers resign, appeal to the country, are defeated and replaced by the Opposition. On coming into power, the new Ministry introduces—as Ministers are not unlikely to do—a measure which it thinks will be popular, besides that which they were returned to carry out. The Legislative Council throws it out, the Ministry advises the Governor to appoint sufficient Legislative Councillors to overcome opposition in the Chamber; the people have not been consulted and support the arguments advanced in the Council, but (supposing Ministers have the power they think should be theirs) the Governor must grant the appointments asked for; the result would be that the Council is coerced, the measures are passed, and the people come under the law to which they may object and on which they have not been consulted.

The two Houses of the New Zealand Parliament possess each at present absolute liberty of speech; but, under the proposed change, the freedom of the Legislative Council would be at the mercy of the Ministry; the consent of both Chambers is now necessary before a measure can receive the Governor's assent. Should a measure be thrown out, it is open to Ministers to appeal to the country; thereafter, if the Legislative Council were to disregard the wishes of the Electorate as expressed at the polls, a sufficient emergency would then have arisen to justify the Governor in granting Ministers a sufficient number of appointments to bring the Upper House into harmony with the country.

This is, I submit, the constitutional practice,

and it is more in accordance with the principles of freedom that the people should be the ultimate Court of Appeal in any difference between the Chambers, than that the power should rest with Ministers.

In a Despatch dated 19th October 1839,[1] Lord John Russell says:

> Every political Constitution, in which different bodies share the supreme power, is only enabled to exist by the forbearance of those among whom this power is distributed.

I would add that if the Constitutional checks which experience has placed on the power of the different bodies is swept away, the result will be, a distinct loss of liberty to the Colony, and almost absolute power to the Ministry.

The late Lord Granville, in a Despatch to Lord Belmore[2] dated 2nd October 1869, writes as follows:

> When writing that Despatch, I was fully aware that the number of the Upper House was unlimited. I was also fully aware that on certain critical occasions it may become not only expedient but indispensable to bring the two Houses into harmony by creating or threatening to create a number of Legislative Councillors sufficient for that purpose; but it is not the less clear that the value and character of the Upper House will be destroyed if every successive Ministry is at liberty, without sufficient occasion, to obtain a majority in the Council by the creation of Councillors.

I respectfully submit that this extract, and the one foregoing, breathe just as much of the spirit of the Constitution of the present day as when

[1] Above, i. 178. [2] Governor of New South Wales.

they were written, and that they are opposed to the view held by my Ministers.

With these remarks, I now beg to leave that branch of the subject for your Lordship's consideration.

With reference to my reasons for not accepting the advice of Ministers, your Lordship will be already aware that only two days had elapsed after my arrival in the Colony, when the Premier waited on me and tendered the advice my refusal to accept of which has given rise to this Despatch.

When I asked for delay that I might make myself acquainted with the subject, Mr. Ballance explained that to enable his supporters to settle down to their work in Parliament it was absolutely necessary that this question should be settled and the appointments made before Parliament met, which event occurred on the 23rd of June.

Whatever may be your Lordship's opinion of the course I have pursued, you will not fail to observe that my position was one of considerable difficulty; the same advice that was tendered to me had been offered to my predecessor, who, with his three years' experience of the Colony, had not been able to accept it: his secret memorandum on the subject lay before me. I had not had time to examine the matter for myself. I was confronted with a reason for immediate decision, as to the value of which I had not had time to decide; the difference between the number declined by Ministers and the number they would accept was so small that I could not think the

reasons given were sufficient to account for their action, and they appeared to be so incommensurate with the gravity of the step they took of creating a difference with the Governor, that I felt convinced that much more cogent reasons should be given than I had yet heard before I would be justified in accepting the advice tendered by Ministers.

For any further information on the subject I would refer your Lordship to the communications which have passed between myself and the Ministers dated the 27th July, the 2nd, 4th, 5th, 8th, 9th August, and also to the other papers which are mentioned in the accompanying schedule.

Before closing this Despatch I would beg to remark that this unfortunate difference between myself and the Ministers could not have occurred were the appointments to the Legislative Council made on a fixed principle.

If the Act for amending the mode of appointing Legislative Councillors were further amended in the following direction, the system would, except in an emergency, be self-adjusting.

I would enact that the strength of the Council should bear a fixed proportion to that of the House of Representatives; that it should be increased or decreased *pari passu* with the other Chamber, as occasion may require; that vacancies be filled up within three months of their occurrence by the Governor on the advice of Ministers; that a clause be inserted giving the Governor the power to appoint, on the advice of Ministers on an *emergency*, such a number of new Councillors as would bring the Council into harmony with the

country; some such enactment as this would effectually prevent any future differences.

Since this paragraph was written I have ascertained that in the year 1887 the late Sir Frederick Whittaker obtained a Committee of the Legislative Council to consider and report as to the best plan of reducing the numbers of the Council to one-half of the number of the Members of the House. He had previously moved to that effect, and also that the same proportion should thereafter be maintained.

The Committee reported in favour of the proposal, but no further action was taken.

From this it is clear that the Council in 1887 affirmed the general principles which I have ventured to suggest.

If there is anything in the manner in which I have brought this question under your Lordship's notice not entirely consonant with the usual practice, I beg you will attribute it to the unusual circumstances in which I have been placed, so soon after my arrival in the Colony.

I now leave the matter in your Lordship's hands, in the most perfect confidence that you will do me the justice to believe that I have been actuated solely by a desire to do what is best for the interests of the great and important Colony in which it is my privilege and pride to have been placed.

I have, &c.

GLASGOW.

ENCLOSURE

Ministers respectfully desire, through his Excellency, to direct the attention of the Right Honourable the Secretary of State for the Colonies, to a difference between his Excellency the Governor and his Ministers, on a question which Ministers think involves the status of a self-governing Colony of the Empire.

The facts are briefly as follows:—Immediately after the last general election the then Governor, Lord Onslow, appointed upon advice seven Members to the Legislative Council. The Government of Sir Henry Atkinson was, as the result of the election at the time, in a minority, and resigned office upon the day of the meeting of Parliament. Mr. Ballance was sent for to form an Administration and his Government was supported by a large majority of the House of Representatives. A short session was held, and the General Assembly was prorogued to enable the Government to bring down their policy in another session. In that session their principal measures were carried by large majorities in the House, but some of the vital points of policy in these measures were defeated by still larger majorities in the Legislative Council, the position of the Government in the second Chamber on the question being represented by adverse votes of 18 to 5.

In the majority were included six out of the seven Members (the seventh being the Speaker) appointed on the advice, at the time, of a defeated Ministry. During the recess, and shortly before Lord Onslow's departure from the Colony, Mr.

Ballance advised his Excellency to appoint twelve members, as the least number thought necessary to allow the Government to be fairly represented in the second Chamber, and to enable the legislative and other functions which constitutionally pertain to this branch of the Legislature to be adequately performed.

Between the time of Mr. Ballance's Government being formed and when advice was tendered to Lord Onslow there had been six deaths, one vacation through absence, and leaves of absence extending over the next ensuing session, while it was notorious that several Members were, through old age, extremely unlikely to attend the next meeting of Parliament. Notwithstanding these facts, Lord Onslow refused to appoint a greater number of Councillors than eight, which number Ministers refused to accept. Lord Onslow left a confidential memorandum (which he was good enough to submit to Mr. Ballance for perusal) for his successor, in which was contained an extract from a Wellington Opposition newspaper extremely hostile to the Government, containing reasons for not accepting the advice of Ministers. The responsibility was transferred from Lord Onslow to his successor, Lord Glasgow.

Between the departure of Lord Onslow and the arrival of Lord Glasgow the strength of the Council was still further diminished by one death. Upon the arrival of Lord Glasgow Mr. Ballance tendered his Excellency the same advice as he had given Lord Onslow, namely, to call twelve new Members to the Council. His Excellency declined to accept the advice, but offered to appoint eight, with an

additional Member when the written resignation, telegraphed by the Agent-General, of the Honourable Randall Johnson arrived in the Colony. Ministers declined to accept a less number than they advised. Since then a Member of the Council, the Speaker, Sir Harry Atkinson, has died, while another has resigned. In this position the question remains.

Ministers would point out that the Parliament is in session, and they are answerable to the House of Representatives for the advice tendered to his Excellency. It has been alleged that they ought to have resigned when their advice was declined, but they relied on the constitutional practice as expressed in *Todd's Parliamentary Government in the British Colonies*, 1880, p. 590, which is as follows:

> They would be responsible for the advice they gave, but could not strictly be held accountable for their advice not having prevailed; for, if it be the right and duty of the Governor to act in any case contrary to the advice of his Ministers, they cannot be held responsible for his action, and should not feel themselves justified in retiring from the administration of public affairs.

Ministers are of opinion that the responsibility of appointments to the Council should have rested with the responsible advisers of his Excellency, and that the refusal to accept their advice is in derogation of the rights and privileges of a self-governing Colony. In this case his Excellency is placed in the position of acting without advice, unless it be the advice of persons who are not responsible, and withdraws from those responsible

the confidence which the Constitution requires him to repose in them, upon the inadequate ground that nine are preferable to twelve additions to the Council.

It is further to be observed that while the advice of a Government that had just been defeated at a general election was accepted, the advice of a Ministry enjoying the confidence of a large majority of the representatives of the people is declined. Ministers, in fact, are impelled to the conclusion that the way in which their advice has been treated is more in harmony with the methods of a Crown Colony than with the practice followed in a great self-governing Colony which has long enjoyed the advantages of a free Constitution and a wide autonomy within the limits of the Empire.

J. BALLANCE.

PREMIER'S OFFICE, WELLINGTON,
5 *August*, 1892.

(2) *The Marquis of Ripon to the Earl of Glasgow*

DOWNING STREET,
26 *September*, 1892.

MY LORD,

I have the honour to acknowledge the receipt of your Despatch of the 8th August respecting the question which had arisen between yourself and your Ministers with regard to certain proposed nominations to the Legislative Council of New Zealand.

This question has been referred for my consideration by agreement between you and your

Ministers. I have carefully considered it, and in so doing I desire to say that I fully appreciate the difficult position to which you succeeded immediately on your arrival in the Colony, to assume for the first time the duties of a Colonial Governor.

I had, however, no hesitation, in advising you by telegraph on the 24th instant, to accept the recommendation of your Lordship's Ministers; and I now proceed to indicate the reason which led me to that conclusion.

The Legislative Council, as I understand, consisted, at the date of your Despatch, of 35 Members, and your Government proposed that to this number an addition should be made of 12, making altogether a Chamber of 47 Members, a number which is not larger than that which has existed in previous years, and the case is therefore distinguishable from those in other Colonies when it was proposed to make so many additions that the Chamber would have exceeded all former limits.

In the House of 35 Members, I gather that your Government could only rely on the consistent support of five. I do not assume that the remaining 30 Members could all be considered as opposed to the policy of your Ministers, but it seems to me that your Government is entitled to hold that it is not adequately represented, either for speaking or voting purposes, in the Upper Chamber, and that if the 12 Members were added as they desire they would only have 17 consistent supporters in a House of 47. In considering this aspect of the question, I am clearly

of opinion that the only fair and satisfactory mode of estimating the representation of the present Government in the Legislative Council, and of judging whether their claim to be allowed fuller representation is one to which no constitutional objection can be taken, is to examine the results of the voting in that House on the measures with which the Government of the day is identified.

I cannot, therefore, conclude that the proposed appointments constitute one of those cases to which the term 'swamping' has been applied, in which the proposed addition of Members at the instance of the Government for the time being has been so great, in proportion to the balance of parties in the Upper Chamber, as to overthrow that balance altogether.

Your Lordship was willing to appoint nine new Members, and your Government desired that twelve should be appointed. It can hardly be considered that the difference between these limits is so great or important as to require a Governor to assume the very serious responsibility of declining to act on the advice of his Ministers, and possibly of having in consequence to find other advisers. Moreover it must be remembered that these appointments under the Colonial Law of 1891 will be for seven years only, and not for life, as in the case of some other Colonies possessing a nominated Upper House.

I have therefore dealt with the merits of the particular case on which my advice has been sought. But I think it right to add that a question of this kind, though in itself of purely local importance, presents also a constitutional aspect

which should be considered on broad principles of general application.

When questions of a constitutional character are involved it is especially, I conceive, the right of the Governor fully to discuss with his Ministers the desirability of any particular course that may be pressed upon him for his adoption. He should frankly state the objections, if any, which may occur to him; but if, after full discussion, Ministers determine to press upon him the advice which they have already tendered, the Governor should, as a general rule, and when Imperial interests are not affected, accept that advice, bearing in mind that the responsibility rests with the Ministers, who are answerable to the Legislature, and, in the last resort, to the country.

A Governor would, however, be justified in taking another course if he should be satisfied that the policy recommended to him is not only, in his view, erroneous in itself, but such as he has solid grounds for believing, from his local knowledge, would not be endorsed by the Legislature or by the Constituencies.

In so extreme a case as this, he must be prepared to accept the grave responsibility of seeking other advisers; and I need hardly add, very strong reasons would be necessary to justify so exceptional a course on the part of the Governor.

I have, &c.

RIPON.

4. THE SALE OF THE NEWFOUNDLAND GOVERNMENT RAILWAY

The Right Hon. Joseph Chamberlain to Sir H. H. Murray

DOWNING STREET,
March 23, 1898.

SIR,

In my telegram of the 2nd instant I informed you that if your Ministers, after fully considering the objections urged to the proposed contract with Mr. R. G. Reid for the sale and operation of the Government railways and other purposes, still pressed for your signature to that instrument, you would not be constitutionally justified in refusing to follow their advice, as the responsibility for the measure rested entirely with them.

2. Whatever views I may hold as to the propriety of the contract, it is essentially a question of local finance, and, as her Majesty's Government have no responsibility for the finances of self-governing colonies, it would be improper for them to interfere in such a case unless Imperial interests were directly involved.

On these constitutional grounds I was unable to advise you to withhold your assent to the Bill confirming the contract.

3. I have now received your despatches as noted in the margin, giving full information as to the terms of the contract, and the grounds upon which your Government have supported it, as well as the reasons for which it was opposed by the Leader and some members of the Opposition.

4. I do not propose to enter upon a discussion of the details of the contract, or of the various arguments for and against it, but I cannot refrain from expressing my views as to the serious consequences which may result from this extraordinary measure.

5. Under this contract and the earlier one of 1893 for the construction of the railway, practically all the Crown Lands of any value become, with full rights to all minerals, the freehold property of a single individual, the whole of the railways are transferred to him, the telegraphs, the postal service, and the local sea communications, as well as the property in the dock at St. John's. Such an abdication by a Government of some of its most important functions is without parallel.

6. The Colony is divested for ever of any control over or power of influencing its own development, and of any direct interest in or direct benefit from that development. It will not even have the guarantee for efficiency and improvement afforded by competition, which would tend to minimize the danger of leaving such services in the hands of private individuals.

7. Of the energy and capacity and character of Mr. Reid, in whose hands the future of the Colony is thus placed, both yourself and your predecessor

have always spoken in the highest terms, and his interests in the Colony are already so enormous, that he has every motive to work for and to stimulate its development; but he is already, I believe, advanced in years, and, though the contract requires that he shall not assign or sub-let it to any person or corporation without the consent of the Government, the risk of its passing into the hands of persons less capable and possessing less interest in the development of the Colony is by no means remote.

8. All this has been fully pointed out to your Ministers and the Legislature, and I can only conclude that they have satisfied themselves that the danger and evils resulting from the corruption which, according to the statement of the Receiver-General, has attended the administration of these services by the Government, are more serious than any evils that can result from those services being transferred unreservedly to the hands of a private individual or corporation; and that, in fact, they consider that it is beyond the means and capacity of the Colony to provide for the honest and efficient maintenance of these services, and that they must therefore be got rid of at whatever cost.

9. That they have acted thus in what they believe to be the best interests of the Colony I have no reason to doubt, but whether or not it is the case, as they allege, that the intolerable burden of the public debt, and the position in which the Colony was left by the contract of 1893, rendered this sacrifice inevitable, the fact that the Colony, after more than forty years of

self-government, should have to resort to such a step is greatly to be regretted.

10. I have to request that in communicating this despatch to your Ministers you will inform them that it is my wish that it may be published in the *Gazette*.

I have, &c.,

J. CHAMBERLAIN

5. THE DEPORTATION OF LABOUR LEADERS FROM SOUTH AFRICA

RT. HON. L. HARCOURT, HOUSE OF COMMONS, FEBRUARY 12, 1914

I THINK it will probably be for the convenience of the House if I state at once, as shortly as is possible, the attitude of his Majesty's Government towards the recent occurrences in South Africa; and, in doing so, I should like to express my appreciation of the eloquence and moderation with which this Amendment has been brought before the House by my hon. Friend.[1] The House will, I am sure, forgive me if I attempt to survey a rather wider field, because those whom my hon. Friend generally represents, and whose views he voices in this House, have not been quite so moderate outside, either in the charges they have made against the Governor and the Government of South Africa, or in the demands which they have advanced as to the methods by which the Government should deal with this question. I acknowledge the recognition which the hon. Member gave to the special circumstances and the existence of responsible self-government in South Africa, and I hope the House will throughout this Debate bear those circumstances in mind. This House has great responsibilities. It also has great powers

[1] Mr. Ramsay Macdonald.

—powers which are decreased and not enhanced by a capricious or careless exercise of them. It is quite possible, in the observations I have to make in relation to South Africa and others of our distant possessions, I may use phrases and express opinions which may seem to hon. Members opposite applicable, or at least available missiles, in our controversies nearer home. I could not prevent their use in the future for that purpose. I will only beg them not to-day to confuse a debate which may turn on grave Imperial topics with those matters which concern our controversies in this country. The speeches to be made here to-night will be cabled throughout the Empire, and any words said here in derogation of autonomous rights will reverberate throughout our Dominions.

I would not for a moment suggest that autonomous rights can be divorced from Imperial dignity. Autonomy carries with it no immunity from the Press or public criticism, but it deserves and is entitled to the largest amount of relief from official interference and Parliamentary censure which is compatible with the inherent rights of freedom. The British citizenship to which my hon. Friend referred is really a misnomer. It does not, in fact, exist; it is an attempt to make too literal a translation of the *Civis Romanus sum.* What does exist is British subjecthood, which entitles its possessor to the protection of his Sovereign through the Executive. But it gives to the individual no right and no licence in any part of the Empire to violate the laws which it is within the competence of the Dominion to pass

and to administer. The Imperial Parliament here cannot grant responsible self-government, as it has done throughout nearly a century in varying degrees, in different climes, and to different races, with practically unqualified success, and then hope or attempt, when feelings or prejudices are aroused, to interfere or intervene as if it were dealing with a Crown Colony or a Protectorate. The late Mr. Lyttelton said, in 1910, that, so far as policy is concerned, the Governor of a self-governing Dominion is bound to take the advice of his Ministers. I deal especially with this point because, outside this House, there have been violent demands for the recall of Lord Gladstone. Mr. Lyttelton went on to say:

> The Imperial Government makes no claim whatever to interfere in the local or internal affairs or measures of self-governing Dominions, even if those measures be entirely repugnant to our views.

I think it was the late Prime Minister who said on one occasion in this House, that it was more important to a country to be self-governed than well-governed. You may dissent from that view, but, even if you do, we can still boast, as I shall do, that our Dominions are both. We have never insisted on similarity or simultaneity in their law-making. We have allowed them, without let or hindrance, to try what many people in this country regard as experiments, and some people regard as dangerous experiments. We have not interfered. In Australia and New Zealand, there is compulsory military training which at present is neither in force nor in favour

in the United Kingdom. In Canada, South Africa, and elsewhere there is compulsory arbitration in labour disputes, which makes, under certain circumstances and conditions, a strike a criminal offence. These are not our laws or practice, but we do not prevent the Dominions from considering every British subject entering one of these Dominions as equally legally subject to those laws.

In South Africa the laws and surrounding circumstances are very widely different to our own. In the Transvaal many clauses of Lord Milner's Indemnity and Peace Preservation Act, 1902, are still in force, with a very different definition of sedition to our own. Under that ordinance a man may be arrested, without warrant, by a police officer, and charged with sedition, and sentenced to a maximum of five years', and, under certain circumstances, of seven years' imprisonment, for these offences: 'Inciting his Majesty's subjects to attempt to procure, otherwise than by lawful means, an alteration of any matter in the Transvaal by law established; or inciting any person to commit any crime in disturbance of the public peace, or to arouse discontent and dissatisfaction amongst his Majesty's subjects, or to promote violence, ill-will or hostility between different classes of his Majesty's subjects.' I wonder how many Members of this honourable House would be safe from conviction for sedition under this ordinance?

Mr. Ramsay Macdonald: Quote the next sentence.

Mr. Harcourt: That qualification makes no

difference to my point. I believe it was under that ordinance that Mr. Poutsma and other leaders were originally arrested. I spoke just now of the conditions and surrounding circumstances in South Africa. It is only necessary to mention, in relation to that, the fact that there are less than 1,250,000 whites and over 5,000,000 natives in the Union of South Africa, inextricably mixed up in location and occupation. The gold-mines have collected around them, as they do everywhere, a cosmopolitan and polyglot community which has not more and sometimes less regard for legal obligations than other classes of labour.

In Johannesburg alone there are 250,000 natives employed upon the mines, and, when work ceases in the mines, these natives are idle, hungry, and restless. I do not agree with my hon. Friend that the illustration of Jaggersfontein and the outbreak of the Basutos is not in point. It arose, I believe, from a suspicion that the death of a black man might be attributed to one of the white overseers. At all events, hon. Members can realize for themselves that that is the sort of volcano on which every one is sitting in South Africa. It is no part of my duty—indeed, I think it would be a great indiscretion in the office I hold—if I were to offer publicly any opinion upon the incidents of Dominion administration. I shall express neither criticism nor approbation. It is my duty to keep an eye and an ear upon all the Dominions, and to try, as best I can, to hold the balance even between the interests of this country and of our great Dependencies. But I know there are some people who think that the Union

Government have erred in action and in judgement. I express no opinion, but I would say to those who think so: 'When you gave self-government did you think that you had discovered any immaculate and impeccable race? Did you think no Dominion would ever commit an act with which you disagreed?' If you did, it was a dream of infallibility you would not dare to claim for yourself. It is human to err and it is humane to make allowances for what you regard as errors. You could easily smash the Empire by a day's Debate in this House if you evinced a desire to meddle and to muddle with the vital affairs of your Dominions whenever their action does not coincide with your ideals of legislation or administration. I hope and believe that this House will commit no such folly to-day.

I am prepared to express my opinion on Lord Gladstone's action. While I express neither condemnation nor approval of the action of the Union Government in recent events, I am bound to make their case for them, because I am their only representative in the Imperial Parliament. They have, rightly and fortunately, had an opportunity of making their own justification and their own explanation in their own Parliament, though we have not yet had time to receive it fully. I ask the House to look for a moment at what has been their situation and their experience during the last eight months. Six months ago they had the Rand strike, which led to very great disturbances in which dynamite was used. Men were asked to come armed to public meetings. A general strike of all the public services was threat-

ened. Two hundred and fifty thousand natives in the compounds at Johannesburg were alleged to have been approached with attempts to raise them also against the authorities. In the transition period of local defence the Imperial troops had to be used. Many people were, unhappily, killed, and the innocent, as usual, suffered with the guilty. Then, in November, came the Indian so-called 'passive resistance.' I do not want, and I hope the House will not endeavour, to discuss that matter to-day, because there is a Commission now sitting in South Africa, with the countenance of the Indian Government and with the assistance of a distinguished Indian Civil servant, with, I believe, very good hopes of arriving at a settlement. There, again, on that occasion, there was considerable loss of life and much disturbance both of peace and of labour.

Then, in December, came the railway strike. I will not deal with its merits. It arose, I believe, out of the desire of the Union Government for retrenchment and economy, but its original merits were soon lost sight of. A sympathetic and general strike was declared; dynamite and sabotage were threatened and effected. My hon. Friend challenged me as to the dynamite outrages, which he declared to be either untrue or exaggerated. Within the last few days a Return has been laid on the Table of the Parliament in South Africa giving the number of the dynamite outrages between 7th January and 30th January as twenty-four. The participators in all this work were known to be, and were, indeed, instructed, to be armed. All industry, all the public services of

health and light, were threatened by a stoppage for want of coal. The whole population were threatened with starvation by the stoppage of the food supplies. The Union Government regarded this as a condition of anarchy and of revolution, which necessitated extra-legal action for the moment. No suggestion and no request for the use of the Imperial troops was ever made. So far as I know there was no contemplation of that. No communication as to Imperial troops was made either to Lord Gladstone or to me. The Union Government mobilized their own forces, and, whatever you may think of the object with which that was done, you must admit that it was done with extraordinary rapidity and success. They dealt with the situation by and for themselves. Happily there was no collision between the local forces and the population. No lives were lost, and there was no firing upon crowds or upon the people. The Union Government, knowing the facts as we here cannot know them, deemed the proclamation of martial law to be essential to the safety of the country. On their Ministerial responsibility they advised Lord Gladstone to sign that Proclamation. He did so, and in my opinion rightly and necessarily, without any reference to me. There was no time and no necessity for that. I could not judge here of the gravity of the emergency.

Lord Gladstone was fully apprised of the facts, and he was aware, of course, of the immensity of the danger of a native conflagration throughout the Union and the Protectorate. He properly assented to the only method which his responsible

advisers recommended to deal with an existing and urgent situation. But he did so on the assurance that his Ministers would immediately endeavour to obtain from their Parliament the ratification of and an indemnity for the action they proposed to take. That is the Indemnity Bill which is now before the Union Parliament and which is fully within their competence. At a later stage the decision—a serious one I admit—was taken by the Union Government to expel from South Africa certain men who had been primarily concerned in these preceding events. After the proclamation of martial law—which is, of course, a contradiction in terms, because it is a negation of all law, and action under it is illegal until it has been indemnified by the law-making power—Lord Gladstone ceased to have any direct or personal responsibility for the action of the military or the Executive. His consent and concurrence to the expulsions was neither sought for nor obtained. He was informed of the fact at the time it was taking place. He took note of the information of his Ministers that the expulsion was required, in their opinion, in the interests of public order in the Union, and that the Ministers' action would be immediately submitted to Parliament for confirmation. Lord Gladstone had previously been informed by his Ministers that they might feel it necessary to expel possibly a dozen men, that the Ministers were fully aware that this would excite strong feeling in England and elsewhere, not excluding South Africa, and that they would not undertake it without clear and urgent necessity. Lord Gladstone took note of that informa-

tion. Having done this much, he had, in my opinion, done all he was entitled to do in his position as constitutional Governor with responsible representative Ministers.

Where an act is irreparable and final, like the execution of a death sentence, other considerations may arise, but undoubtedly expulsion is a less severe penalty than the five or seven years' hard labour which might have been inflicted on these men had they been convicted under Section 17 of the Peace Preservation Act, which I have just read. Indeed, expulsion could have been made under the process of the ordinary law which has been in force in the Transvaal from 1907 to 1913, a law which was only altered and amended by the passage of the new immigration law of last year. Indeed it is probable, indeed I suppose it is certain, that legal questions will arise in this country in regard to these expulsions, and, pending the decision of the Courts, I would not wish to offer any opinion on the situation which may arise here in this matter. As to the legal prohibition of their return to South Africa, no confusion should be allowed to arise from the fact that it is included in the Indemnity Bill. Many matters germane to the future peace and good order of a country have been often included in Indemnity Bills, as any one will at once see if he looks at the Transvaal Ordinance of 1902, which I have already quoted. It is admittedly within the competence of the Union of South Africa to legislate as to the class, the type, and the nature of immigrants whom it is prepared to admit. This power of restrictive legislation has long been in

active operation in Canada, Australia, and New Zealand.

I will now deal for a moment specifically with the action and position of Lord Gladstone in relation to these events. It is said by some—in fact, by a good many outside—that he ought to have refused his assent to or prevented the proclamation of martial law, and that, failing to do so, he ought to have been recalled by his Majesty's Government. I entirely deny the validity or the justice of such a suggestion. The position of Governor-General of South Africa is, in the main, largely analogous to that of the constitutional Sovereign of this country, and those who suggest Lord Gladstone's recall would be the last to suggest here that a constitutional Sovereign should neglect or act contrary to the advice of his Ministers possessing the confidence of an existing Parliament. But, assuming their premiss for a moment, let me ask them what they think that Lord Gladstone or any Governor of any Dominion could do in such circumstances by attempting to act contrary to the advice of his Ministers? A situation had arisen, with a railway and general strike in operation, in which a body of responsible Ministers had deliberately come to the conclusion that martial law must be proclaimed. No body of men would lightly come to such a decision as that. They so advised the Governor-General. What do hon. Members think would have happened if he had refused his assent to their advice? It is no use making pretences to ourselves or blinking the facts. Only one result could have followed on such action: General Botha's Government

would have resigned, and no other Government could have been found to take its place. Lord Gladstone would have remained a solitary and powerless figure with a state of public tumult round him which he could neither conciliate nor quench, and with no resources to his hand except those Imperial troops, which we must all be glad have not had to be used on this occasion. As to the expulsions, Lord Gladstone had no responsibility. That was the act of the Executive and the military authority after the proclamation of martial law. I said it was neither my duty nor my intention to offer comment by way of criticism or approval of the acts of the South African Government, and that that course would be an unwise and a dangerous precedent. I beg hon. Members to believe and to realize that the habit of nagging criticism of the conduct by the Dominions of their own internal affairs is the worst cement which we can apply to the distant democracies of your Empire, but in the case of Lord Gladstone, as Governor-General, I feel bound to speak, and I desire to say, on behalf of his Majesty's Government, that we feel that, in the circumstances as we know them, his action was entirely correct, and that he retains the full confidence of the British Government, which he has possessed throughout the tenure of his post in South Africa.

I turn for a moment to the subject of the Indemnity Bill which is before the South African Parliament. We know its contents by telegraph, and I have circulated them in a White Paper for the convenience of the House. We find that it conforms in every way to the proper wording and

structure of such measures, of which there have been more than one in South Africa, with, of course, the addition of the Expulsion and Exclusion Clause. I am now aware that Clause 1 will be altered in Committee in South Africa in order to bring martial law to an end immediately, everywhere, on the passage of the Bill. It has been suggested—in fact, it is suggested by this Amendment—that Lord Gladstone should be instructed to reserve this Bill until some inquiry has been granted and held, and a motion to that effect is at this moment before the Union Parliament in South Africa. If they agree to that suggestion, hon. Members will get the inquiry. If they reject it out there you cannot hope to obtain it by reserving the Bill. It has been suggested and demanded that I should advise the disallowance and veto of this Bill. That would be an unprecedented and wholly unjustifiable course. It would be unprecedented, because the case of New Zealand—the Act of 1866—is not really in point. Assent was withheld from that Act because it did not contain the usual provision that the acts indemnified should have been done in good faith, but when a new Bill containing these words was passed through the New Zealand Parliament in the following year the Act was immediately assented to. When I said the withholding of assent from the present Bill would be unjustifiable, I did so on the ground that such legislation is essentially one of the attributes and prerogatives of the responsible and popularly elected Parliament of South Africa. The hon. Member (Mr. Ramsay Macdonald) a few days ago

used some very admirable words—I wish he had repeated them to-day—describing the situation. He said:

> The Union Parliament is the proper battleground; we cannot fight these battles from the House of Commons. It is the trade unionists of South Africa through elected Labour members who have got to fight their own battles in that self-governing community.

That I think is the true and proper view of this matter. The Union Government is responsible to the Union Parliament. If that Parliament gives them that support and passes the Bill which indemnifies their action, then it will be in the highest degree unwise and impolitic to attempt to reverse that decision here. If the democracy of South Africa is dissatisfied with this Government, it should put pressure upon its representatives to reject that Bill and to turn out the Government. If they fail to do so they will have an opportunity of a General Election, which, like our own, cannot be delayed beyond the end of next year; but with that early and sufficient opportunity you will not, if you are wise, attempt to interfere with the discretion of the Union Parliament. It is hardly necessary for me to remind the House how sensitive are responsible Governments even of supposed reversals of matters which are under their direct control. Hon. Members will not have forgotten that a few years ago a predecessor of mine asked for the suspension of some capital sentence that had been passed in Natal, merely in order that he might have time to obtain the particulars. The Govern-

ment of Natal, erroneously thinking that their discretion was being interfered with, immediately resigned, and they only withdrew their resignation after an assurance by the Secretary of State for the Colonies that his Majesty's Government at no time had the intention to interfere with the action of the responsible Government of Natal. And to show the House how closely these events are watched throughout the Empire, I would remind them that within two days of the resignation of the Natal Ministry formal protests against the supposed action of his Majesty's Government were received here from the Governments of Australia and of New Zealand. I have said this much in order to show the House why, if and when this Indemnity Bill passed both Houses of the Union Parliament, I shall not advise its reservation or disallowance, subject to any new fact or situation which may arise in the meantime, and I would remind hon. Members who wish me to take the opposite course that the possible and probable result of such action would be that martial law would be maintained in South Africa until the Indemnity Bill had been assented to.

Expulsion, except of undesirable aliens after conviction, is foreign to our ideas and methods in this country, but the words and methods are more familiar to residents in South Africa, because they have been taught them by ourselves. In July, 1900, during the war, on the discovery of a plot at Johannesburg to murder British officers, no fewer than 1,700 men of various nationalities were arrested and, without any trial or process of law, were sent by train to the coast and deported

in British ships. Again, in 1901, after the war had long been officially declared to be over, there were some burghers still resisting our authority, and Lord Kitchener, on instructions from the right hon. Gentleman (Mr. Joseph Chamberlain) and the British Governor, issued a proclamation that unless these burghers surrendered in five weeks they would be permanently banished from South Africa. I only quote those two instances to show that on previous occasions expulsions have been threatened and have been effected against people in South Africa, and that for the last six years it has been part of the ordinary law of the Transvaal. If this Debate is to continue, I hope it will be conducted with careful regard to the feelings and the just sensitiveness of the people and the Governments of our self-governing Dominions. I would say to the hon. Member who moved this Amendment that to Labour, above all classes in the community, the maintenance of responsible self-government and the constitutional action of the supreme authority is of an importance which transcends any apparent or alleged departures from administrative correctitude; and I would say to all those who are interested in the Imperial connexion, though it is a well-worn platitude, that the Empire is held together by a silken cord. Beware lest you twist that cord into a whip-lash, for the crack of that lash would be the knell of your Empire. We here have created of our own free will these great free Parliaments and institutions which are wide flung throughout the world. They are our constant pride, and only our occasional embarrassment. Treat them with a broad

mind and a wide confidence and we and they shall win through for all that is the essential basis of freedom and of civilisation. But it is your toleration and your restraint which can alone proclaim your confidence and your generosity, and which alone can maintain the good fellowship of a united Empire.

6. THE DISPUTE BETWEEN THE GOVERNOR OF TASMANIA AND HIS MINISTERS AS TO THE DISSOLUTION OF PARLIAMENT

(1) *The Governor to Mr. Earle*

GOVERNMENT HOUSE, HOBART, TASMANIA.

THE HONOURABLE JOHN EARLE,

The Governor is prepared to entrust Mr. Earle with the duty of forming an Administration on the following conditions:—

(1) That an immediate dissolution of Parliament shall take place;

(2) That the newly elected Parliament shall be summoned before the end of May;

(3) That, in the event of the office of Attorney-General not being filled by a fully qualified lawyer in practice, the Governor must reserve the right to obtain legal advice, when he considers it necessary, from other sources.

WILLIAM ELLISON-MACARTNEY,
Governor.

April 3, 1914.

(2) *Mr. Earle to the Governor*

Memorandum for his Excellency

MR. EARLE presents his respectful compliments to his Excellency.

Since Mr. Earle's interview with the Governor on the 3rd instant, relative to the formation of an Administration, Mr. Earle has given very earnest consideration to the question of the pledges demanded by the Governor as the condition of Mr. Earle's acceptance of office, and, being of opinion that the demand of those conditions raises questions of grave constitutional importance, not only to this State, but to all his Majesty's self-governing Dominions, Mr. Earle deems it his duty to respectfully submit to the Governor the following observations, and to respectfully request the Governor's consideration thereof:—

The Governor's late Ministers were the subject of a motion proposed and carried in the House of Assembly, declaring that they no longer possessed the confidence of the House.

Thereupon, I understand, the Governor's late Ministers advised the Governor to dissolve the House of Assembly. The Governor did not accept such advice, but entrusted Mr. Earle with the duty of forming an Administration on the following conditions, namely:—

(1) That an immediate dissolution of Parliament shall take place;
(2) That the newly elected Parliament shall be summoned before the end of May; and
(3) That, in the event of the office of Attorney-General not being filled by a fully qualified lawyer in practice, the Governor must reserve the right to obtain legal advice, when he considers it necessary, from other sources.

Conditions (1) and (2) Mr. Earle demurred to.

Mr. Earle commands the confidence of a majority of the Members of the House of Assembly, and he has given the Governor his assurance that he can carry on the Government.

On these facts Mr. Earle respectfully submits to the Governor :—

(1) That the exaction of the pledge to advise a dissolution of the House of Assembly is contrary to the principles and well established practice regulating the conduct of Parliamentary Government;

(2) That the circumstances of the case are not such as to justify the Governor in forcing a dissolution on his Ministers.

As to (1) : The cardinal principle of Parliamentary Government is that the powers of the Crown are exercised through Ministers, who are responsible to Parliament for the manner in which those powers are used. The principle is very clearly enunciated in the despatch of 26th March, 1862, from the Colonial Secretary to the Governor of Queensland—'The general principle,' writes the Colonial Secretary, 'by which the Governor of a Colony possessing responsible Government is to be guided is this: . . . . in matters of purely local politics he is bound, except in extreme cases, to follow the advice of a Ministry which appears to possess the confidence of the Legislature.' (Cited in Todd on *Parliamentary Government in the Colonies*, at page 630.)

One of the powers of the Crown in this State—a power conferred on the Governor by 'The Con-

stitution Act'—is to dissolve the House of Assembly. But, in conformity with the principle above referred to, such a power should only be exercised on the advice of Ministers who are prepared to accept the responsibility for the use of it.

It is true that by virtue of the terms of his Commission the Governor has the power to act in opposition to the advice of his responsible Ministers, but such a course would be practically impossible in the case of a dissolution, and in any case could only be justified where there existed some very extraordinary cause calling for the Governor's personal action.

Mr. Earle respectfully submits to the Governor that the enforcement of the conditions as to a dissolution imposed by the Governor would work a subversion of the fundamental principles of the Constitution.

As the Governor's Minister, it is Mr. Earle's bounden duty to tender to the Governor such advice as Mr. Earle thinks right and proper, and the interest of the State calls for; but this he cannot do if he binds himself by the conditions imposed by the Governor.

If Mr. Earle accepts the pledge demanded, the power of dissolution will, in fact, be not only exercised without Mr. Earle's advice, but in direct opposition to the opinion he entertains as to what his advice should be. Instead of being advised by his Minister, the Governor will make a rule for his own conduct, which his Minister will not be permitted to disturb with his advice. No Minister ought to be asked to be responsible for an act he does not approve of and cannot control.

Mr. Earle, in concluding his remarks on proposition No. 1, respectfully reminds the Governor of the opinion of Sir Erskine May on the question of the pledge demanded by the reigning Sovereign in 1807 from Earl Grenville: 'No constitutional writer,' Sir Erskine May declares, 'would now be found to defend the pledge itself or to maintain that the Ministers who accepted office in consequence of the refusal of that pledge had not taken upon themselves the same responsibility as if they had advised it' (May, *Constitutional History of England*, 1912 edition, page 79). So that not only is the demand of a pledge unconstitutional, but any Minister who accepts office in consequence of a former Minister having declined to give a pledge is in the same position as if he had advised the imposition of it.

As to (2): The power of dissolution is, as the Governor is fully conscious, a very delicate instrument of government, only to be exercised in cases of necessity. The reported precedents relating to it are numerous, and, as might be expected, the great majority of them are authorities for circumstances in which the power should not be put into operation.

Two of the cases in which the power should not be exercised are:—

(*a*) Where there is another alternative, that is to say, where it is possible for the Governor to secure a Ministry who can carry on the government with the confidence of a majority of the Legislative Assembly; and

(*b*) Where there is no important political ques-

tion upon which contending parties are directly at issue.

Authorities for case (*a*) are the Memorandum addressed by the Governor-General of Canada to Mr. Brown-Dorion (cited in Todd on *Parliamentary Government in the Colonies*, at pages 768-769). The Governor-General, in declining to grant Mr. Brown-Dorion a dissolution, stated as a reason for the course he adopted that 'he is by no means satisfied that every alternative has been exhausted, or that it would be impossible for him to secure a Ministry who would close the business of the session and carry on the administration of the government during the recess with the confidence of a majority of the Legislative Assembly.' And also the Memorandum dated the 15th November, 1877, of his Excellency the Governor of New Zealand to the Honourable Sir George Grey, where his Excellency, in declining Sir George a dissolution, stated the principle which guided him, as follows :—'The only desire of the Governor is to secure a Government, no matter how constituted, which can command the confidence of a majority of the representatives of the people of New Zealand.'

Case (*b*) is supported by both the same authorities, as well as many others (*e.g.* Hearn, *Government of England*, page 164).

Todd states the rule thus : 'It is not a legitimate use of the prerogative of dissolution to resort to it when there is no important political question upon which contending parties are directly at issue.'

In the case now before the Governor, both of

the above-mentioned circumstances are present. Mr. Earle commands a majority of the House of Assembly, and he has given the Governor his assurance that he can carry on the government.

Further, there is no important political question upon which the two parties in the House of Assembly are at this juncture directly at issue.

The general policies of the two parties differ widely, but there is no particular question now at issue between them; but, on the contrary, both parties entirely agree that before any satisfactory appeal to the country can be made it is necessary that Parliament should give consideration to the electoral system.

The foregoing remarks are reasons why a dissolution was not warranted at any period since the censure motion, but the case against a dissolution, however, is now very much stronger.

The Governor has declined to accept his late Minister's advice, and must therefore have been of opinion that a dissolution would be unwarranted, for the conventions of Responsible Government require that, if a dissolution is warranted by the circumstances, the request for it by the Minister of the day should be granted.

Mr. Earle respectfully submits to the Governor that he should not be called into office only to have a proceeding forced on him which he thinks improper, and therefore cannot advise. To place Mr. Earle in such a position is, he respectfully submits, tantamount to asking him to accept the responsibility of advice tendered by a former Minister who no longer enjoys the confidence of Parliament, and which Mr. Earle cannot endorse.

Mr. Earle has felt it his duty to submit the above remarks to the Governor, and he most respectfully requests the Governor's consideration of them.

JOHN EARLE, Premier.

PREMIER'S OFFICE,
April 7, 1914.

(3) *The Governor to Mr. Earle*

GOVERNMENT HOUSE,
HOBART, TASMANIA.

THE HONOURABLE THE PREMIER,

The Governor begs to acknowledge the receipt of Mr. Earle's Memorandum, which he received yesterday.

His Excellency thoroughly accepts the doctrine of Ministerial responsibility, though he differs from the application of it as set out by Mr. Earle. The Governor desires to point out that he gave Mr. Earle and his colleagues in the Ministry the fullest opportunity of considering the conditions he laid down. These conditions were accepted by Mr. Earle, and subsequently by his colleagues upon their assuming office, by which act they have now become part of their responsibility, notwithstanding that Mr. Earle differed from his Excellency before accepting office in his view of their necessity.

The Governor would remind Mr. Earle that it is his (the Governor's) duty to consider the question of a dissolution of Parliament solely with reference to the general interests of the people, and not from a party standpoint; and he is further entitled to stipulate upon whatever conditions he

may deem essential for the promotion of the public interests before he proceeds to exercise the powers entrusted to him.

For reasons which he need not now enter upon, the Governor did not consider the late Ministry entitled to a dissolution, but, having come to the conclusion that a dissolution was necessary, he believed that the best chance of securing a stable Administration was to entrust Mr. Earle with the duty of forming one, subject to the conditions which Mr. Earle accepted.

The Governor had previously considered the instances to which Mr. Earle refers, and has again considered them. One is not relevant to the issue, and the others in no way conflict with the opinion arrived at by his Excellency.

The Governor is also unable to accept the views held by Mr. Earle on—(1) the present relations of political parties to each other in this State, or on (2) the existing situation.

The Governor must point out that he placed no pressure upon Mr. Earle to accept office under the conditions referred to. They were deliberately accepted by Mr. Earle after the Governor had informed him that they could not be altered, and as deliberately accepted by the other members of the Administration whose names were submitted to his Excellency on the following day.

The Governor therefore cannot admit that he is forcing any policy on Mr. Earle, or that the question of dissolution is one upon which Mr. Earle is now in a position to offer his Excellency advice which he is bound to accept.

It is important to bear in mind that the discre-

tion of a Governor with regard to the question of dissolution is, as in other instances of the exercise of the prerogative, much wider in the Colonies than that upon which by constitutional practice the Sovereign acts in the United Kingdom. It is impossible, as one of the most recent authorities on government in the Dominions has pointed out,[1] to maintain the position that the Governor is a parallel to the Sovereign in Constitutional Monarchy, and that therefore he is obliged to act on the advice of his Ministers in the same sense as that in which the King of the United Kingdom acts on the advice of his Ministers.

WILLIAM ELLISON-MACARTNEY,
Governor.

April 8, 1914.

(4) *Address of the House of Assembly*

To his Excellency SIR WILLIAM GREY ELLISON-MACARTNEY, Privy Councillor, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor in and over the State of Tasmania and its Dependencies, in the Commonwealth of Australia

MAY IT PLEASE YOUR EXCELLENCY:

We, his Majesty's dutiful and loyal subjects, the Members of the House of Assembly of Tasmania in Parliament assembled, desire to very respectfully express our opinion that the action of your Excellency in imposing on Ministers, as a condition of their appointment, an undertaking to

[1] *Responsible Government in the Dominions*, iii. 1627, 1628; *Imperial Unity and the Dominions*, pp. 85–90.

agree to a dissolution of Parliament, whether this House approves the policy of Ministers or not, is contrary to the well-established usage of Responsible Government, and, this House respectfully suggests, is undesirable: and we pray that your Excellency will be pleased to forward the above-mentioned resolution of this House, together with copies of all communications between your Excellency and the Honourable the Premier relating to such condition, to his Majesty the King, through the Right Honourable the Secretary of State for the Colonies.

W. A. WOODS,
Speaker.

Passed by the House of Assembly, this
eighth day of April, 1914.
J. K. REID,
Clerk of the House.

(5) *The Secretary of State to the Governor*

DOWNING STREET,
June 5, 1914.

SIR,

I have the honour to request you to inform your Ministers that I have duly received the text of the address passed by the House of Assembly on the 8th of April, in which the House expressed their opinion that 'your action in imposing on Ministers, as a condition of their appointment, an undertaking to agree to the dissolution of Parliament, whether this House approves the policy of Ministers or not, is contrary to the well-established usage of Responsible Government, and, this House respectfully suggests, is undesirable.' I have, as

requested, laid it before the King, and his Majesty was pleased to receive it very graciously.

2. I have given my most careful consideration to the course of events which led up to the presentation of this address. I recognize that a difficult position has existed for some time in Tasmania, owing to the practical equality of parties in the House of Assembly, but I am of opinion that your action in the matter was not in accordance with constitutional practice. The grounds on which I have come to this conclusion are as follows.

3. The observance of the principles of Responsible Government requires that a Governor must be clothed with Ministerial responsibility for all acts in relation to public affairs to which he is a party as head of the Executive. He cannot, therefore, perform any such act except on the advice of his Ministers, and for performing it on such advice no political responsibility attaches to him personally. The question whether or not a dissolution should be granted is a purely internal affair and is thus regulated by the general rule. A Governor, therefore, cannot dissolve the Legislature except on the advice of his Ministers. There have, of course, been not a few cases in which Governors have rejected advice tendered to them by their Ministers that the Legislature should be dissolved. These do not, however, stand on a different constitutional footing from any other case in which a Governor may have found himself unable to accept the advice of his Ministers. In all such cases the Ministers either acquiesce in the Governor's action, in which event they accept

responsibility for it, or leave the Governor to find new Ministers who will accept the responsibility.

4. A Governor may feel it incumbent on him to consider with special care requests for dissolutions, but constitutionally he has no special powers in such matters. It follows, therefore, that he is no more entitled to impose on an incoming Ministry, as a condition of admitting them to office, that they should advise a dissolution of the Legislature than that they should tender any other specified advice. A Governor is, of course, entitled to discuss the aspects and the needs of the political situation freely and fully with his proposed new Ministers, but he cannot go to the length of requiring them to give any particular advice as a condition of accepting their services without claiming a personal responsibility which does not attach to him.

5. I have carefully examined, in this connexion, the action of the Lieutenant-Governor of Nova Scotia in 1860, to which my attention has been drawn as affording a possible parallel to your own action. In that case Lord Mulgrave had rejected the advice of his Ministers that a dissolution should take place, on the ground that it was improper thus to interfere with the procedure provided by law for testing the validity of the elections of certain members of the Assembly. Before commissioning Mr. Young as Premier in succession to Mr. Johnstone, Lord Mulgrave required from Mr. Young an assurance that each case of alleged disqualification should be inquired into with as little delay as possible. This assurance was duly given by Mr. Young before he was entrusted with the

duty of forming the Government. Viewed in the light of what had happened previously Lord Mulgrave's action was, in effect, merely a reminder to Mr. Young that, in taking office, he would assume responsibility for the decision that the law must take its course. The case thus presents no analogy to that now under discussion.

6. At the same time, while I consider that you should not have imposed terms on Mr. Earle, I recognize that he was entirely at liberty to decline the duty of forming a Government unless he was left with complete discretion as to the advice to be tendered to you. Instead of doing so, he decided to take office and thus must be held to have accepted for the time being full responsibility for your action. He remained fully responsible until the Ministry determined to advise in the contrary sense, when the policy of dissolution ceased to be authorized by Ministerial advice, but became a matter of your personal opinion, that is to say, no constitutional means existed of giving effect to it without another change of views on the part of Ministers or another change of Ministry.

7. I have to request that you will communicate a copy of this despatch to the House of Assembly.

I have, &c.,

L. HARCOURT.

VIII

THE RELATIONS OF THE DOMINIONS TO FOREIGN POWERS

1. THE APPOINTMENT OF A HIGH COMMISSIONER FOR CANADA

(1) *Sir Michael Hicks Beach, Bart., to the Marquis of Lorne*

DOWNING STREET,
November 1, 1879.

MY LORD,

I received from your Ministers, during their recent visit to England, a confidential memorandum, of which I enclose a printed copy, urging the necessity of providing further means for constant and confidential communication between her Majesty's Government and the Government of Canada, and recommending that a representative of the latter Government should be appointed to reside permanently in London, and that he should be granted a quasi-diplomatic position.

2. Her Majesty's Government are very sensible of the advantage which might result from the appointment by the Dominion Government of a gentleman who, residing in this country, would be fully empowered to explain their views on the various important questions connected with Canada, which, from time to time, demand consideration, and which might often be more satis-

factorily, as well as more expeditiously, dealt with, if such means of oral communication were provided. Looking, however, to the position of Canada as an integral portion of the Empire, the relations of such a person with her Majesty's Government would not be correctly defined as being of a diplomatic character, and, while her Majesty's Government would readily accord to him a status in every way worthy of his important functions, his position would necessarily be more analogous to that of an officer in the home service, than to that of a Minister at a foreign court.

3. He would therefore primarily communicate with this Department on the various subjects which might be entrusted to him, and, while her Majesty's Government would readily avail themselves of any information he might afford, and give the fullest consideration to any representations he might make on behalf of the Canadian Government, it would, of course, rest with the Secretary of State for Foreign Affairs to determine in each case in what precise capacity his services might best be rendered in the event of any negotiations with a foreign court, on subjects affecting the interests of the Dominion. In some instances, for example, it might be desirable for him to remain in London and advise with her Majesty's Government there, while in other cases he might, in accordance with the precedents which have been quoted, be more usefully engaged in assisting her Majesty's representatives abroad.

4. I have deemed it necessary to refer to these details because it is desirable that there should be no misunderstanding as to the precise position

which could be accorded by her Majesty's Government to an officer holding an appointment which the Government of Canada propose to establish, but I do not anticipate that the views which I have expressed will be felt by your Ministers as placing any insuperable difficulty in the way of the practical realization of their wishes; and I would only add that if such an appointment should be decided upon it would seem, for the reasons I have stated, more appropriate that the officer should be designated by the title of 'Dominion' or 'Canadian Commissioner' than by any title implying a diplomatic status or position.

I have, &c.

M. E. Hicks Beach.

Enclosure

Memorandum

The policy of the Empire having devolved upon Canada the administration of the whole of British North America, and the care and protection of British interests therein, experience is daily showing the necessity of providing the means of constant and confidential communication between her Majesty's Government and her local advisers in Canada, in extension of the more formal relations subsisting through the correspondence of the Secretary of State for the Colonies with the Governor-General.

Canada has ceased to occupy the position of an ordinary possession of the Crown. She exists in

the form of a powerful Central Government, having already no less than seven subordinate local executive and legislative systems, soon to be largely augmented by the development of the vast regions lying between Lake Superior and the Rocky Mountains. Her Central Government is becoming even more responsible than the Imperial Government for the maintenance of international relations towards the United States, a subject which will yearly require greater prudence and care, as the populations of the two countries extend along, and mingle across, the vast frontier line, three thousand miles in length.

The Canadian Government has, in short, become the trustee for the Empire at large, of half the continent of North America, and is bound to administer the trust not only for the benefit of the present limited population, but with the intention and policy of making the great resources of the Dominion in the highest measure promotive of the interests of the British people and the dignity of the Crown.

The organisation, government, and settlement of the vast regions of British North America are all subjects which the Canadian Government must desire to deal with in the common interest of all, while in trade and commerce it is daily becoming more evident that advantage would arise in definitely settling such arrangements between the United Kingdom and her vast dependency as may produce more thorough identity of interest and more uniform policy towards each other, and towards foreign nations.

It appears to the Canadian Government emin-

ently desirable to provide for the fullest and most frank interchange of views with her Majesty's Government, and for the thorough appreciation of the policy of Canada on all points of general interest. Otherwise there appears to be danger of a feeling growing up of indifference, if not of actual antagonism and irritation on both sides. The idea must be avoided that the connexion of Canada with the British Empire is only temporary and unabiding, instead of being designed to strengthen and confirm the maintenance of British influence and power.

It is now being found in practice that there are constantly questions arising, connected with the administration of affairs in Canada, requiring discussions in a mode and to an extent wholly impracticable by the ordinary channel of correspondence, through the Governor-General; and periodical visits have to be made to London for this purpose by the important members of the Canadian Government, entailing serious inconvenience. At this moment the following subjects are thus under consideration: The Pacific Railway, and important collateral subjects; Treaties of Commerce with France and Spain; Esquimault Graving Dock; Military Defence of Canada generally, and of British Columbia more especially; while the fishery and commercial clauses of the Washington Treaty may, at any moment, be reopened by the United States; with many other matters of importance connected with the better organization of the military force of the Dominion.

It is manifestly impossible that the views of the Canadian Government on such subjects can be

submitted for the intelligent consideration of her Majesty's Government in any other mode than that of personal communication; and, as the subjects themselves relate to different departments of administration, the necessity arises for the absence from their posts at this moment of not less than three Ministers.

It is further submitted that the very large and rapidly augmenting commerce of Canada, and the increasing extent of her trade with foreign nations, is proving the absolute need of direct negotiations with them for the proper protection of her interests. In most of the treaties of commerce entered into by England, reference has only been had to their effect on the United Kingdom; and the Colonies are excluded from their operation, a fact which has been attended with most unfortunate results to Canada, as relates to France. This is, to a certain extent, unavoidable, in consequence of the control of all customs having been granted to Canada; but a necessity has thus arisen for providing separate and distinct trade conventions with all foreign Powers with whom Canada has distinct trade. With the different views held by the Parliament of Canada on such subjects, from those of her Majesty's Government, there is a manifest difficulty in asking the latter to become responsible for the representations required to be made, and foreign Governments find it difficult to understand our present system. The Canadian Government therefore submit that, when occasion requires such negotiations to be undertaken, her Majesty's Government should advise her Majesty specially to accredit the repre-

sentative of Canada to the foreign Court, by association for the special object with the resident Minister or other Imperial negotiator.

The suggestion is merely asking her Majesty's Government to establish as a rule the precedent which was created in 1871, when Sir John A. Macdonald was made a member of the Joint High Commission to Washington, and later, in 1874, when Mr. George Brown was officially associated with Sir Edward Thornton, at the instance of the Canadian Government, for the purpose of negotiating a Treaty of Commerce between Canada and the United States.

With the view of giving effect to the foregoing policy, the Government of Canada suggests that her Majesty's Government should consent to receive an official representative from Canada for the purpose of securing the most early and confidential communication of their views on all subjects; and that, when so requested, the proposed Minister should be duly accredited to foreign Courts in the manner above mentioned.

The Canadian Government desires to surround the proposed appointment with all the importance which should attach to an official charged with such high duties. He should, therefore, be selected from the Queen's Privy Council for Canada, and specially entrusted with the general supervision of all the political, material, and financial interests of Canada in England, subject to instructions from his Government.

The dignity of the office, and the advantage of its proper recognition, especially at foreign Courts, appear to require a more expressive title

than that of Agent-General; it is therefore suggested that the designation should be Resident Minister, or such other name of equal import as her Majesty's Government may suggest.

The Canadian Government attaches great importance to this matter, and hopes that her Majesty's Government will see no insuperable difficulty in giving the Canadian Representative a quasi-diplomatic position at the Court of St. James, with the social advantages of such a rank and position.

JOHN A. MACDONALD.
S. L. TILLEY.
CHARLES TUPPER.

(2) *The Marquis of Lorne to the Right Honourable Sir M. E. Hicks Beach, Bart.*

GOVERNMENT HOUSE, OTTAWA,
December 24, 1879.

SIR,

I have the honour to transmit herewith, for your consideration, a copy of an approved report of a Committee of the Privy Council respecting the appointment of a Canadian Representative to reside in England, to be styled 'High Commissioner of Canada,' to confer with her Majesty's Government on all important matters affecting the Dominion, which formed the subject of your despatch of the 1st November last.

I have, &c.,

LORNE.

ENCLOSURE

Copy of a Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General, on the 22nd December, 1879.

The Committee of Council have had under consideration the despatch from the Right Honourable the Secretary of State for the Colonies, dated 1st November last, upon the confidential memorandum of Sir John Macdonald, Sir Leonard Tilley, and Sir Charles Tupper, urging the necessity of providing further means for constant and confidential communication with her Majesty's Government, and also for the representation of Canada in the future negotiation of treaties of commerce with foreign nations.

The Committee desire to express their gratification at the manner in which their views have been met by her Majesty's Government, and they share in the conviction of Sir Michael Hicks Beach, that no insuperable difficulty exists in the realization of their wishes.

The Committee recognize the fact that Canada cannot, as an integral portion of the Empire, maintain relations of a strictly diplomatic character. But they respectfully submit that, while this is true as regards foreign nations, it does not accurately represent the actual state of facts in regard to the United Kingdom. Her Majesty's Government is unquestionably the supreme governing power of the Empire, but, under the

British North America Act, self-governing powers have been conferred upon Canada in many most important respects, and her Majesty's Government may on these points be more correctly defined as representing the United Kingdom than the Empire at large. In considering many questions of the highest importance, such as the commercial and fiscal policy of the Dominion as affecting the United Kingdom, the promotion of Imperial interests in the administration and settlement of the interior of the Continent, and on many other subjects, indeed on all matters of internal concern, the Imperial Government and Parliament have so far transferred to Canada an independent control that their discussion and settlement have become subjects for mutual assent and concert, and thereby have, it is thought, assumed a quasi-diplomatic character as between her Majesty's Government representing the United Kingdom *per se* and the Dominion, without in any manner derogating from their general authority as rulers of the entire Empire.

The Committee would further respectfully submit, in elucidation of the views contained in the memorandum, that the Government of Canada, in respect of negotiations with foreign Powers, in no respect desire to be placed in the position of independent negotiators. On the contrary, they are fully convinced that it is through the influence and support of her Majesty's Government, and by the effective use of their carefully trained and thorough diplomatic service, that they can alone look for any measure of success. And it is with the view most thoroughly to satisfy foreign

Governments of the identity of interests of her Majesty with themselves that they have so strongly sought the most official recognition possible for their representative. And in making their suggestion on this point, the Committee have had in mind the position assigned to the delegates from Canada in 1865 and 1866, which was that of belonging to the diplomatic corps, taking precedence after the foreign Ministers.

As the representative of the Governor-General and Executive Government of Canada, and especially when dealing with negotiations with any foreign Powers, the duties of the proposed officer will, the Committee consider, be of a nature more analogous to diplomatic than to home service, but they confidently leave this subject in the hands of her Majesty's Government, resting on the assurances conveyed in the despatch under consideration that her Majesty's Government will accord to their representative a status in every way worthy of his important functions.

The officer will certainly primarily communicate with the Secretary of State for the Colonies on the various subjects on which he may receive instructions to address her Majesty's Government, and the Committee do not doubt that every consideration will be given to such representations as he may make on behalf of the Canadian Government.

The Committee entirely agree that it will rest with the Secretary of State for Foreign Affairs to determine in each case in what precise capacity the services of the Canadian Officer can be best rendered in the event of negotiations with foreign

Courts on subjects affecting the interests of the Dominion. Manifestly it would not be the desire of the Canadian Government, that in every case their representative should be personally associated with the British Minister at the foreign Courts, but only in such cases as might from their importance require it. On this point the Committee are fully assured that the Secretary of State for Foreign Affairs will meet their reasonable wishes as has been done in the cases cited.

The Committee understand, however, that in all cases of commercial treaties her Majesty's Government will direct early communication to be made to the Canadian representative so as to permit him to take the instructions of his Government, and to make such representations as may be called for to her Majesty's Government.

With reference to the designation of the proposed officer the Committee desire to accept the suggestion of her Majesty's Government. As, however, Commissioners are very frequently appointed for special services of minor importance, it is considered desirable to make the appointment to London distinctive by styling the officer 'High Commissioner of Canada in London,' the Committee on this point being convinced that in reference especially to foreign Governments the designation and status are of real importance.

It is intended to create the office under statute at the next Session of the Canadian Parliament; but, should the public service require an earlier appointment, the Committee confidently rely on

her Majesty's Government giving immediate effect to the views expressed in the despatch from the Secretary of State for the Colonies, which, it is believed, are correctly understood by the Canadian Government.

2. THE NEGOTIATION OF SEPARATE COMMERCIAL TREATIES FOR THE DOMINIONS

(1) *The Marquis of Ripon to the Governor-General of Canada, the Governors of the Australasian Colonies (except Western Australia), and the Governor of the Cape*

DOWNING STREET,
June 28, 1895.

SIR,

In my despatch of even date, I communicated to you an expression of the views of her Majesty's Government on the Resolutions passed by the Colonial Conference at Ottawa in regard to the trade relations of the Empire.

2. In the course of the discussions there, a question of considerable importance was more than once alluded to, namely, the question of commercial agreements between her Majesty's Government and foreign Powers in regard to their trade with the Colonies.

Such Conventions have already been made on more than one occasion in regard to the trade of her Majesty's Dominions in North America with the United States of America, and recently with the Government of France in regard to the trade between that country and Canada; and the Cape Colony has also entered into a Customs Union

with the neighbouring Independent Republic, the Orange Free State.

3. Although the area within which such agreements are possible is now but limited, owing to the network of commercial Treaties by which the nations are bound together, there are still some Powers, such as France, with which agreements of the kind could be made, either because no commercial treaty exists between them and this country, or because some of the Colonies have not adhered to the existing Treaty. It appears desirable, now that the same liberty of tariff legislation has been accorded to the Australian Colonies as has been enjoyed by Canada, the Cape Colony, and New Zealand, and that the Colonies generally are considering the question of extending and increasing their external commerce, that the views of her Majesty's Government on this question should be generally known.

4. In the first instance, it is advisable that the international position of such agreements and the procedure to be followed in regard to them should be made clear, and in this connexion I desire to quote from the able speech delivered by Sir Henry Wrixon at the meeting of the Conference on the 10th of June.

5. Referring to this question, he said :

I do not know that I have ever thoroughly understood the position which the Imperial Government takes with regard to the power which they have already allowed to Canada and the Cape, because we all know that nations can only know one another through the supreme head. Each nation is an entity as regards any other nation, and I have no knowledge of how you could recognize a part of an Empire making

arrangements for itself. If you look at the thing in the last resort, supposing conflicts arose, or cause of war, the foreign Power that had cause to complain of the breach of a commercial treaty must naturally look to the head of an Empire, and they could not be put off by telling them to look for satisfaction to the dependency. If any foreign Power made an arrangement with the Cape, and had cause to complain, and wanted to enforce any proviso, they must go to the Empire of Great Britain; and, therefore, as far as I can understand it, I am quite against any attempt to recognize the right of a dependency of the Empire to act on its own behalf. Everything must be done through the head of the Empire when we are dealing with foreign nations. One nation is one individual, and it can only deal with other nations on that basis; therefore I deliberately excluded any reference in my motion to that subject, and I may only add that I think it is quite unnecessary to refer to it, because we can have no doubt that the Imperial Government will extend the same consideration to all the dependencies of the Empire that it has already extended to Canada and the Cape, if in any case any dependency of the Empire shows that it has good ground for entering into a commercial treaty outside. I have not the slightest doubt that the Imperial Government would do for other dependencies what it has already done for the premier dependency of Canada and the Cape.

Hon. Mr. Fitzgerald: Do you wish it done by legislation?

Sir Henry Wrixon: No. I do not understand how it can be done, because I have no idea of a nation as anything else than one complete unity with regard to an outside nation, and I cannot understand a dependency of the Empire arranging with an outside Power; and I presume, where the Imperial Government has allowed Canada and the Cape to make arrangements, the Imperial Government itself has contracted and would be prepared to vindicate the conduct of the dependency in the last resort. I understand that when occasion arises the dependency informs the Imperial Government of its desire to enter into

certain arrangements. The Imperial Government authorizes its Minister at the Court of the Power which is to be treated with to carry on that negotiation, and then, technically, it is the Empire which makes the Treaty. In our country some claimed more than this right. I repudiated any such position. I think it is not consistent with the unity of the Empire, and I added to that a reason why it was unnecessary—namely, because the Imperial Government will do for us what they have done for Canada and the Cape, and will help us to make a Treaty if we want to make a Treaty with any foreign Power.

6. This speech not only indicates the procedure to be followed in the case of such arrangements, but clearly explains the reasons for it. A foreign Power can only be approached through her Majesty's Representative, and any agreement entered into with it, affecting any part of her Majesty's dominions, is an agreement between her Majesty and the Sovereign of the foreign State, and it is to her Majesty's Government that the foreign State would apply in case of any question arising under it.

7. To give the Colonies the power of negotiating treaties for themselves without reference to her Majesty's Government would be to give them an international status as separate and sovereign States, and would be equivalent to breaking up the Empire into a number of independent States, a result which her Majesty's Government are satisfied would be injurious equally to the Colonies and to the Mother Country, and would be desired by neither.

The negotiation, then, being between her Majesty and the Sovereign of the foreign State, must be conducted by her Majesty's Representa-

tive at the Court of the foreign Power, who would keep her Majesty's Government informed of the progress of the discussion, and seek instructions from them as necessity arose.

It could hardly be expected, however, that he would be sufficiently cognisant of the circumstances and wishes of the Colony to enable him to conduct the negotiation satisfactorily alone, and it would be desirable generally, therefore, that he should have the assistance, either as a second Plenipotentiary or in a subordinate capacity, as her Majesty's Government think the circumstances require, of a delegate appointed by the Colonial Government.

If, as a result of the negotiations, any arrangement is arrived at, it must be approved by her Majesty's Government and by the colonial Government, and also by the Colonial Legislature if it involves legislative action, before the ratifications can be exchanged.

8. The same considerations which dictate the procedure to be followed have also dictated the conditions under which, though never distinctly formulated, her Majesty's Government have hitherto conducted such negotiations, and as to the propriety of which they are confident that no question can be raised.

9. These considerations are: the strict observance of existing international obligations, and the preservation of the unity of the Empire. The question, then, to be dealt with is how far these considerations necessarily limit the scope and application of any commercial arrangement dealing with the trade between one of her Majesty's

Colonies and a foreign Power, both in respect of the concessions which may be offered by the Colony and the concessions which it seeks in return.

10. It is obvious that a Colony could not offer a foreign Power tariff concessions which were not at the same time to be extended to all other Powers entitled by Treaty to most-favoured-nation treatment in the Colony. In the Constitution Acts of some Colonies such a course is specifically prohibited, but, even where that is not the case, it is obvious that her Majesty could not properly enter into any engagements with a foreign Power inconsistent with her obligations to other Powers, and before any Convention or Treaty can be ratified, therefore, her Majesty's Government must be satisfied that it fulfils this condition, and also that any legislation for giving effect to it makes full provision for enabling her Majesty to fulfil her obligations, both to the Power immediately concerned, and to any other Powers whose rights under Treaty may be affected. To do otherwise would be a breach of public faith to which her Majesty's Government could not lend themselves in any way.

Further, her Majesty's Government regard it as essential that any tariff concessions proposed to be conceded by a Colony to a foreign Power should be extended to this country and to the rest of her Majesty's dominions.

As I have already pointed out, there are but few nations with which her Majesty's Government have not Treaties containing most-favoured-nation clauses, and to most of these Treaties all or some of the Responsible Government Colonies

have adhered. Any tariff advantages granted by a Colony, therefore, to a foreign Power would have to be extended to all Powers entitled by Treaty to most-favoured-nation treatment in the Colony, and her Majesty's Government presume that no Colony would wish to afford to, practically, all foreign nations better treatment than it accorded to the rest of the Empire of which it forms a part.

11. This point has already arisen in connexion with negotiations on behalf of Colonies with foreign States. When informal discussions with a view to a commercial arrangement between the United States of America and Canada took place in 1892, the delegates of the Dominion Government refused the demand of the United States that Canada should discriminate against the produce and manufactures of the United Kingdom, and the negotiations were broken off on this point. Similarly, when Newfoundland, in 1890, had made preliminary arrangements for a Convention with the United States under which preferential treatment might have been accorded to that Power, her Majesty's Government acknowledged the force of the protest made by Canada, and when the Newfoundland Government proposed to pass legislation to grant the concessions stipulated for by the United States, my predecessor, in a despatch dated the 26th of March, 1892, informed the Dominion Government that they might rest assured 'that her Majesty will not be advised to assent to any legislation discriminating directly against the products of the Dominion.'

12. It must not be forgotten that, as I have pointed out in my other despatch of this date,

whilst the grant of preferential tariff treatment is a friendly act to the country receiving it, it is an unfriendly act to countries or places excluded from it, and her Majesty's Government are satisfied that the bonds which unite the various parts of the Empire together require that every Colony should accord to the rest at least as favourable terms as it grants to any foreign country. If a Colony were to grant preferential treatment to the produce of a foreign country and were to refuse to extend the benefit of that treatment to the Mother Country and the other Colonies, or some of them, such a step could not fail to isolate and alienate that Colony from the rest of the Empire, and attract it politically as well as commercially towards the favoured Power. Her Majesty's Government are convinced that the Colonies will agree that such a result would be fraught with danger to the interests of the Empire as a whole, and that they will also agree that it would be impossible for her Majesty's Government to assent to any such arrangement.

13. In regard to the other side of the question, namely as to the terms which a Colony seeks from a foreign Power, the considerations mentioned appear to require that a Colony should not endeavour in such a negotiation to obtain an advantage at the expense of other parts of her Majesty's dominions. In the case, therefore, of preference being sought by or offered to the Colony in respect of any article in which it competed seriously with other Colonies or with the Mother Country, her Majesty's Government would feel it to be their duty to use every effort to obtain

the extension of the concession to the rest of the Empire, and in any case to ascertain as far as possible whether the other Colonies affected would wish to be made a party to the arrangement. In the event of this being impossible, and of the result to the trade of the excluded portions of the Empire being seriously prejudicial, it would be necessary to consider whether it was desirable, in the common interests, to proceed with the negotiation.

14. Her Majesty's Government recognize, of course, that in the present state of opinion among foreign Powers and many of the Colonies as to differential duties, and in a matter which, to some extent, would affect only a particular Colony, they would not feel justified in objecting to a proposal merely on the ground that it was inconsistent in this respect with the commercial and financial policy of this country.

But the guardianship of the common interests of the Empire rests with them, and they could not in any way be parties to, or assist in, any arrangements detrimental to these interests as a whole. In the performance of this duty it may sometimes be necessary to require apparent sacrifices on the part of a Colony, but her Majesty's Government are confident that their general policy in regard to matters in which Colonial interests are involved is sufficient to satisfy the Colonies that they will not, without good reason, place difficulties in the way of any arrangements which a Colony may regard as likely to be beneficial to it.

I have, etc.

RIPON.

(2) *Right Hon. Sir E. Grey, Bart., to his Majesty's Chargé d'Affaires at Paris*

[A similar despatch was addressed to His Majesty's Ambassador at Rome.]

FOREIGN OFFICE,
July 4, 1907.

SIR,

In my telegram of the 23rd of May I informed you that Sir W. Laurier desired to open negotiations for new commercial conventions with the French Government, and I requested that you would endeavour to assist him in the attainment of his object.

You are doubtless cognisant of the Marquis of Ripon's despatch of June 28th, 1895, to the Governors of the principal British Colonies, in which it was laid down that commercial negotiations of this nature, being between his Majesty and the Sovereign of the foreign State, should be conducted by his Majesty's Representative at the Court of the foreign Power. A copy of this despatch is enclosed herewith.

I do not, however, think it necessary to adhere in the present case to the strict letter of this regulation, the object of which was to secure that negotiations should not be entered into and carried through by a Colony unknown to and independently of his Majesty's Government.

The selection of the negotiator is principally a matter of convenience, and, in the present circumstances, it will obviously be more practical that the negotiations should be left to Sir W. Laurier

and to the Canadian Minister of Finance, who will doubtless keep you informed of their progress.

If the negotiations are brought to a conclusion at Paris, you should sign the Agreement jointly with the Canadian negotiator, who would be given full powers for the purpose.[1]

I am, &c.,

E. GREY.

[1] The treaty of September 19, 1907, was signed by Sir F. L. Bertie, His Majesty's Ambassador at Paris, and the Canadian Ministers, the Hon. W. S. Fielding and L. P. Brodeur.

3. THE NEWFOUNDLAND FISHERIES DISPUTE

The Earl of Elgin to Sir W. Macgregor

DOWNING STREET,
September 19, 1907.

SIR,

His Majesty's Government consider it to be due to your Government, as well as to themselves, to place on record in a more complete form than is possible by the medium of telegrams the reasons which have led to the conclusion of the *modus vivendi* with the United States regarding the Newfoundland fisheries, and to the passing of the Order in Council of the 9th of September, of which your Government was informed in my telegrams of the 7th and 9th instant.

2. As your Ministers are aware, his Majesty's Government and the Government of the United States of America differ fundamentally in their interpretation of the Convention of 1818 regarding the nature and extent of American fishery rights in Newfoundland waters. The details of the controversy are familiar to your Ministers, and may be summed up in the proposition that the United States Government claim that that Treaty confers upon American fishermen a right to fish in the specified waters of Newfoundland free from

the exercise of any control by the Colonial Government, or at most subject only to such regulations and restrictions as were in force in 1818 at the date when the Treaty came into force, while his Majesty's Government contend that there is nothing in the Treaty to derogate from the recognized sovereignty of his Majesty in Newfoundland, and that the American fishermen are subject to all enactments and regulations for the preservation of the fishery which are applicable to the fishermen of Nowfoundland.

3. In the case of a fundamental divergence of views between friendly Powers, there are no means of settling the dispute save by diplomacy or arbitration. His Majesty's Government made every effort to obtain a satisfactory solution of the question by the former method, but they cannot disguise from themselves the fact that their efforts to do so were seriously prejudiced by the fact that the United States Government were convinced that the legislation of Newfoundland in 1905 and the Bill of 1906 were designed rather as measures of retaliation than to further the preservation of the common fishery.

4. The situation was fully discussed with your Premier on his visit to England in connexion with the Colonial Conference, and Sir R. Bond expressed himself as strongly in favour of a reference to arbitration before the Hague Tribunal. His Majesty's Government were prepared to accept this proposal, and ascertained from the Prime Minister of Canada that, in order to help as far as possible the Newfoundland Government, the Dominion Government would concur in the pro-

posal, which directly affects Canada, since the fishery off the Magdalen Islands is conducted on the same terms as the Newfoundland fishery.

5. His Majesty's Government therefore undertook to approach the Government of the United States of America with a proposal for arbitration, and it was pointed out to Sir R. Bond that, pending the result of communication with that Government and the reference of the whole case to the arbitral tribunal, it would be essential to conclude a *modus vivendi* for the fishery season of 1907. It was, no doubt, logically open to his Majesty's Government to take up the position that the interpretation which they put on the Treaty was so obviously correct that they were resolved to enforce it upon American vessels regardless of the consequences. His Majesty's Government considered, however, that in a case of this kind a reference to arbitration was the proper course to take in dealing with a friendly Power, and it would not have been consistent with such an attitude on their part to insist, pending arbitration, that the United States Government should submit to conditions which would, in the opinion of that Government, have in practice made the rights of American fishermen under the Treaty worthless for the ensuing season.

6. Before Sir R. Bond left England a *modus vivendi* was drafted for submission to the Government of the United States, the terms of which were communicated to your Premier. By that proposal the United States Government was asked to abandon on behalf of their fishermen the claim to use purse seines, to fish on Sundays, and to

employ Newfoundland fishermen. In return their vessels were to be exempt from light dues to the same extent as vessels registered in Newfoundland, and while they were to call at Customs Houses whenever physically possible, the duty was not to be imposed as of legal right. While ready to urge the acceptance of these proposals on the United States Government, his Majesty's Government recognized that they were hardly likely to meet with the approval of that Government, and your Premier was expressly warned that further concessions would be in all probability required.

7. As a matter of fact the United States Government declined to acquiesce in the proposed *modus vivendi* on the ground that to accept it would be to concede all the vital points in dispute. Your Government was informed of this in my telegram of the 23rd of July, the text of which—as there has been dispute as to its exact significance—I append in full.

'We have now received answer from the United States Ambassador to our note of the 20th June, which was shown to your Prime Minister, and a copy of which was privately sent you on the 21st June. The effect of the note is that the United States Government cannot give their acquiescence to the present proposals of his Majesty's Government, which they feel would be tantamount to yielding all vital questions in dispute. In their opinion the surrender of the right to hire local fishermen, and the surrender at the same time of the use of purse seines and of fishing on Sunday would render their treaty rights worth-

less. We are, therefore, face to face with a reference of pending questions to arbitration, and an *ad interim* renewal of the *modus vivendi*. The United States Ambassador has proposed arbitration before the Hague Tribunal, and suggests that a conclusion to the proceedings will be reached in so short a time that last year's *modus vivendi* can be continued without causing any real hardship to the Colony. If, however, we refused to renew the agreement as to the employment of Newfoundland fishermen, they would be compelled to insist on the use of purse seines. To give up both points they would consider equivalent to abandoning altogether their treaty rights.

'From the proceedings at the Conference, and also from the correspondence which took place with me, his Majesty's Government are aware that Sir R. Bond is desirous to have all the outstanding questions settled by arbitration before the Hague Tribunal, and the United States Government are being so informed, and a communication will be addressed to you on procedure relating to that subject, but I shall be glad, in the meantime, of the observations of your Prime Minister upon the continuance of last year's *modus vivendi*, especially whether he attaches more importance to the prohibition of the employment of Newfoundland fishermen or to that of the use of purse seines. Telegraph reply.'

It was the intention of this telegram—and on careful perusal of its terms I confess I think the intention was clearly expressed—to convey to your Ministers the fact that in the opinion of his Majesty's Government it was imperative to con-

clude some *modus vivendi* with the United States Government for the season of 1907, and to invite their opinion as to the terms of that *modus vivendi* in regard to the points to which the United States Government took exception—the prohibition of the employment of Newfoundland fishermen and of the use of purse seines.

8. The reply of your Ministers to this telegram was forwarded in your telegram of the 2nd of August, and was to the effect that your Ministers declined to recognize the necessity for any *modus vivendi*, and did not consider that they should be called upon to decide, as suggested in my telegram of the 23rd of July, upon the relative importance of prohibition of the use of purse seines and prohibition of the employment of Newfoundland fishermen. They suggested, however, that it would be possible for his Majesty's Government to abrogate the 1818 Treaty—a suggestion which it is difficult to believe can have been meant seriously, and that it would be sufficient if the Fishery Regulations were communicated to the Government of the United States in order that exception might be taken to such as seemed objectionable and the Regulations be amended if necessary before the fishery season began.

9. In my telegram of the 10th of August, I pointed out that the time before the opening of the fishery season at the beginning of October was much too short to allow of any decision of the Hague Tribunal being received, and your Ministers no doubt recognize that as the whole question at issue is the validity of the Regulations in ques-

tion, nothing could have been effected by a mere examination and discussion of the Regulations between the two Governments in the six or seven weeks before the opening of the fishery. I therefore stated that his Majesty's Government had proposed a *modus vivendi* for 1907 on the lines of that for 1906, but excluding the right of using purse seines, and I enquired in my subsequent telegram of the 16th of August whether his Majesty's Government could rely on the co-operation of your Government in carrying out the *modus vivendi*.

10. I may explain that in deciding on the terms of the *modus vivendi* his Majesty's Government were seriously hampered by being left in ignorance of the comparative importance attached by your Government to the question of the use of purse seines and the employment of Newfoundland fishermen. Sir R. Bond during the discustion in England took exception in the strongest terms to concession on either point, but, in deciding that the use of purse seines should be prohibited, his Majesty's Government were influenced mainly by two considerations. In the first place, while there is no doubt that the use of purse seines in the narrow bays of Newfoundland is attended by serious difficulties, it is equally clear that if deprived of the help of Newfoundland fishermen the American vessels would be forced either to return empty or to attempt to use purse seines. The effort to do so would almost inevitably have led to disputes between the American and Newfoundland fishermen, either party seeing that their means of livelihood were threatened by the

action of the other, with the result that disturbances such as those at Fortune Bay in 1878, which cost her Majesty's Government in compensation to the United States fishermen over £11,000 in addition to the sums actually refunded by the Newfoundland Government, might have broken out, embittering the feeling between the two Governments, and endangering the success of the proposed arbitration. In the second place, the use of purse seines is definitely forbidden by the law of Newfoundland, and to sanction their employment would be deliberately to override an enactment of the Colonial Legislature. But the employment of fishermen is in a different category. Whatever penalties the fishermen may expose themselves to—and on this matter I express no opinion, as the case is still *sub judice*—there appears to be nothing in the law of Newfoundland which authorizes the infliction of a penalty on American vessels employing these men. To permit the hiring of Newfoundland fishermen therefore involved no breach, as far as his Majesty's Government were aware, of the law of the Colony. If, however, his Majesty's Government are wrong in the concession which they have made to the Government of the United States, it must be borne in mind that your Ministers, when consulted, refused to give advice on the subject, even under protest.

11. Even in your telegram of the 14th of August, no reference was made to this point. Your Ministers confined themselves to protesting against the conclusion of a *modus vivendi* without submission of its terms to, and approval by, them,

and they stated that, had this step been taken, they would, in view of the assurance that the questions at issue would be submitted to arbitration, and the fact that Imperial interests of great importance were involved, have readily adopted measures to render unnecessary any action by his Majesty's Government.

12. In my reply of the 16th of August, I pointed out that in my telegram of the 23rd July, I had intimated that a *modus vivendi* must be concluded, and had expressly invited your Minister's views as to its terms, and that your Ministers were therefore wrong in considering that they had in any way been ignored. I accordingly invited their co-operation in carrying out the *modus vivendi*, and suggested either that they should undertake not to enforce so much of the Colonial laws as conflicted with the terms of the *modus vivendi*, or that they should pass legislation to give statutory sanction to the *modus vivendi* until the decision of the Hague Tribunal was secured, thus maintaining to the full the authority of the Colonial Government. I added that I had received the assent of the Dominion Government to arbitration, and that pending the settlement of the dispute by arbitration, his Majesty's Government greatly deprecated even the appearance of differences between them and the Government of Newfoundland as to Colonial rights.

13. Your Ministers' reply conveyed in your telegram of the 20th of August declined to accept the *modus vivendi*, but, for the first time, put forward an alternative suggestion such as might be proposed to the American Government. As

explained by your telegram of the 22nd of August, their suggestion was that, the *modus vivendi* being withdrawn, the Colonial Government should permit American fishermen to purchase fish from Newfoundlanders at two dollars a barrel, which was 75 cents a barrel more than the market price in 1906, but which was no doubt a fair price in 1907. His Majesty's Government lost no time in putting the proposal before the American Government, but the United States Ambassador replied that his Government regretted that they could not accept the offer, since the fishing fleet had already sailed. Your Ministers were so informed in my telegram of 30th August, and I again invited them to co-operate in carrying out the proposed *modus vivendi*, which was then inevitable in view of the necessity of some arrangement being made before fishing began.

14. To the great regret of his Majesty's Government your Ministers declined to accept their invitation, and merely reiterated, in your telegrams of the 1st and 4th of September, their readiness to permit the Americans to purchase fish if the proposed *modus vivendi* were withdrawn. They declined absolutely to allow the employment of Newfoundland fishermen by United States vessels, and his Majesty's Government had no option, since the American vessels had already started, and some arrangement was imperative, but to conclude on the 6th of September the *modus vivendi* formally suggested by the United States Ambassador on the 4th of September. But in doing so, they were able to secure a most valuable concession for your Government, for

the United States Ambassador consented to add to his note an undertaking that his Government would be ready to give the most favourable consideration to any arrangement made locally between your Government and the American fishermen in modification or supersession of the *modus vivendi*. It is therefore open to your Ministers to adopt an arrangement similar to the proposal made in your telegram of the 20th of August, which they stated would be readily accepted by the American fishermen.

15. Having concluded the *modus vivendi*, his Majesty's Government were under an obligation to take the necessary steps to carry out its provisions. As your Ministers are aware, this was done last year, partly by the action of the Naval Officer commanding on the Newfoundland Station, and partly through the forbearance of your Ministers to press any proceedings against the Newfoundland fishermen employed by the American vessels. But such a state of affairs could not be expected to be repeated in the season of 1907, and your Ministers had definitely refused to undertake not to apply the Colonial laws to American vessels. If, then, his Majesty's Naval Officers had taken steps to enforce the *modus vivendi* by preventing, say, the arrest of a Newfoundland fisherman on an American vessel by an officer of your Government, his action would have been illegal, and would have exposed him to a suit in which he might have been condemned in heavy damages, which must have been paid by his Majesty's Government. His Majesty's Government were not inclined to give an opening

for such complications, and they felt that it would be a deplorable incentive to lawlessness if a collision were to take place between the officers of his Majesty in his Imperial and Colonial Governments. They therefore decided that recourse should be had to the powers conferred on his Majesty in Council by Section 1 of the Imperial Act 59 G. III., c. 38, which enables his Majesty by Order in Council to issue from time to time directions for securing to the United States fishermen the rights granted them by the Treaty of 1818. This order is, however, restricted to the bare minimum necessary to secure the uninterrupted exercise by the American fishermen of their treaty right pending the decision of the Hague Tribunal as to the precise extent of that right. It does not purport to authorize Newfoundland fishermen to fish for American vessels if the result of the pending litigation should establish that to do so is illegal; it merely enacts that process against such fishermen shall not be served on American vessels, nor shall such vessels or their tackle be liable to seizure. His Majesty's Government sympathize indeed—as do your Ministers—with the hardships at present entailed on the fishermen of Newfoundland, but, while they claim for themselves the right to act in Imperial interests of the gravest moment, they do not assert any right to regulate the relations between the Government of Newfoundland and any section, however numerous, of the people of the Colony. They have, therefore, instructed the Senior Naval Officer on the Station to cooperate in every possible way with your Govern-

ment in carrying out the law of the Colony as modified by the Order in Council and in endeavouring to effect an arrangement with the American fishermen satisfactory to your Government in supersession of the *modus vivendi*.

16. I am, however, constrained to add that his Majesty's Government cannot but feel that in this important question they have not received all the assistance which they were entitled to expect at the hands of your Ministers. My colleagues and myself are not responsible for, and did not create, the burdensome treaty obligations which bear so heavily on Newfoundland; and the practical sympathy of this country with the Colony was shown in 1904, when the late Government, with the full approval of every section of the community, made considerable sacrifices, not merely of money but of British territory, in order to relieve Newfoundland from the most onerous of the French treaty rights. But whatever charges may be brought against the policy which, in 1818, conceded the American treaty rights of fishery, nevertheless those rights remain binding, and have been continuously exercised for nearly ninety years. Circumstances have hitherto prevented any serious difficulty arising in this connexion, so far as Newfoundland has been concerned, but, since their extent has been questioned, it is the duty of the Imperial and Colonial Governments to co-operate with each other in effecting a satisfactory settlement. I do not think that your Ministers can deny that his Majesty's Government have given the fullest consideration to your Premier's views as expressed both when in London

and since his return to Newfoundland, and on reflection they will probably admit that the extent to which concession to the United States Government is desirable and right is a matter in which, in case of difference, some consideration must be shown for the view of his Majesty's Government, who are trustees of the interests of the whole Empire as well as of Newfoundland. Considering that the Government of Canada—which has at present a satisfactory working arrangement as to treaty rights with the United States—has shown its sense of the necessity of unity of action in foreign affairs by associating itself with Newfoundland in reference to arbitration of the interpretation of the Treaty of 1818, his Majesty's Government cannot but feel that some consideration might have been accorded by your Ministers to their appeals for co-operation in arranging what is, after all, merely a temporary *modus vivendi* pending the settlement of the main issues by arbitration. They trust, therefore, that your Ministers may yet decide to work in harmony with the Imperial Government, in which case his Majesty will at once be advised to revoke the Order in Council of the 9th of September, and both Governments will be able to devote themselves to the important task of preparing the case of the Colonial Government for the consideration of the Hague Tribunal.

17. Your telegram of the 11th of September reports that your Ministers request that time may be given to them for consideration of the situation created by the issue of the Order in Council, and that in the meantime the publication

of the Order in Council may be held over. I gladly comply with this request—though strictly speaking it is proper that an Order in Council should receive immediate publicity—as I am anxious now and always to show every courtesy and consideration to the wishes of the Colonial Government. But it must clearly be understood that you are instructed to publish the Order in Council immediately on the arrival of the American fishermen, unless before that date your Government have given their adherence to the *modus vivendi*, and have undertaken to carry it fully into effect. The American fishermen are entitled, as soon as they arrive in Newfoundland waters, to the protection of the *modus vivendi*, and his Majesty's Government cannot risk the possibility of having the validity of an Order of his Majesty in Council questioned on the ground that it had not been made known to the subordinate officers of your Government.[1]

I have, &c.,

ELGIN.

[1] In the following year the Government of Newfoundland agreed to co-operate with the Imperial Government, and the Order in Council was then revoked.

4. THE PARTICIPATION OF THE DOMINIONS IN FUTURE HAGUE CONVENTIONS

Right Hon. Sir Edward Grey's Speech at the Imperial Conference, 1911

Sir Edward Grey: Now, as to the point of consultation, I think you will have gathered, from what I have already said, that the Declaration of London arises out of the last Hague Conference. It was a subsidiary consequence of the last Hague Conference. I see I am reported to have said in one answer that it was not practicable to consult. I have forgotten the exact context of the answer, but no doubt I used those words.

Mr. Batchelor: It was a newspaper report. I did not look up Hansard.

Sir Edward Grey: Yes, I have a recollection of using those words; but as a matter of fact it was very difficult, or it would have been very difficult, after the Dominions had not been consulted about the Hague Conference and the Prize Court Convention, to bring them in suddenly with regard to the Declaration of London. Once the whole thing had been launched, and when there was no arrangement in existence for consultation with the Dominions, it would have been

exceedingly difficult—perhaps 'not practicable' is too strong a word, but difficult and exceedingly inconvenient—suddenly to set up a consultation with regard to the Declaration of London, when there had been none with regard to the Hague Conference. I would take even a larger point than Mr. Fisher took, though I rather understood him to imply it. The point should be not why were not the Dominions not consulted about the Declaration of London, but why were not they consulted with regard to the Hague Conference. If they had been consulted with regard to the programme of the Hague Conference it would follow as a matter of course that they would have been consulted with regard to the Declaration of London. I do not know that I can give any answer to that point except they were not consulted about the Hague Conference which took place before that—a still earlier one. I agree, and the Government agrees entirely, that the Dominions ought to be consulted, and that they ought to be consulted before the next Hague Conference takes place about the whole programme of that next Conference, and then, of course, they would be consulted automatically with regard to everything that arises out of it.

Mr. Fisher: I only wish to convey to this Conference and to the Government that we desire, as far as it is practicable to do so, not only to be consulted after things are done, but to be consulted while you have ideas in your minds and before you begin to carry them out and commit us to them. As regards this other point, we are only responsible for what we do here, and as it is

necessary to begin at some point I shall be very glad if the Government are ready to begin now.

Sir Edward Grey: I think what I am going to say will show that the Government not only thoroughly understand the scope of Mr. Fisher's point, but also, in practice, could meet it. The procedure with regard to the next Hague Conference will, I presume, be the same as it was with regard to the last. There is, first of all, an international programme drawn up. That is the first thing. When that programme is drawn up it is received by the Government here, and it will be circulated to the Dominion Governments. It is drawn up some time in advance. What we do here ourselves is to have an inter-departmental conference which considers that programme, and considers what instructions should be given to the British delegates who are going to the Hague Conference, as to the line they should take on the different points. I think, obviously, the time for consultation to begin is when that inter-departmental conference, as we have called it hitherto, takes place, and that the Dominions should, in whatever way they found most convenient, which would be made known through Mr. Harcourt, or the Secretary of State for the Colonies, be represented at that inter-departmental conference and so be present and be a party to drawing up the instructions which are to be given to the delegates at the Hague Conference. Then, of course, the delegates go to the Hague Conference to carry out the instructions. The Dominion Governments will then be parties to the instructions, but they, like the Government here, of course, have to leave

considerable latitude to the delegates to carry out those instructions at the Conference. The delegates will carry out those instructions, but no doubt from time to time while the Conference is proceeding points arise, which have to be answered by telegraph sometimes, and I think then it would be impossible to have consultation on every point that arises, because there is no time, owing to the necessities of the case. As a matter of fact, during the last Hague Conference, theoretically the whole Cabinet ought to have been consulted here on points as they arose, but there was no time. Parliament is not always sitting, the Cabinet is separated, and some individual Minister here, unfortunately the Secretary of State for Foreign Affairs generally, has to take the responsibility of dealing with points which arise from moment to moment.

Mr. Fisher: And then blame the Prime Minister.

The President: As a matter of fact, the Prime Minister can generally be communicated with, but you cannot assemble the Cabinet.

Sir Edward Grey: Just in the same way as one individual Minister sometimes has to act and take responsibility without consulting the Cabinet, and the Prime Minister has to act without consulting the Cabinet on some things from the nature of the case when there is not time, so the Home Government, when the Conference is going on, would have to deal with the points without being able to consult the Dominions, simply because it is not physically possible to do so. Then there will be Conventions signed at the Hague Conference, and a considerable interval for ratifica-

tion. Those Conventions will be circulated to the Dominion Governments, and they will have an opportunity of signifying whether they are satisfied with those Conventions or not. If they are not satisfied, and if those Conventions are not ratified, and if the matter is really of great importance, we must have, of course, something in the nature of a conference here, to which the Dominions who found themselves specially interested could name their own representative and send him to thresh the matter out, and the final decision, whatever it was, would be come to, I hope unanimously; but anyhow, whatever the decision come to was, it would be after considerable consultation and there could be no complaint again in future that there had not been consultation between the Dominions and the Home Government.

It is possible that some Convention by the Hague Conference may be signed, which the Home Government may approve of, and which one of the Dominions may object to, and another may strongly approve of, and so forth, so we cannot be sure of unanimity; but we can be sure of consultation, and it is the intention of the Government in future—and I have described the process gone through in order to make it clear—not only to have consultation, but to make that consultation really a practical thing, which, as regards the proceedings of the Hague Conferences, and so forth, will be, and can be, carried out. . . .

Mr. Fisher: Do I understand you to limit this to matters which may be referred to the Hague Conference? We wanted to go into other departments of your work.

Sir Edward Grey: You mean into treaties generally.

Mr. Fisher: Yes.

Sir Edward Grey: I do not intend to limit it to that. There are some cases of treaties where it is exceedingly difficult, owing to time, to have any such consultation.

Mr. Fisher: We recognize all that, but I do not wish it to be limited to the Hague Conference.

Sir Edward Grey: I did not in the least mean it to be exclusive.

Mr. Fisher: You only mentioned that one particularly.

Sir Edward Grey: I was taking that as an instance where it is quite easy. There are cases where it is difficult, but in so far as it can be done we would do it. I will give you one instance now where we are engaged in certain negotiations.

Mr. Fisher: I would rather not hear that. It is not restricted in your own mind merely to the Hague Conference?

Sir Edward Grey: Certainly not.

Sir Wilfrid Laurier: In the proposition which was moved by our colleagues from Australia, especially as commented upon by Mr. Fisher, certain principles were laid down which seemed to me to be very far-reaching. If I understand him correctly, the proposition he laid down was that the Dominions should be consulted upon all treaties to be negotiated by his Majesty. There are two sorts of treaties between nations. First of all there are commercial treaties; and secondly there are treaties of amity, which are calculated to prevent causes of war, or to settle afterwards

the effects of war. With regard to commercial treaties, his Majesty's Government has already adopted the practice of never including any of the Dominions beyond the seas except with their consent. That implies consultation prior or afterwards. Liberty is left to us to be included or not included in such a treaty as that, and I think that is very satisfactory.

In Canada, I may say, we have gone further and claimed the liberty of negotiating our own treaties of commerce, and, so far, since the time we applied for this privilege, which was given to us, of course the negotiations have been carried on with the concurrence of the Foreign Office in conjunction with the Ambassador; but at all events our liberty was not restricted at all in that respect.

Coming now to the other class of treaties, which I characterized as treaties of amity, it would seem to me that it would be fettering, in many instances, the Home Government—the Imperial authorities—very seriously, if any of the outside Dominions were to be consulted as to what they should do on a particular question. In many cases the nature of the treaty would be such that it would only interest one of the Dominions. If it interested them all the Imperial authorities would find themselves seriously embarrassed if they were to receive the advice of Australia in one way, the advice of New Zealand in another way, and the advice of Canada, perhaps, in a third way. Negotiations have to be carried on by certain diplomatic methods, and it is, I think, not always safe for the party negotiating to at once put all

his cards on the table and let his opponent know exactly what he is after.

I noticed particularly what was said by Mr. Fisher a moment ago, that the British Empire is a family of nations, which is perfectly true; but it must be recognized that in that family of nations by far the greater burden has to be carried on the shoulders of the Government of the United Kingdom. The diplomatic part of the Government of the Empire has of necessity to be carried on by the Government of the United Kingdom, and, that being so, I think it would be too much to say that in all circumstances the Dominions beyond the seas are to be consulted as far as the diplomatic negotiations are concerned. That is what I understood Mr. Fisher to desire.

Mr. Fisher: My last point was that it should be done whenever possible.

Sir Wilfrid Laurier: I have no doubt that, wherever possible, the Government of the United Kingdom will do its duty.

Mr. Fisher: And primarily when our interests were involved.

IX

THE UNITY OF THE EMPIRE

1. THE ADDRESS FROM THE PARLIAMENT OF CANADA ON HOME RULE FOR IRELAND

(1) *The Marquis of Lorne to the Earl of Kimberley*

GOVERNMENT HOUSE, OTTAWA,
May 16, 1882.

MY LORD,

I have the honour to forward herewith, in order that it may be laid at the foot of the Throne, an Address to her most Gracious Majesty the Queen, agreed to by the Senate and House of Commons of Canada in Parliament assembled in relation to affairs in Ireland.

I have, &c.,

LORNE.

ENCLOSURE

MOST GRACIOUS SOVEREIGN,

We, your Majesty's most dutiful and loyal subjects, the Senate and Commons of Canada, in Parliament assembled, desire most earnestly, in our own name, and on behalf of the people whom we represent, to renew the expression of our unswerving loyalty and devotion to your Majesty's person and Government.

1. We have observed, may it please your Majesty, with feelings of profound regret and concern, the distress and discontent which have prevailed for some time among your Majesty's subjects in Ireland.

2. We would respectfully represent to your Majesty that your Irish subjects in the Dominion of Canada are among the most loyal, most prosperous, and most contented of your Majesty's subjects.

3. We would further respectfully represent to your Majesty that the Dominion of Canada, while offering the greatest advantages and attractions for those of our fellow-subjects who may desire to make their homes amongst us, does not receive that proportion of emigrants from Ireland which might reasonably be expected, and that this is due, in a great measure, in the case of many of our Irish fellow-subjects who have sought foreign homes, to their feelings of estrangement towards the Imperial Government.

4. We would further most respectfully represent to your Majesty, that in the interests of this your loyal Dominion and of the entire Empire, it is extremely to be desired that your Majesty may not be deprived in the development of your Majesty's possessions on this continent of the valuable aid of those of your Majesty's Irish subjects who may feel disposed to leave their native land to seek more prosperous homes.

5. We desire respectfully to suggest to your Majesty, that Canada and its inhabitants have prospered exceedingly under a Federal system, allowing to each Province of the Dominion con-

siderable powers of self-government, and would venture to express a hope that, if consistent with the integrity and well-being of the Empire, and if the rights and status of the minority are fully protected and secured, sure means may be found of meeting the expressed desire of so many of your Irish subjects in that regard, so that Ireland may become a source of strength to your Majesty's Empire, and that your Majesty's Irish subjects at home and abroad may feel the same pride in the greatness of your Majesty's Empire, the same veneration for the justice of your Majesty's rule, and the same devotion to, and affection for, our common flag, as are now felt by all classes of your Majesty's loyal subjects in this Dominion.

6. We would further express a hope that the time has come when your Majesty's clemency may, without injury to the interests of the United Kingdom, be extended to those persons who are now imprisoned in Ireland charged with political offences only, and the inestimable blessing of personal liberty restored to them.

We pray that the blessings of your Majesty's Reign may, for your people's sake, be long continued.

D. L. MACPHERSON,
Speaker.
J. G. BLANCHET,
Speaker.

The Senate,
Wednesday, 3rd May, 1882.
House of Commons,
Thursday, 20th April, 1882.

(2) *The Earl of Kimberley to the Marquis of Lorne*

DOWNING STREET,
June 12, 1882.

MY LORD,

I have received and laid before the Queen the Address to her Majesty from the Senate and House of Commons of Canada in Parliament assembled, which was transmitted in your Lordship's despatch of the 16th of May.

I am commanded by her Majesty to request that you will convey to the Senate and House of Commons her appreciation of the renewed expression of their unswerving loyalty and devotion to her Majesty's person and Government.

Her Majesty will always gladly receive the advice of the Parliament of Canada on all matters relating to the Dominion, and the administration of its affairs; but, with respect to the questions referred to in the Address, her Majesty will, in accordance with the Constitution of this country, have regard to the advice of the Imperial Parliament and Ministers, to whom all matters relating to the affairs of the United Kingdom exclusively appertain.

I have, &c.

KIMBERLEY.

2. MEMORANDUM BY SIR JULIUS VOGEL ON THE FEDERATION OF THE BRITISH EMPIRE

SIR JULIUS VOGEL has the honour to submit to his Excellency,[1] for transmission to the Right Hon. the Secretary of State for the Colonies, a memorandum on the question of the Federation of the British Empire. He ventures to do so because he understands from remarks made by Lord Derby on a public occasion, or in the House of Lords—he is not certain which—that his Lordship, in referring to this question, said it was necessary to know precisely what was meant by it, and what the Colonies thought of it. Sir Julius Vogel was, he believes, the first to ventilate this question some fourteen years since in a letter to the *Standard* newspaper, and subsequently in several magazine articles. He is aware that neither for this nor for other reasons has he the right to speak with authority about it. But it is evident that at the present time no one has the right to speak with authority for the Colonies, and the nearest approach to what Lord Derby asks can only as yet be obtained by the ventilation of the views of those who take an interest in the question. Public opinion has yet to be formed on the subject. Sir Julius Vogel hopes that this

[1] The Governor of New Zealand.

explanation will exonerate him in the minds of the Secretary of State and of the Governor from the charge of presumptuously volunteering his opinion on the question.

Federation of the Empire Sir Julius Vogel understands to mean the promulgation of such a constitution as will indissolubly knit all Great Britain's vast territories into one dominion, without power to any part to retire from the federation. At present it is to be presumed that Great Britain would not listen to the severance of any Crown Colony or of India. But as regards the constitutional Colonies it is generally understood that, though the mother country desires to retain them, she would not force them to remain parts of the British dominions in the face of a well-matured desire on the part of one or more of them to separate. The Colonists generally—it may be said universally—entertain the profoundest feeling of admiring esteem and loyal love for their gracious Sovereign. They recognize also the favourable anticipations in which they may justly indulge as to the future sovereignty. But no personal feeling of loyalty can possibly do away with the logical certainty that, when the time comes that the effective population (by which is meant that portion of the population which has a share in electing the representative portion of the Legislature) approaches in numbers the effective population of the United Kingdom, they will not agree to let the people of the latter solely regulate the external affairs of the nation. It is of course difficult to fix a standard; but it is certain that when the population of Australasia and Canada

combined equals the population of Great Britain, and probably long before that time, neither Canada nor Australasia will be content to remain without a voice in the Government of the British Empire, so far as relates to external subjects, or indeed to all subjects upon which the issues of peace and war depend. It is manifestly impossible that they will feel otherwise, educated as they will have been in a deep veneration for representative institutions. How can it be imagined that many millions of self-governing, wealthy, and powerful people will consent, without exercising substantial control, to the horrors of war being thrust upon them, to share in submission to affronts which they might consider would render war preferable to peace, or to treaties being negotiated which vitally affected their interests!

Within a period which in the life of a nation may be considered quite brief, the population of the Colonies will grow to the dimensions which, as has been said, would place their decision beyond doubt. But as they attain to this numerical strength the feeling will mature, and it is impossible to predicate when it will commence, when it will become ominous, when irresistible. The culmination of the sentiment, and the nature of the terms, depend somewhat on whether the separate Colonies federate amongst themselves or retain their individual entities. An Australasian federation, for example, would grow earlier to ask for a share in the government of the Empire than would the Colonies separately, and would be more excessive in its demands.

If, then, what to the writer seems the matho-

matical certainty is recognized, that the Colonies will within a few years insist upon having a voice in the affairs upon which peace, war, and treaties depend, it becomes a question, Should they attain to this voice gradually or by a violent wrench, when endurance is stretched to its extreme limit? Apart from the fact that under a violent strain the conditions are not likely to be so suitable or equitable as if they are gradually matured, there is everything in favour of educating both the mother country and the Colonies into a workable system by tentative and early steps. This is so obvious that it would seem nothing more need be said to prove that the question is of an urgent nature.

If it be conceded that federation is the sole alternative to the breaking-up of the Empire within a comparatively short period, and that it means that the several parts of the British dominions must have a share in the government of the whole, it becomes necessary to consider how that share can be given. Obviously the share must be proportional to the importance of the portions represented, and in this fact there is a strong argument for early action, because, whilst early action will not give undue strength to the outlying dominions, it will accustom them to wisely co-operate as their strength increases.

The easiest way of arriving at a conclusion as to the means to be adopted is to first examine the difficulties to be overcome. It would be a mistake to conceal that the obstacles are of a formidable nature. The principal ones may be thus enumerated:

1st. That it is necessary to strictly guard against any interference by the Federal Government with the internal affairs of the constituent parts of the federation.

2nd. That the parliamentary system of the mother country is wholly wanting at present in any means by which representation could be given to the Colonies without a liability of their interfering in local affairs.

3rd. That the Colonies at present do not contribute to the cost of maintaining the external policy of Great Britain, and that it would be incongruous to give them control over expenditure to the defrayal of which they provide no share.

4th. The difficulty of securing representation which would give satisfaction to the Colonies, and of bringing them to an agreement with any system arbitrarily framed.

The first and second obstacles point to the creation of a new Parliament to lead only with external affairs, which would, of course, include the means of attack and defence. But it may be at once admitted that any contribution the Colonies would be willing to make to the cost of the forces of the Empire, at the present stage of their development, would fall far short of an amount which would warrant so great a disorganization of the existing parliamentary system of Great Britain as a distinct Federal Parliament would entail. The Colonies are not now in a position to ask for anything of the kind, though obviously, when, in

population and importance, they grow nearer on a par with the mother country, a Federal Parliament would be a necessary adjunct to federation.

It is not to be expected that the third obstacle can be met without a great deal of consideration and negotiation. As to absolute cost, it is probable that any contribution the Colonies would have to make on any reasonable basis to the cost of the forces and defence of the Empire would fall far short of what they are now spending in more or less isolated efforts in the way of defence. But they are not sufficiently educated on the subject to negotiate on the basis of the three points: indissoluble connexion, money contribution, and efficient representation. If (which is to be doubted) the mother country were really able to make them a hard-and-fast proposal, the Colonies are scarcely yet in a position to entertain a proposition which would bind their future condition for all time to come.

In short, in any way in which the subject is regarded, it is evident that the time is not ripe for its definite settlement. And yet, as has already been said, there are the strongest reasons for leading up to it as early as possible. If the Colonies were much more populous and much more important there would be equal difficulty in the way of coming to a conclusive arrangement with them. True, they would be entitled to more consideration; but that very fact would make them more timid. These premises point to the inevitable deduction that if federation of the Empire is to be brought about it must be arranged by tentative and progressive steps. The interests

are too vast and the field too new to make a final commitment possible until a great deal is ascertained by actual experiment.

This means, in other words, that before arriving at any final arrangement the mother country must test how it will be possible to give the Colonies a recognized position in the deliberations of the Empire with satisfaction to herself and them.

Several expedients have been proposed, such as a Board or Council to the Secretary of State, the giving a more defined and responsible position to the Agents-General, the leaving the Secretary of State from time to time to invite the co-operation of the Colonies, and other plans of the same character. They are all open to the objections that they are not sufficiently elastic and capable of expansion, and that they are out of harmony with the ingrained feeling in the Colonies that political power should proceed from an elective, and not a nominated, source. The test of any plans of this kind is really to be found in late events, and the writer confesses these have altered some of his previous opinions as to the practicability of depending on Councils of Advice. During the last eighteen months the mother country has been considerably interested in those questions relating to the Pacific Islands, which the Colonies of Australasia have regarded as possessing supreme importance. These Colonies have been represented in the mother country by exceptionally able Agents-General, well fitted for any confidence her Majesty's Government might deem it fitting to repose in them. But yet they have in no sense

been called into council. That it has not been deemed expedient to associate them in the negotiations which have been proceeding is proof sufficient that a system of Council or Board of Confidential Advice is not found desirable or workable. Had it been otherwise there probably never was a time during which the Secretary of State would have been more inclined to such a plan. There remains an alternative, which is free from many, though not all, of the objections touched upon, and which is by far the most promising course, inasmuch as it may be brought to a conclusion at any time if not found satisfactory, whilst, if it should prove acceptable, it is capable of being worked out to the ultimate end desired. That plan is to give to the Colonies the right to elect a certain number of members to the House of Commons. It is not much to the purpose to say that some foreign countries give to their Colonial possessions representation in the Supreme Legislature, because no foreign colonies have essential features in common with the constitutional Colonies of Great Britain. It is quite the case also that the plan is open in part to the second and third objections previously stated—namely, that such representatives would hold an incongruous position, both in respect to their power of interfering with local affairs and with revenues to which those they represent do not contribute. Possibly some provision might be enacted for limiting the voting of Colonial representatives, although it would be a matter of much regret that such restrictions should be thought necessary. Whilst the objections could not be altogether ignored,

it should be borne in mind that the purpose of the admission of Colonial representatives would be to lead up to an arrangement under which the Colonies would become contributors to the revenues, and that their power of interfering in local affairs would be incidental to its being found more convenient not to organize a Federal Parliament until the arrangements for federation were matured. If federation is ever to be, the source from which it will arise must be the House of Commons, and it has to be remembered that the Imperial Parliament is really only local by its own decisions. The constitutions of all the Colonies are by Act of Parliament, not by charter; and, whilst it would be a broad, it would not be an illogical, contention that it is desirable that the Colonies should be represented whilst the prospect continued of legislation relating to their federation with the Empire. Again, it might with force be urged that, though the Colonies do not now directly contribute to Imperial revenues, they spend a great deal on defences and forces that are essentially of Imperial moment.

The proposed representation might be made experimental, to extend, for example, over the duration of three Parliaments. The number of representatives given to the whole of the constitutional Colonies need only be small, say twenty in all. Much may be said as to the advantages of this proposal. It is free from the principal objection to other plans that they involve the recognition of a new official position. A Colonial representative would be neither more nor less than a member of Parliament. His influence in

the House, or with members, or with the Government, would depend upon the force of his character, the strength of his abilities, and the nicety of his tact and judgement. Gradually the colonial representatives would grow into being considered authorities on matters in which the colonies' interests were concerned. They would be the representative tests of the practicability and the expediency of ultimately creating a Federal Legislature. It would be of paramount importance that they should be elected by the constituencies, not nominated by the governments of the Colonies, and they would thus afford a good indication of what colonial representation in a Federal Parliament would mean. Elected for each Parliament they would be a living bond of communication between the Colonies and the mother country, without interfering with the ordinary administrative communication through the Governors or Agents-General. They would be associated with the growth (if ever there is to be such growth) of a plan for federation, though they would in no way represent or supersede the Executive Governments of the several Colonies. And if federation is not to be, and the Empire in course of time is to be disintegrated, no harm could possibly come of the Colonies having had for a few years their representatives in the House of Commons.

In a former memorandum Sir Julius Vogel urged that the proposed Federal Council of the Australasian Colonies should take the shape of one accountable direct to the several Colonies, and not representative to her Majesty's Government. He thought, and still thinks, that the autonomy of

each Colony should be rigidly preserved. The Australasian Colonies have already the power, and it is likely they will use it, of making Customs treaties between themselves. A legalized power of general convention would complete the measure of authority necessary to enable them to adopt such mutual relations as from time to time they desire. They would be free to enter into a federation of the Empire, and be much more likely to do so than if they were bound up in one dominion, with only one mouthpiece of communication with the mother country.

JULIUS VOGEL.

February 24, 1885.

3. RIGHT HON. JOSEPH CHAMBERLAIN'S SPEECH AT THE FIRST MEETING OF THE COLONIAL CONFERENCE OF 1897

On Thursday, the 24th of June, the Prime Ministers of Canada, New South Wales, Victoria, New Zealand, Queensland, Cape Colony, South Australia, Newfoundland, Tasmania, Western Australia, and Natal, assembled at the Colonial Office, Downing Street, for the discussion of certain Imperial questions with the Secretary of State for the Colonies. It was decided that the proceedings should be informal and that the general results only should be published. With the view of giving a definite direction to the discussion, the Secretary of State, in opening the proceedings, set forth the subjects which he considered might usefully be discussed, so as to secure an interchange of views upon them, and, where they were ripe for a statement of opinion, a definite resolution in regard to them, in the following speech:

I have made arrangements for a full shorthand report of all our proceedings, which will be confidential, unless we otherwise desire, but copies, of course, will be furnished to every gentleman for reference, and possibly later on, if we come to any conclusions, we may consider further whether it is desirable or not that any public statement should be made. In the meantime, until we

come to a united conclusion upon the subject, the proceedings will be treated as absolutely confidential.

'I desire at the outset of these proceedings to offer to you, on behalf of her Majesty's Government, a hearty and cordial welcome. You will have seen in your short visit to this country that all parties, and all classes, are animated by the most affectionate feelings of regard towards our colonial fellow subjects. I think that you may also feel that the main object of your visit has already been to a great extent accomplished. The great pageant to which you contributed so interesting a feature has shown to this country, to the Colonies, and to all the world, the strength, the power, the resources, and the loyalty of the British Empire. It was, I think we shall all agree, a most remarkable and absolutely unparalleled demonstration of personal loyalty to a Sovereign and of the essential unity of the Empire.

Her Majesty's Government, while very anxious to take this opportunity of an interchange of views with you on many matters of common interest, have carefully avoided suggesting anything in the nature of a formal Conference. We do so, in the first place, because we do not wish to detract in any way from the personal character of this visit, and also because we do not desire to take advantage of your presence to force upon you discussions on which you might be unwilling at this moment to enter. On the other hand we are open to consider in the most friendly and the most favourable way any representations which

may be made to us by the representatives of the self-governing Colonies, having regard to the present or the future relations between the different parts of the Empire, and in this respect we are in the position of those who desire rather to learn your views than to press ours upon you. I might, I think, upon this sit down and invite your opinions, but it has been suggested to me, and it seems reasonable to suppose, that it might be convenient to you at this, our preliminary meeting, if I were to state as briefly as I can the subjects which appear to us to be most worthy of our joint consideration, and then it will be for you to say whether these subjects, or any of them, are such as you would like to consider more formally and in detail, in which case I hope we may arrange for subsequent interviews with that object: but to-day I will state for your consideration a list of subjects, and I will ask you to give me your views as to the way in which they should subsequently be dealt with.

Political Relations

Now, gentlemen, undoubtedly the greatest, the most important, and at the same time the most difficult of all the subjects which we could consider is the question of the future relations, political and commercial, between the self-governing Colonies and the United Kingdom. I do not think that it is necessary for me to argue at all upon the advantages of such closer union. Strong as is the bond of sentiment, and impossible as it would be to establish any kind of relations unless that

bond of sentiment existed, I believe we all feel that it would be desirable to take advantage of it, and to still further tighten the ties which bind us together. In this country, at all events, I may truly say that the idea of federation is in the air. Whether with you it has gone as far, it is for you to say, and it is also for you to consider whether we can give any practical application to the principle. It may well be that the time is hardly ripe for anything definite in this regard. It is quite true that our own constitution and your constitutions have all been the subject of very slow growth and that they are all the stronger because they have been gradually consolidated, and so perhaps with Imperial Federation: if it is ever to be accomplished, it will be only after the lapse of a considerable time and only by gradual steps.

And undoubtedly one of those steps to which we must all attach very great importance is the grouping of the Colonies. We rejoice in this country that Canada has already shown the way, with results which every one has seen have conduced greatly to her strength and to her prosperity. We observe, with the most lively interest, the proceedings which are taking place in Australia with the same view. We know that in South African politics the same idea has bulked very largely in the past, and probably will come to the front again. In regard to all these matters it is not for us to offer advice; it is not for us to press upon you in any shape our interference or our assistance. If it be possible for us in any way to help you to give effect to your own desires,

I need not say that we are entirely at your service; but, in the meanwhile, I can assure you, on behalf, I am sure, of the people of this country, that we most heartily wish success to your efforts, believing, as I have said, that it will in your case, as it has already done in the case of Canada, conduce to your prosperity and to your power. But as regards the larger question, and anything in the nature of a federation of the Empire, the subject seems to me to depend entirely upon the feeling which exists in the Colonies themselves. Here you will be met half-way. The question is whether up to the present time there is such a genuine popular demand for closer union as would justify us in considering practical proposals to give it shape.

I feel that there is a real necessity for some better machinery of consultation between the self-governing Colonies and the mother country, and it has sometimes struck me—I offer it now merely as a personal suggestion—that it might be feasible to create a great council of the Empire to which the Colonies would send representative plenipotentiaries,—not mere delegates who were unable to speak in their name, without further reference to their respective Governments, but persons who, by their position in the Colonies, by their representative character, and by their close touch with colonial feeling, would be able, upon all subjects submitted to them, to give really effective and valuable advice. If such a council were to be created it would at once assume an immense importance, and it is perfectly evident that it might develop into something still greater.

It might slowly grow to that Federal Council to which we must always look forward as our ultimate ideal.

And to a council of this kind would be committed, in the first instance, the discussion of all minor subjects of common interest, and their opinion would be taken and would weigh most materially in the balance before any decision were come to either by this country or by the legislatures of the several Colonies in regard to such matters.

There is only one point in reference to this which it is absolutely necessary that we all should bear in mind. It may be that the time has come, and if not I believe it will come, when the Colonies will desire to substitute for the slight relationship which at present exists a true partnership, and in that case they will want their share in the management of the Empire which we like to think is as much theirs as it is ours. But, of course, with the privilege of management and of control will also come the obligation and the responsibility. There will come some form of contribution towards the expense for objects which we shall have in common. That, I say, is self-evident, but it is to be borne in mind, even in these early stages of the consideration of the subject.

Now, gentlemen, in connexion with this subject we have already made a small advance, upon which I congratulate myself, since it was accomplished during my term of office, though it was prepared by my predecessors; and it may have in the future important results. The Judicial

Committee of the Privy Council is the great Judicial Court of Appeal of the Empire. It is the nearest approach, the closest analogy, to the Supreme Court of the United States. It is a body of almost universal and world-wide reputation and authority, and it is our desire naturally, in pursuit of the ideas which I am venturing to put before you, to increase its authority, if that be possible, and to give it a more representative character, and with that view we have most gladly secured the appointment as Privy Councillors of distinguished Judges from the courts of Canada, of Australia, and of South Africa, and they now will take their seats on equal terms with the other members of the Judicial Committee. Well, gentlemen, that is a good beginning, but I do not think that you can feel that at present the arrangement is on a permanent footing. There are objections to the present system which will present themselves to every mind. The Judges who have been chosen have hitherto been Judges who are still in active practice. That at the outset raises a considerable difficulty. It will be difficult for these Judges, even if it were consistent with our general idea of what is right, to take part in appeals in regard to cases upon which they have already decided. And another difficulty is that by the necessity of their position the greater part of their time will be spent in the colonies from which they come. They will only be here for indefinite periods, and as it were on casual occasions. It is impossible to arrange the business of the Privy Council or to delay the suitors to meet their convenience, and the result

of that is that though they would sit as Judges of the Privy Council, it may very often happen that they would not be present or be able to serve precisely on the occasions on which they might be most useful. Now all that could be altered by the Colonies themselves, and this is one of the subjects which I recommend to your attention. If these gentlemen were appointed solely and entirely for the purpose of representing the groups of Colonies on the Privy Council, they could reside permanently in this country, and not being themselves actively engaged in judicial work at home, they could sit and assist the Privy Council in all cases in which their respective Colonies were engaged; and I think this would go very far to strengthen the position of the Privy Council, and at the same time to give to all the Colonies a security that justice would be done when they appeal to this great institution. May I note in passing a matter of some importance in regard to the proposed Australian Federation Bill? It appears in that Bill to be suggested that if it is passed appeals should only go to the Privy Council upon constitutional questions. I venture most respectfully to urge the reconsideration of that suggestion. Nothing is more desirable in the interests of the Colonies, in the interests of the United Kingdom and of the British Empire, than an uniformity of law, and that uniformity can only be obtained by occasional appeals to the highest tribunal, settling once for all the law for all parts of the Empire; and I confess I think it would be a great loss to the Colonists if they surrendered the opportunity of getting this judicial

decision upon difficult and complicated points of law which from time to time may arise in the local courts.

Defence

I have said that the question to which I first directed your attention—that of closer relations—is greater than all the rest. I may say that it covers all the rest, because, of course, if Federation were established, or anything approaching to it, all these other questions to which I am now about to call your attention would be settled by whatever was the representative body of the Federation, and among them, and in the very first rank, must of necessity come the question of Imperial defence. Gentlemen, you have seen something of the military strength of the Empire; you will see on Saturday an astounding representation of its naval strength, by which alone a Colonial Empire can be bound together. You are aware that that representation—great, magnificent, unparalleled as it will be—is nevertheless only a part of the naval forces of the Empire spread in every part of the globe. The great Mediterranean fleet is still at its full force; the fleets on the various stations are all up to their normal strength, and the fleet which you will see on Saturday next is merely the Reserve and the Home fleet, ready to go anywhere, at any time, in the interests of the Colonies and of the United Kingdom.

This gigantic navy, and the military forces of the United Kingdom, are maintained, as you

know, at heavy cost. I think the charge upon the Exchequer is at the present time something like 35 millions sterling per annum, and it constitutes more than one-third of the total income of the country. Now, these fleets, and this military armament, are not maintained exclusively, or even mainly, for the benefit of the United Kingdom, or for the defence of home interests, They are still more maintained as a necessity of empire, for the maintenance and protection of Imperial trade and of Imperial interests all over the world, and if you will for a moment consider the history of this country during, say, the present century, or, I would say, during the present reign, you will find that every war, great or small, in which we have been engaged, has had at the bottom a colonial interest, the interest, that is to say, either of a colony, or of a great dependency like India. That is absolutely true, and is likely to be true to the end of the chapter. If we had no Empire, there is no doubt whatever that our military and our naval resources would not require to be maintained at anything like their present level.

Now I venture to say that that must necessarily be the case in the future. Look at the condition of the Colonies. Assume,—although I am almost ashamed to assume it, even for the purpose of argument,—assume that these Colonies were separated from the mother country. What would be the position of the great Dominion of Canada? The Dominion of Canada is bordered for 3,000 miles by a most powerful neighbour, whose potentialities are infinitely greater than her actual resources. She comes into conflict in

regard to the most important interests with the rising power of Japan, and even in regard to some of her interests with the great empire of Russia. Now, let it not be supposed for a moment that I suggest as probable—I hardly like to think that it is even possible—that there should be a war between Canada, or on behalf of Canada, either with the United States of America, or with any of the other Powers with which she may come into contact; but what I do say is this, that if Canada had not behind her, to-day, and does not continue to have behind her this great military and naval power of Great Britain, she would have to make concessions to her neighbours, and to accept views which might be extremely distasteful to her in order to remain permanently on good terms with them. She would not be able to, it would be impossible that she should, herself control all the details of her own destiny; she would be, to a greater or less extent, in spite of the bravery of her population and the patriotism of her people, she would still be, to a great extent, a dependent country.

Look at Australia again. I need not dwell on the point at any length, but we find the same thing. The interests of Australia have already, on more than one occasion, threatened to come into conflict with those of two of the greatest military nations of the Continent, and military nations, let me add, who also possess each of them a very large, one of them an enormous, fleet. There may be also questions of difficulty arising with Eastern nations, with Japan or even with China, and under those circumstances the

Australasian Colonies are in precisely the same position as the Dominion of Canada. In South Africa, in addition to the ambitions of foreign countries, to which I need not further allude, our Colonies have there domestic rivals who are heavily armed, prepared both for offence and for defence; and again I say, nothing could be more suicidal or more fatal than for any of those great groups of Colonies either to separate themselves in the present stage from the protecting forces of the mother country, or to neglect themselves to take their fair share in those protective resources.

What, then, I want to urge upon you is, and in doing so I think I am speaking to those who are already converted, that we have a common interest in this matter, and certainly it has been a great pleasure to us, a great pride to us, that Australia, in the first instance, offered voluntarily a contribution in aid of the British Navy besides taking her full share of her own military defences. Now we have to recognize that the Cape Colony has followed in that patriotic course. I do not know upon what conditions these gifts may be offered or continued, but, at all events, the spirit in which they have been made is most heartily reciprocated in this country. The amount, of course, is at the present time absolutely trifling, but that is not the point. We are looking to the Colonies as still children, but rapidly approaching manhood. In the lifetime, perhaps, of some of us, we shall see the population doubled, and certainly in the lifetime of our descendants there will be great nations where now there are comparatively sparse populations; and to establish

in the early days this principle of mutual support and of a truly Imperial patriotism, is a great thing of which our Colonial statesmen may well be proud.

I shall be very glad to hear the views of the Premiers in regard to this question of any contribution which they think the Colonies would be willing to make in order to establish this principle in regard to the naval defence of the Empire. As regards the military defence of the Empire, I am bound to say that we are still behindhand, although a great deal has been done in recent years. As you know, the Colonial Defence Committee of experts has been sitting, and has accomplished already, with the assistance of the Colonies, a very great improvement in the state of things which existed before; but I cannot say from the information at my disposal that with all the magnificent resources of the Colonies their organization at present is satisfactory. This is more a matter of detail, and I do not propose to dwell upon it now, but I would remind the Premiers assembled that if war breaks out war will be sudden, and there will be no time for preparation then. Therefore it is of the first importance that we, all having a common interest, should have beforehand a scheme of common defence against any possible or at all events any probable enemy, and we ought to have these schemes of defence before us. In the case of some of the Colonies schemes have already been prepared; in others no scheme has been prepared or concerted up to the present time, and I believe it is most desirable that that omission should be repaired. It is also

most desirable, in Australia especially, and to a lesser extent, although still to an important extent in South Africa, that there should be an uniformity in regard to the military preparations. An uniformity of arms is, I need scarcely say, of immense importance, as it gives us interchangeability of weapon, and there are also uniformity of equipment, some central provision for stores, and for the military instruction of the local forces, all of which can be arranged with the assistance of the Colonies, and, I believe, very much to their advantage.

Exchange of Military Forces

But I am looking forward to something more than that. The interchangeability in the several groups is a matter of great importance, but how much greater it would be if there were interchangeability between the whole forces of the Empire, between the forces which you have in the several Colonies and the forces of which you have seen some examples at home since you came to these shores. That is a matter which also can be arranged, and to which we shall bring at all events the utmost good-will. If you have, as Canada has at Kingston, an important military college, it may be possible for us to offer occasionally to the cadets of that college commissions in the British Army. But a still more important matter which has suggested itself to my mind, and which now I desire to commend to your earnest attention, is a proposal which may be described as the interchangeability of military

duties. To put it into plain English it means this: that, for instance, a Canadian regiment should come to this country, take up its quarters for a period of time, at least 12 months, with the British army, and form, during the whole time that it is in this country, a part of the British army, and that in return a similar regiment of British troops, or a brigade of artillery or cavalry, should go to Canada and should reside and exercise with the Canadian army, and form a part of that army. The idea is that this should be chiefly for the purpose of drill and instruction, and I cannot doubt that it will be of enormous advantage to the Canadian troops, and to the troops of the Colonies, to measure themselves against the regular army, and to learn the discipline and the manœuvres which are practised on a large scale in this country.

But my imagination goes even further. It seems to me possible that, although in the first instance the idea is that such a regiment coming to this country would come solely for that purpose and would not be engaged in military operations, yet if it were their wish to share in the dangers and the glories of the British army and take their part in expeditions in which the British army may be engaged, I see no reason why these colonial troops should not, from time to time, fight side by side with their British colleagues. That, however, is a matter which, like everything else which I am putting before you, is not a recommendation which has any pressure behind it; it is merely a suggestion to be taken up by you voluntarily if it commends itself to your

minds. What I have suggested might take place with regard to Canada, I believe might equally take place with regard to such fine forces as those of which we have seen representatives from some of the Colonies of Australia, and might take place also with regard to the South African Colonies.

Commercial Relations

I pass on, then, to another question, and that is as to the future commercial relations between this country and her Colonies. How far is it possible to make those relations closer and more intimate? I have said that I believe in sentiment as the greatest of all the forces in the general government of the world, but, at the same time, I should like to bring to the reinforcement of sentiment the motives which are derived from material and personal interest. But undoubtedly the fiscal arrangements of the different Colonies differ so much among themselves, and all differ so much from those of the mother country, that it would be a matter of the greatest complication and difficulty to arrive at any conclusion which would unite us commercially in the same sense in which the Zollverein united the Empire of Germany. It may be borne in mind that the history of that Zollverein is most interesting and most instructive. It commenced entirely as a commercial convention, dealing in the first instance only partially with the trade of the Empire, it was rapidly extended to include the whole trade of the Empire, and it finally made possible and encouraged the ultimate union of the Empire.

But this is a matter upon which at the present time, rather than suggest any proposals of my own, I desire to hear the views of the gentlemen present.

In the meanwhile, however, I may say that I note a resolution which appears to have been passed unanimously at the meeting of the Premiers in Hobart, in which the desire was expressed for closer commercial arrangements with the Empire, and I think it was suggested that a Commission of Inquiry should be created in order to see in what way practical effect might be given to the aspiration. If that be the case, and if it were thought that at the present time you were not prepared to go beyond inquiry, if it were the wish of the other Colonies, of Canada and of the South African Colonies, to join in such an inquiry, her Majesty's Government would be delighted to make arrangements for the purpose, and to accept any suggestions as to the form of the reference and the character and constitution of the Commission, and would very gladly take part in it.

But that brings me to another question connected with commercial relations, and of great importance. I refer to the treaties at present existing between the mother country, acting on behalf of the Colonies as well as of herself, and foreign countries. The question has been raised at various times in the shape of resolutions or suggestions from the Colonies that certain treaties, notably a treaty with Germany and a treaty with Belgium, should be denounced. It should be borne in mind that that is for us a most important question. Our trade with Germany and

Belgium is larger than our trade with all the Colonies combined. It is possible that if we denounced those treaties Germany and Belgium would endeavour, I do not say whether they would succeed, but they might endeavour to retaliate, and for some time, at any rate, our commercial relations with these two countries might be disturbed. Therefore a step of that kind is one which can only be taken after the fullest consideration, and in deference to very strong opinion both in this country and in the Colonies. Now the question is brought to a practical issue, or may be brought to a practical issue, by the recent action of Canada. As all are aware, Canada has offered preferential terms to the mother country, and Germany and Belgium have immediately protested and claimed similar terms under these treaties. Her Majesty's Government desire to know from the Colonies whether, so far as they are concerned, if it be found that the arrangements proposed by Canada are inconsistent with the conditions of those treaties, they desire that those treaties shall be denounced. If that be the unanimous wish of the Colonies, after considering the effect of that denunciation upon them as well as upon us, because they also are concerned in the arrangements which are made by these treaties, then all I can say at the present time is that her Majesty's Government will most earnestly consider such a recommendation from the Colonies, and will give to it the favourable regard which such a memorial deserves.

But I should add that there is another question which is still more difficult, but about

which I only wish to offer a word of warning to the representatives present. Besides those two treaties which are very special in their terms, and which prevent the preferential arrangement or which appear to prevent the preferential arrangement contemplated by Canada, we have a most favoured nation clause in all our treaties to which most of the Colonies are parties. I may explain that, under the terms of the Canadian resolution, if any foreign nation were to offer to Canada beneficial terms as defined in the resolution, Canada would then be bound to give to that country the same preference as is offered to Great Britain. Let me suppose, for instance, that it was a minor country like Holland, and assume for the sake of argument that Holland offered these advantages, thereupon Canada would be compelled to give the same terms to Holland that she now offers to the mother country. She would then be bound by most favoured nation treaties to give the same terms to practically every important commercial country in the world. It would be, I think, a matter of impossibility to denounce those treaties, because that involves the whole trade of the Empire, and in some cases there is no term of denunciation in the treaties.

But of course the whole difficulty can be avoided—I only point it out in passing—the whole difficulty can be avoided by any Colony which desires to make the preferential arrangement with the mother country, if that Colony will confine its offer *nominatim* to the mother country and not make it to a foreign country; but if it is offered to a foreign country then, as I say, it will be con-

trolled by the most favoured nation treaties throughout the world.

. . . . .

Alien Immigration

One other question I have to mention, and only one; that is, I wish to direct your attention to certain legislation which is in process of consideration, or which has been passed by some of the Colonies, in regard to the immigration of aliens, and particularly of Asiatics.

I have seen these Bills, and they differ in some respects one from the other, but there is no one of them, except perhaps the Bill which comes to us from Natal, to which we can look with satisfaction. I wish to say that her Majesty's Government thoroughly appreciate the object and the needs of the Colonies in dealing with this matter. We quite sympathise with the determination of the white inhabitants of these Colonies which are in comparatively close proximity to millions and hundreds of millions of Asiatics that there shall not be an influx of people alien in civilization, alien in religion, alien in customs, whose influx, moreover, would most seriously interfere with the legitimate rights of the existing labour population. An immigration of that kind must, I quite understand, in the interest of the Colonies, be prevented at all hazards, and we shall not offer any opposition to the proposals intended with that object, but we ask you also to bear in mind the traditions of the Empire, which makes no distinction in favour of, or against race or colour; and to exclude, by

reason of their colour, or by reason of their race, all her Majesty's Indian subjects, or even all Asiatics, would be an act so offensive to those peoples that it would be most painful, I am quite certain, to her Majesty to have to sanction it. Consider what has been brought to your notice during your visit to this country. The United Kingdom owns as its brightest and greatest dependency that enormous Empire of India, with 300,000,000 of subjects, who are as loyal to the Crown as you are yourselves, and among them there are hundreds and thousands of men who are every whit as civilized as we are ourselves, who are, if that is anything, better born in the sense that they have older traditions and older families, who are men of wealth, men of cultivation, men of distinguished valour, men who have brought whole armies and placed them at the service of the Queen, and have in time of great difficulty and trouble, such for instance as on the occasion of the Indian Mutiny, saved the Empire by their loyalty. I say, you, who have seen all this, cannot be willing to put upon those men a slight which I think is absolutely unnecessary for your purpose, and which would be calculated to provoke ill-feeling, discontent, irritation, and would be most unpalatable to the feelings not only of her Majesty the Queen, but of all her people.

What I venture to think you have to deal with is the character of the immigration. It is not because a man is of a different colour from ourselves that he is necessarily an undesirable immigrant, but it is because he is dirty, or he is immoral, or he is a pauper, or he has some other

objection which can be defined in an Act of Parliament, and by which the exclusion can be managed with regard to all those whom you really desire to exclude. Well, gentlemen, this is a matter I am sure for friendly consultation between us. As I have said, the Colony of Natal has arrived at an arrangement which is absolutely satisfactory to them, I believe, and remember they have, if possible, an even greater interest than you, because they are closer to the immigration which has already begun there on a very large scale, and they have adopted legislation which they believe will give them all that they want, and to which the objection I have taken does not apply, which does not come in conflict with this sentiment which I am sure you share with us; and I hope, therefore, that during your visit it may be possible for us to arrange a form of words, which will avoid hurting the feelings of any of her Majesty's subjects, while at the same time it would amply protect the Australian Colonies against any invasion of the class to which they would justly object. Now, gentlemen, I really owe you a humble apology for having detained you so long, but I thought that it might be to your convenience that this recapitulation should be made of some things which might be treated in our discussions, and I have only now to thank you very much for your kindness in listening to me so patiently, and to express a hope that you will be good enough to give me generally and at this stage in our proceedings your ideas as to the course which we should take in regard to our future meetings.

4. THE ADMIRALTY MEMORANDUM ON IMPERIAL DEFENCE, PRESENTED TO THE COLONIAL CONFERENCE OF 1902

THE importance which attaches to the command of the sea lies in the control which it gives over sea communications. The weaker sea-power is absolutely unable to carry to success any large military expedition over sea. The truth of this is shown by reference to the history of the past.

In ancient times the Greek victory of Salamis threatened the Persian communications across the Dardanelles, and doubtless this danger contributed to bring about their retreat into Asia.

The failure of the famous Syracusan expedition was due to the defeat of the Athenian fleet, and had its modern counterpart in the failure of Admiral Graves off the entrance to Chesapeake Bay in 1781. In both cases the army had to surrender because its communications were cut. The defeat of Nikias dealt a heavy blow to the supremacy of Athens, and may, perhaps, be said to have been one of the principal events which led to her downfall. The surrender of Cornwallis, at Yorktown, was the prelude to the independence of the United States.

The main cause of the failure of the expedition of Napoleon to Egypt was the defeat of the French fleet at the Nile, which was the first step towards cutting his communications with France, and the subsequent surrender of the French army.

On the other hand, the advantages which accrue to the stronger sea-power, after it has won the command of the sea, are equally illustrated by historical example.

The fall of Quebec and the conquest of French Canada was mainly due to the fact that our superior sea-power closed the Gulf of St. Lawrence to the French and opened it to us. In any similar struggle in the future, this route will be as vital as in the past.

The expedition to Egypt under Abercromby, in 1801, the Peninsular War, the expedition to the Crimea, the South African War, just concluded, are all instances of great military enterprises which could only have been carried out by a nation holding the command of the sea.

The command of the sea is determined by the result of great battles at sea, such as Salamis, Actium, Lepanto, those which led up to the defeat of the Armada, and those between the Dutch and English in the 17th century, in which each side concentrated his whole available force for the decisive struggle.

To any naval Power the destruction of the fleet of the enemy must always be the great object aimed at. It is immaterial where the great battle is fought, but wherever it may take place the result will be felt throughout the world, because the victor will afterwards be in a position to spread his force with a view to capturing or destroying any detached forces of the enemy, and generally to gather the fruits of victory, in the shape of such outlying positions as the New Hebrides, Fiji, Singapore, Samoa, Cuba, Jamaica, Martinique,

the Philippines, Malta, or Aden, which may be in possession of the enemy, his shipping and commerce, or even to prosecute such oversea campaigns as those in the Peninsula and South Africa.

Stress is laid on the importance of the great battle for supremacy, because the great development of the navies of France, Germany, the United States, and Russia, indicates the possibility that such battles may have to be fought in the future. It is the battle-ships chiefly which will have to be concentrated for the decisive battle, and arrangements with this object must be made during peace.

The geographical conditions and the varied interests of the maritime powers present such complete concentration in modern times as was practicable in the past. Thus Russia divides her battle-ships between the Baltic and Pacific; the United States between the Atlantic and Pacific; both Germany and France have concentrated in European waters, where also the greater part of the British battle-ships are massed.

Our possible enemies are fully aware of the necessity of concentrating on the decisive points. They will endeavour to prevent this by threatening our detached squadrons and trade in different quarters, and thus obliging us to make further detachments from the main fleets. All these operations will be of secondary importance, but it will be necessary that we should have sufficient power available to carry on a vigorous offensive against the hostile outlying squadrons without unduly weakening the force concentrated for the decisive battle, whether in Europe or elsewhere.

The immense importance of the principle of

concentration and the facility with which ships and squadrons can be moved from one part of the world to another—it is more easy to move a fleet from Spithead to the Cape or Halifax than it is to move a large army, with its equipment, from Cape Town to Pretoria—points to the necessity of a single navy under one control, by which alone concerted action between the several parts can be assured.

In the foregoing remarks the word *defence* does not appear. It is omitted advisedly, because the primary object of the British Navy is not to defend anything, but to attack the fleets of the enemy, and, by defeating them, to afford protection to British Dominions, shipping, and commerce. This is the ultimate aim.

To use the word *defence* would be misleading, because the word carries with it the idea of a thing to be defended, which would divert attention to local defence instead of fixing it on the force from which attack is to be expected.

The traditional rôle of the British Navy is not to act on the defensive, but to prepare to attack the force which threatens—in other words, to assume the offensive. On one occasion England departed from her traditional policy, and, acting on the defensive, kept her ships in harbour unrigged and unmanned, with the result that the Dutch fleet sailed up the Medway and burnt the ships of war at their moorings.

The strength and composition of the British Navy, or of any British squadron, depends, therefore, upon the strength and composition of the hostile forces which it is liable to meet.

The total estimated National Expenditure for 1902-3, exclusive of war charges, amounts to £129,159,000, of which the Navy Estimates account for £31,255,500, or about one-fourth, which is equal to a contribution of 15*s.* 1*d.* per head of the population of the United Kingdom. If this were divided equally per head among the white population of the Empire, the charge per head would amount to 12*s.* 0¼*d.* For the actual naval expenditure per head in the several parts of the Empire, see Appendix A.

The annual value of British Trade (including Bullion and Specie), which it is the ultimate object of the Navy to protect, amounted, in 1900, to :

Trade of United Kingdom with Foreign Countries . .	£711,838,000
Trade of United Kingdom with British Dominions beyond the Seas . . .	237,098,000
	£948,936,000
Trade of British Dominions beyond the Seas with Foreign Countries and among themselves	254,342,000
Total Trade of Empire	£1,203,278,000

The figure £254,342,000 has been arrived at by deducting a sum of £72,624,000 from the sum of the total amounts of Trade, of all the Dominions, in order to allow for the duplication of the reciprocal Trade of those Dominions among themselves.

It will be seen that about one-fifth of the Total Trade of the Empire is not directly connected with the United Kingdom.

The question may, with advantage, be further considered with reference to:

1. Atlantic Ocean.
2. Eastern Seas and Pacific Ocean.

The British Trade which passes the West Coast of Africa cannot be placed at a less value than £140,000,000 per annum, of which about one-fifth is with South African ports, one-third with Australasia, and one-third with South America. South Africa, Australia, and New Zealand are, therefore, each interested in the maintenance of a squadron on the West Coast of Africa sufficiently powerful to protect this Trade.

The Trade of the United Kingdom with the Atlantic Coast of the Continent of North America amounted, in the year 1900, to £218,000,000; of which about £30,000,000 was with Canada.

So far as can be estimated, Canada had also about £14,000,000 of sea-borne Atlantic Trade with other British Dominions and Foreign Countries. Canada would, therefore, be interested in the success of the British squadrons employed in protecting Trade in every part of the Atlantic. That is to say, Canada is not only interested in the North American Squadron, but also in the strength of the British Fleet as a whole.

The cost of maintaining the British squadrons on these stations, exclusive of any interest or sinking fund on the first cost of building, is £802,000 per annum. This is included in the General Naval Vote, which is borne by the United Kingdom aided by annual payments, spontaneously offered, by the Cape of Good Hope of

£30,000 and by Natal of £12,000, in lieu of 12,000 tons of coal.

The magnitude of the Trade in Eastern Waters may be gathered from the following Table, which shows, so far as statistics enable this to be stated, the relative interests in British Trade which passed, necessarily, through those waters during the year 1900, and also how the cost of maintaining the British squadrons in the Eastern Seas and the Pacific, which are ultimately charged with the protection of the whole, is apportioned :

Countries.	Aggregate of Values of Trade which passed through Eastern Waters.††	Contribution to cost of maintaining Squadrons (See Appendix A.1*)	Percentage interest in Trade.	Percentage contribution to Squadrons.*
	£	£	Per cent.	Per cent.
British Empire other than India, Australia, and New Zealand .	325,000,000	1,994,400	55	88·8
India . . .	142,000,000	161,600	24	7·2
Commonwealth of Australia† . . .	105,000,000	75,500	17	3·4
New Zealand . .	24,000,000	15,500	4	·6
Total . .	††	2,247,000*	100	100

* The total charge of £2,247,000 per annum is exclusive of any Interest or Sinking Fund on the first cost of building.

† Includes inter-State Sea-borne Trade.

†† The figures in this column represent the sum of the values of the external Trade, of the various parts of the Empire, which passed through Eastern Waters. The aggregates thus obtained are, of course, in excess of the actual British Trade in these Waters, on account of the duplication of inter-Imperial Trade. This duplication, however, is necessary for the present object, which is to show, not the total magnitude of the Trade, but the relative magnitude of the Trade Interest of the various parts of the Empire. The column does not admit of being added up for the reason stated.

NOTE.—The above Statistics of Trade are not quite complete, as they do not include the Trade of Hong Kong; there being no Statistics of the Trade of that place. This, however, is probably counterbalanced by the inclusion of the whole of the Straits Settlements Trade, which is largely 'Entrepôt Trade.'

Admiralty,
June, 1902.
(Revised April, 1903.)

APPENDIX 'A'

BRITISH EMPIRE: NAVAL EXPENDITURE

Year.	——	Population.	Naval Expenditure.	Naval Expenditure per head of Population.	Remarks.
1902–3	United Kingdom .	41,454,621	£ 31,255,500	s. d. 15 1	
		1901.	1900.		
	New South Wales .	1,352,509	47,831	0 8½	
	Victoria .	1,199,068	59,401	1 0nearly.	
	Queensland .	496,596	34,796	1 4½	
	South Australia .	362,604	17,594	0 11½	
	Western Australia .	182,553	4,732	0 6½	
	Tasmania .	172,475	4,970	0 7nearly.	
	Totals:— Australia	3,765,805	169,324	0 10½	
	New Zealand .	772,719	20,924	0 6½	
30–6–99.	Canada .	5,312,500	Nil .	Nil.	
,,	Newfoundland .	210,000	Nil. .	Nil.	
	Cape of Good Hope (White).	538,000	30,000	1 1½	£30,000 paid annually towards expenditure of Imperial Government.
1898 .	Natal .	53,688	12,000	4 5½	£12,000 paid in lieu of 12,000 tons of coal.
31–3–99.	*India .	216,710,483 Europeans 168,000	413,747 (for year 1900)	—	

* Includes £100,000 contribution towards H.M. Ships on East Indies Station, and £61,600 subsidy to Admiralty for manning and maintaining H.M. Ships for Naval defence of India.

Appendix 'A. 1.'

Table showing the Annual Cost of Maintenance, exclusive of first cost of building, of the British Squadrons in I.—Atlantic Ocean; II.—Eastern Seas and Pacific Ocean:

I.—Atlantic Ocean

North America and West Indian	£330,000
Cape of Good Hope	396,000
South-East Coast of America	76,000
Total	£802,000

II.—Eastern Seas and Pacific

China	£1,430,000
East Indies	303,000
Australia	312,000
Total Eastern Seas	£2,045,000
Pacific	202,000
Total	£2,247,000

5. RIGHT HON. H. H. ASQUITH'S ADDRESS AT THE FIRST MEETING OF THE IMPERIAL CONFERENCE OF 1911

MR. ASQUITH: Gentlemen, Colleagues, I offer you, in the name of his Majesty's Government, a most grateful and cordial welcome, and I express at the outset of our proceedings a hope which you will all share, that the deliberations of this, the first Imperial Conference, may conduce, in the language of the prayer which we are accustomed to offer for the High Court of Parliament, to the 'safety, honour and welfare of our Sovereign and his Dominions.'

Four years have passed since some of us who are here to-day took part in the Colonial Conference of 1907. Even in such a relatively short lapse of time notable gaps have been created by the calls of mortality and the accidents of political fortune. The name of my lamented predecessor, Sir Henry Campbell Bannerman, who opened the Conference of that year, will always be associated in the history of the Empire with the grant of full self-government to the Transvaal and the Orange River Colonies, with the result that we have with us at this table to-day not (as then) the representatives of separate South African States, but the Prime Minister of the Union of South Africa. And barely a year ago

our beloved and illustrious Sovereign, King Edward VII, to whom in 1907 we owed and gave a whole-hearted allegiance, was suddenly taken from the Empire which he served so faithfully and loved so well, leaving behind him the best inheritance which any Monarch can bequeath to his successors—the memory of great purposes worthily pursued, and the example of a life which was directed and dominated by a tireless sense of duty, and an unquenchable devotion to the peoples committed to his charge.

You will join with me, I am sure, in offering, as our first corporate act, our homage to King George V, and the assurance of our fervent hope, and firm belief, that in his reign the British Crown will continue with untarnished lustre to be the centre and the symbol of our Imperial unity. It is, indeed, a happy coincidence that the time fixed for our deliberations will enable the foremost statesmen of the self-governing Dominions and Colonies to take a personal part in the solemnities, shared in spirit and sympathy by the whole Empire, which will attend the Coronation of the King and Queen.

It is natural, and I hope not inopportune, that on such an occasion I should invite you to survey with me, for a few moments, the stage of development which we have now reached in the evolution of that unique political organism which is called the British Empire. I am not going to trouble you with statistics of area, population, production, interchange; interesting and impressive as the figures might be made.

There have been, in the past, Empires which

(like our own) were widespread, populous, rich in material wealth, the prolific breeding ground of art and science and literature. But this Empire of ours is distinguished from them all by special and dominating characteristics. From the external point of view it is made up of countries which are not geographically conterminous or even contiguous, which present every variety of climate, soil, people, and religion, and, even in those communities which have attained to complete self-government, and which are represented in this room to-day, does not draw its unifying and cohesive force solely from identity of race or of language. Yet you have here a political organization which, by its mere existence, rules out the possibility of war between populations numbering something like a third of the human race. There is, as there must be among communities so differently situated and circumstanced, a vast variety of constitutional methods, and of social and political institutions and ideals. But to speak for a moment for that part of the Empire which is represented here to-day, what is it that we have in common, which amidst every diversity of external and material conditions, makes us and keeps us one? There are two things in the self-governing British Empire which are unique in the history of great political aggregations. The first is the reign of Law: wherever the King's writ runs, it is the symbol and messenger not of an arbitrary authority, but of rights shared by every citizen, and capable of being asserted and made effective by the tribunals of the land. The second is the combination of local autonomy—

absolute, unfettered, complete—with loyalty to a common head, co-operation, spontaneous and unforced, for common interests and purposes, and, I may add, a common trusteeship, whether it be in India or in the Crown Colonies, or in the Protectorates, or within our own borders, of the interests and fortunes of fellow subjects who have not yet attained, or perhaps in some cases may never attain, to the full stature of self-government.

These general considerations, Gentlemen, familiar as they are to all of you, may not be wholly out of place when we are contemplating in advance the work which is set before this Imperial Conference. In the early Victorian era, there were two rough-and-ready solutions for what was regarded, with some impatience, by the British statesmen of that day as the 'Colonial problem.' The one was centralization—the government, that is, except in relatively trivial matters, of all the outlying parts of the Empire from an office in Downing Street. The other was disintegration—the acquiescence in, perhaps the encouragement of, a process of successive 'hivings off' by which, without the hazards or embitterments of coercion, each community, as it grew to political manhood, would follow the example of the American Colonies, and start an independent and sovereign existence of its own. After 70 years' experience of Imperial evolution, it may be said with confidence that neither of these theories commands the faintest support to-day, either at home or in any part of our self-governing Empire. We were saved from their adoption—some people would say by the favour of Providence—or (to adopt

a more flattering hypothesis) by the political instinct of our race. And just in proportion as centralization was seen to be increasingly absurd, so has disintegration been felt to be increasingly impossible. Whether in this United Kingdom, or in any one of the great communities which you represent, we each of us are and we each of us intend to remain, master in our own household. This is, here at home and throughout the Dominions, the life-blood of our polity. It is the *articulus stantis aut cadentis Imperii.*

It is none the less true that we are, and intend to remain, units indeed, but units in a greater unity. And it is the primary object and governing purpose of these periodical Conferences that we may take free counsel together in the matters which concern us all. Let me select one or two illustrations from the agenda which have been suggested for our deliberations here.

There are, first of all, proposals put forward from responsible quarters which aim at some closer form of political union as between the component members of the Empire, and which, with that object, would develop existing, or devise new, machinery, in the shape of an Advisory Council, or in some other form. I need not say that, in advance of the discussions which we are about to have, I pronounce no opinion on this class of proposals. I will only venture the observation that I am sure we shall not lose sight of the value of elasticity and flexibility in our Imperial organization, or of the importance of maintaining to the full, in the case of all of us, the principle of Ministerial responsibility to Parliament. Of a cognate

character are the questions raised as to the future constitution of the Colonial Office, and in particular as to the segregation and concentration of the work appropriate to the Dominions from the other work of the Department. Under this head I trust that his Majesty's Government may be able to put forward suggestions, which will be acceptable in themselves, and prove fruitful in practice. I will refer to one other topic of even greater moment—that of Imperial Defence. Two years ago, in pursuance of the first Resolution of the Conference of 1907, we summoned here in London a subsidiary Conference to deal with the subject of Defence, over which I had the honour to preside. The results achieved—particularly in the inauguration of the policy of Dominion Fleets adopted by Canada and Australia—are of a far-reaching character. The recent visit of Lord Kitchener to Australia and New Zealand has given a further impetus to the spirit of self-reliance in matters of Defence in those two great Dominions. We adopt different systems in the raising and recruiting of our defensive forces in the different parts of the Empire. Everywhere and throughout, the object is not aggression, but the maintenance of peace, and the insurance against loss and destruction of the vast social and material interests of which we are trustees. It is in the highest degree desirable that we should take advantage of your presence here to take stock together of the possible risks and dangers to which we are or may be in common exposed; and to weigh carefully the adequacy, and the reciprocal adaptiveness, of the contributions we are respec-

tively making to provide against them. I shall propose that (following the precedent created in 1909) these matters should be discussed in the Committee of Imperial Defence, with the assistance of the advice of its expert members, at meetings at which the Dominions will be represented by their Prime Ministers, and the Ministers directly concerned in naval and military defence. At the first of these meetings (which will, of course, like all of them, be of a confidential character) Sir Edward Grey will attend, and will speak to us on the international situation, so far as it affects the Empire as a whole.

Gentlemen, I have purposely, in this brief introduction to our proceedings, left out of account a large number—the largest number—of the topics which will be submitted for our consideration. There are sitting at this table to-day six Prime Ministers, all holding their commission from the same King, and all deriving their title to its exercise from the voice and vote of a free democracy. We are all of us, I suppose, in our own Parliaments party leaders, holding and using power by virtue of the confidence of a party majority. But each of us, when he entered this room, left his party prepossessions outside the door. For us to-day, and throughout this Conference, there is, I believe, one spirit and one purpose—to make the Empire, in all its activities, and throughout all its parts, a more complete and effective instrument for the furtherance of our corporate unity and strength along the old, well-trodden, but ever lengthening and widening road, of British liberty.

6. IMPERIAL FEDERATION—RT. HON. SIR JOSEPH WARD'S SPEECH AT THE IMPERIAL CONFERENCE OF 1911

I HAVE endeavoured to impress upon the Conference the enormous changes in the relationship between the self-governing oversea Dominions and the Mother Country, which have been consequent upon the rapid growth and the extension of the Dominions; and in this connexion I also impress the obvious fact that the rapidity of that growth and extension, already seen, will continue at an even accelerated speed in the future.

These changes, I submit, demand a change in the Imperial relationship heretofore existing between the United Kingdom and her self-governing dependencies.

The people of these dependencies are not yet citizens of the Empire. This full franchise as yet has not been conferred, and the whole question is—Is not the time now ripe for the consideration of conferring it?

The question becomes urgent and emphatic when we remember that at least two of the greatest of these Dominions have in some measure already embarked upon a naval policy of their own—a course to which the Motherland has offered no objection. I, as representing New Zealand, of course do not, and could not, offer any

objection, though I am entitled to discuss and criticize the course taken, in order to emphasize the need of some Imperial Council properly accredited to co-ordinate and harmonize these policies of naval defence, and of the still greater question of naval supremacy.

Does the Conference fully appreciate what has happened so quietly, because the relations between the Motherland and Canada have been so harmonious? Canada has, in recent years, grown into a strong nation—no longer in a state of tutelage, sheltering behind the protection of the Motherland. Canada, feeling that she has passed through infancy to full manhood as a nation, has originated and made law a naval scheme for the creation and maintenance of a local navy, a navy not only to be maintained and controlled by the Canadian Government, but a navy which is not to participate in an Imperial war unless Canada herself approves of that war.

Under the existing system, the rest of the Empire, consequently, might be at war, and the Canadian Navy withheld from it, and inactive. But I want to impress the fact that the Empire cannot be at war and Canada at peace at the same time. Any war to which the statesmen of the United Kingdom commit the Empire involves Canada, as well as New Zealand, and all other portions of the Empire, and from the point of view of international law Canada is as much a part of the Empire as England.

I would ask the Conference to look facts broadly and candidly in the face, and if independent naval policies, such as I have referred to, are to con-

tinue on the part of the oversea Dominions, I express the sincerest conviction of my mind when I say that this does not make for a strong position in connexion with the Imperial ties being maintained, upon which, in my opinion, the whole Empire's material interests now rest.

I have explicitly called the scheme I propose to outline an Imperial Parliament of Defence. Defence is above all other questions the one in which every part and subject of the Empire is vitally concerned.

The President (Mr. Asquith): Just a moment. The words used in your Resolution are: 'An Imperial Council of State'; you spoke just now of an Imperial Parliament of Defence. I do not find any such phrase in the resolution.

Sir Joseph Ward: I do not mind what the name is—an Imperial Council of State or an Imperial Parliament of Defence, or a Defence Council.

The President: They are practically synonymous, you think?

Sir Joseph Ward: Yes. Perhaps I ought to use the term Imperial Council of State. Defence is above all other questions the one in which every part and subject of the Empire is vitally concerned. It is the great vital topic which can be treated only by a proper Council of State. I am going to assume that this is obvious, and I will not occupy the time of the Conference by arguing the matter. But I want to express my firm conviction that the course both Canada and Australia have taken is one which the present relationship between them and the Motherland almost compels them to take.

If Canada were to contribute to the Imperial Navy the very large sum she has provided on her estimates for a building programme, a naval college and annual maintenance, amounting to some millions of pounds sterling—if she were to contribute this or any other great sum yearly to an Imperial Navy, and the question of war or peace arises, she would find herself with no more voice, under the present system, in determining whether the Empire should go to war or not than if she were the smallest dependency of a Foreign Power. Consequently, under the existing system and on these assumptions, Canada would not only witness herself being committed to all the perils of warfare, but she would witness the ships and armaments created out of her great contributions devoted, without her consent or approval, without the right to a voice at all to the perils of belligerency.

I have taken Canada merely as an illustration; but under the existing system every other oversea Dominion would be in precisely the same situation.

New Zealand is, at present, content to make an unconditional annual contribution of money to the Imperial Navy. As time proceeds, and as our means increase, we look forward to substantially increasing this aid; but what I desire to impress at this moment is the point that if the whole of the oversea Dominions are to place themselves under tribute to the Imperial Treasury for the creation and maintenance of an Empire Navy, they surely are entitled to some voice—proportioned, it may be, to their size and

contribution—in such a vital question as peace or war.

Consequently, it seems to me that the question of an Imperial Council of State, or Defence, more vitally concerns the United Kingdom than it does the oversea Dependencies; Canada, Australia, South Africa, and New Zealand can, and cheerfully will if necessary (of course, I am speaking entirely on behalf of New Zealand), go on under the existing system providing for their own defence in the way which seems best to them; but can the United Kingdom survey such a course with complacency under the growing burdens which the maintenance of her naval supremacy imposes?

In this great concern of Imperial Defence must there not be some kind of partnership between all parts of our Great Empire? I hope it will not be regarded in any way as rudeness for me to say that England, witnessing as she has, and does, the magnificent growth in strength, wealth, and numbers of these oversea Dominions, will not forget that she does not, as in the earliest days of their existence, possess them—they are no longer Crown Colonies. They create with her an Empire, and, allowing for power and numbers, they belong to that Empire just as she does. It is a family group of free nations, England is the first among the free nations, and, consequently, changes during the last three-quarters of a century, in my opinion, demand that the old relation of 'mother to infants' should cease. The day for partnership in true Imperial affairs has arrived, and the question which now emerges is—upon

what basis is that partnership to rest? It certainly cannot rest upon the present relationship. No partnership deserves the name which does not give to the partners at least some voice in the most vital of the partnership concerns; and what I am endeavouring to bring out is: how is that voice to be heard and how is it to be made effective?

I desire to avoid any minor controversial questions at this time; but I am entitled to express, as I do now, my profound conviction that, if there had existed some true Imperial Council of State in which defence could be dealt with—I attach no importance to the name, whether it is an Imperial Council of State or an Imperial Parliament of Defence, or an Imperial Council—the separate naval policies of the two great Dominions to which I have already referred, would be to-day, if not non-existent, at least more completely harmonized and made integral with the Imperial Navy. In other words, had such a council existed, I am satisfied that, for the expenditure these two great countries have committed themselves to, more efficient protection would have been given by means of an Imperial scheme than by those which have been devised.

I trust that the members of the Conference will realize—and I want to avoid dogmatism in this matter—that I am expressing my personal opinion, as I have a right to do, and I feel quite sure that the representatives of none of the other Dominions, even those to which I am referring, will take exception to what I believe to be my duty in a matter of this kind, for naturally it is

done in a strictly imperial sense, and without in any way whatever reflecting upon the loyalty of those great countries.

I cannot avoid keeping before me the whole time, in connexion with this important question of defence, the difficulties of regulating and controlling it. I recognize to the fullest possible extent the all-important question of the protection of the commodities and of the ships that cross the seas between the respective countries; and the more I have thought over this important matter from time to time and since I had the honour of first coming to this Conference, the more I realize the tremendous responsibility devolving upon all portions of the oversea Dominions in connexion with the protection of British ships, British goods and British people travelling over the seas great distances between the respective portions of the Dominions. To a very material extent in my opinion, the local protection, however good it may be, for the separate portions of the Dominions concerned is not sufficient, is not adequate, and does not meet the condition of protecting the conveyance of oversea products to anything like the extent that it ought to do.

For these reasons I recognize how difficult it is in a matter of this kind to expect any of the representatives of the oversea Dominions to rediscuss a line of policy which has already been assented to by them. My own view of the matter is, that we should have an impartial and effective organization created which would allow all portions of our British Empire to review what is necessary for the self-preservation of themselves

and the protection of all portions of it on sea as well as on land; and, in my opinion, that can only be brought about by some organization created with the good-will, not of the representatives at this Conference alone, but, finally, of the people in the respective countries concerned. I emphasize this because nothing that is suggested by me, or nothing that is carried by this Conference can be put into actual effect (so far as New Zealand is concerned I speak absolutely) without ratification by Parliament, and without, in turn, Parliament recognizing that that ratification has to be endorsed in the ordinary way by the people at the elections which take place from time to time.

Now, in connexion with the arguments that I am placing before the Conference upon this question of an Imperial Council of State, I consider that the different roads that the respective portions of the Dominions have taken regarding what they conceive to be best from their respective standpoints in the matter of naval defence—I would rather call them lines of national divergence—must, in my opinion, diverge more and more as these oversea Dominions develop to their full stature, unless British statesmen will set themselves to promote an Imperial partnership and some system of Imperial representation upon which, to my mind, such true partnership can alone subsist.

If there is any spirit of reluctance on the part of the Motherland, the oversea Dominions—or, at least, New Zealand, for which I speak—will certainly not desire to obtrude themselves with

this or similar proposals; but if we recognize that the hands of the Mother Country are stretched out to us inviting a closer grasp by us, that closer grasp will follow and the deep and genuine spirit of closer union will dissolve the difficulties and rise superior to all the obstacles in the way of an articulate and organized unity. What is first wanted is the will; the way, I am satisfied, can be found. If the United Kingdom desires an Imperial partnership and it meets with the concurrence of the oversea Dominions, then I believe it is the proper function of the Conference, with the eminent statesmen of the Motherland here at this table, to join with myself and those who think with me in encouraging and assisting to devise a workable scheme.

Mr. Asquith in his opening speech spoke eloquently of the development of our Empire along the broad ways of British liberty and in this connexion emphasized the elasticity and flexibility which marked our constitution and our institutions. I recognize as fully, I hope, as he how true those words are. A rigid constitution does not suit the genius of our people, but a rigid constitution is one thing and the entire absence of any definite Imperial system is another. I recognize that there must be given up by the constituent self-governing parts of the Empire to any central Imperial Council only such power as is absolutely necessary to deal with questions essentially imperial in their nature, questions which cannot be dealt with satisfactorily or at all unless through collective deliberative action, and I would make the framework of the Imperial

Parliament of Defence or Imperial Council of State as elastic as is consistent with efficiency and durability; but I am impressed with the belief that some such framework we must have. Mr. Asquith rightly preferred to ascribe the majestic development of the Empire rather to the genius of our nation than to the favour of Providence. I admit that there is a Divinity that shapes national destinies; but that Divinity can be profoundly assisted by the intelligent thought, foresight, and ingenuity of wise statesmanship, and I believe there never was a time in our history when a more splendid field has opened to that statesmanship than the present.

If we admit that the fate of the oversea Dominions, so far as living under the British Flag is concerned, is dependent upon Britain's supremacy on the seas, then we must admit that the defence of the Pacific (and in connexion with the defence of the Pacific, I include Australia and New Zealand in that term) is as important as the defence of the Atlantic Possessions or of the Motherland itself. I am not mixing up in any sense whatever, in the proposals which I am about to submit to the Conference, anything in connexion with the land forces of the respective portions of the Empire; because I recognize——

Mr. Fisher: May I interrupt? I understood by the earlier part of your speech that co-operation in every way was involved.

Sir Joseph Ward: No; uniformity of system in every possible way in connexion with the land forces I believe to be desirable, but I am not suggesting, in connexion with the defence of the

Empire, that there should be any interference by any one portion of it with any other in the matter of the system or of the methods of control of the local land forces.

The President: Is that to be excluded from the jurisdiction of the proposed Imperial Council?

Mr. Fisher: It must be under those words.

Sir Joseph Ward: That, I believe, should be left entirely with the Governments of the respective portions of the Dominions, who should make their land forces efficient in every possible way.

The President: That would still be a local matter.

Sir Joseph Ward: It would still be a local matter, because my belief is that in the event of a war arising, upon the sea particularly, every portion of the British Dominions is concerned for the protection of each of the other portions of the Dominions, and as part and parcel of the scheme of defence in all parts of the British Empire will, I have no doubt, in their respective administrations carry out the requisite conditions for making effective land forces. The protection of the interior of the respective portions of the Dominions is not, from the point of view of co-operation, by any means so important as the all-important question of naval defence of the sea routes of the Empire with its difficulties, in many respects much greater than those of the land defence system. For instance, I take it that the Commonwealth of Australia, or the Dominion of Canada, or the Union of South Africa, or New Zealand itself, will in their respective Governments carry out upon land that scheme which

they believe to be best calculated to support and protect their respective possessions and to support the first line of defence, namely, the Imperial British Navy.

In order to make the point clear, in New Zealand we will shortly be able to turn out 80,000 trained men in addition to those men who from time to time form part of the ordinary reserve forces—not in the strict sense of the term a reserve force, but men who, while following their ordinary avocations, have qualified themselves to take part for the purposes of effective land defence. We expect to have a mobile land force of fully 80,000 men very shortly, and we hope to have for overseas work a very considerable number, 5,000 to 10,000, trained men, only to go outside of New Zealand voluntarily. So that from the point of view of protection of our own country, we ought to be able to make it impossible for a foreign foe, if one should ever attempt it, to land on our shores.

That is one of the matters we are able to carry out without the co-operation of any other portion of the British Dominions or of the British Empire. But we are not able to do more than give our support in such a way as we think best in the matter of the Empire Navy; we are only able to do our individual part, and we may at any time under the present system, as I have already said, be drawn into war or certainly the results of the war without consultation, without our people having a voice in it, whether we like it or not. We are immediately concerned in the results of any war upon the sea that may take place

between Great Britain and any other country; we are concerned just as much as Great Britain is although our interests are not as great. So, in my opinion, is every other portion of the British Empire; and it is with the object of co-ordination and co-operation and having a voice, even although in a minority, upon an Imperial Council of State, that I have ventured to put forward this resolution. It is with the object of allowing our people in our countries, who recognize their responsibilities and are prepared to accept them under existing conditions, to have some representation upon the Imperial Council. It is from the point of view of our people having no voice at present and there being no representative body appointed which can voice the sentiments of the Government of the day or of the people of New Zealand, that I am urging that it is necessary that we should effect some change as against the present system, which has done very well up to now, but which, with the evolution, with the growth and with the development that is going on in various portions of the British Empire, does not, in my opinion, meet the present position as it should do.

I want to take this opportunity of alluding—and doing it without offence to the people who are in the East—to the policy of New Zealand in connexion with the Asiatic questions. I would like to dispel any wrong impression as to the reason why the policy of New Zealand is averse to admitting Asiatics, even including those who belong to a nation in alliance with Great Britain. The basis of the policy of New Zealand is, that

all the rights of citizenship are conferred upon every adult within our shores. We are entirely governed by our own people; we have spent millions of money up to date in educating them and to a very large extent at the State expense, to enable them to discharge the duties of citizenship; and why we object to allowing a large number of Asiatics into our country is because, in the first place, we believe them to be entirely unfitted for the duties of our citizenship. As regards one great Eastern nation, we know in our country, and I presume it is within the knowledge of every man here, that the people of these nations are under obligations, enforced by oath, in the event of war arising, to take the side of their parent land even against the country they have made their home.

Now in connexion with this all-important matter of an Imperial State Council, I want again to emphasize the fact that, underlying the proposals I am submitting, I place the Defence of the Empire as of the first consequence to all parts of it. That is why from the point of view of New Zealand I for one look forward with very great hope to the possibility, without in any way derogating from what any of the representatives of the oversea Dominions in the past have done, of naval co-ordination and co-operation, and of having a larger and more powerful oversea Navy than exists at present, with a view to preventing eventualities in the future; and also with the more important view, perhaps, of making for the peace of the whole world.

In the country I represent, we regard this

Asiatic question as of intense importance. We realize the fact that we are not very far away from these Eastern countries, and we also recognize that there is tremendous room in our countries, unless we are excessively careful, for the introduction of many millions of people whom we would not desire to have within our territory at all. In suggesting for the consideration of this Conference an alteration which I know is difficult to bring about, and which I realize and want to say at once cannot be done in a hurry, I do not believe, myself, that we can have the full benefit of a great Empire naval system under existing conditions. I recognize the very powerful condition of the British Navy; but, I believe, out in our own seas (and I say this in the presence of the representative of the Australian Commonwealth) that the system Australia is carrying out is not by any means the strongest one nor the cheapest one, and consequently not the most effective one, that can be established for the benefit of their country.

Mr. Fisher: Which system do you mean, the new one or the old one?

Sir Joseph Ward: I mean the new one, the sea one; I am not dealing at present with the land one, which I believe to be as fine as possible. My belief is, that if we could only get rid of the present method of disjointed action, if we could have some recognized system to which we were all agreed, if we could lay down a comprehensive system for the purpose of defence, some of the minor difficulties which stand in the way of the respective countries, and some of the major diffi-

culties also which stand in their way, could be overcome and a much more effective system brought into operation than at the present time exists. I believe, myself, that if we had a system by which the whole of our countries gave a *per capita* contribution towards the cost of naval defence (and again I say I do not refer to land defence at all) we should meet all the local conditions in the different countries by having ships built there, by having naval docks built there, by having everything excepting the armament of ships provided in our respective countries. I believe we could do it far more effectively by giving a *per capita* contribution, and so help to protect our own countries and the oversea routes, which is not being done at present, and which, in my opinion, cannot be done by the present method. If we could arrive at a decision to adopt a *per capita* contribution from the respective countries the outcome would be a British Navy so powerful that the world would stand at peace probably for generations to come. Surely it is a matter worthy of the greatest consideration on the part of a conference such as this to bring about, if it is possible to do so, such a consummation?

Sir Wilfrid Laurier: Will you permit me an interruption here?

Sir Joseph Ward: Certainly.

Sir Wilfrid Laurier: Would this be in conjunction with your Imperial Council?

Sir Joseph Ward: Yes.

Sir Wilfrid Laurier: Are the two things not quite apart, and could you not give contributions to-day without having an Imperial Council? I

do not see the relevancy of it to the idea you are expounding.

Sir Joseph Ward: I suggest that the Imperial Council is the only way of providing that the voices of the different countries may be heard through their constitutionally elected representatives. The Imperial Council is the only way, I will not say, to go back upon the policy of any of the Dominions, but it is the only way in which, in my opinion, a uniform system of co-ordination and co-operation can be achieved. That is my view.

Sir Wilfrid Laurier: But that is quite independent of the policy of contributions.

Sir Joseph Ward: I hope to show presently exactly what my proposal is.

Mr. Batchelor: You would have legislative power?

Sir Joseph Ward: It would require legislative power to enable it to carry out its functions.

The President: That is very important. Is it proposed that this Council should have legislative powers?

Sir Joseph Ward: I intend to explain presently what I think it should have.

The President: Mr. Batchelor asked the question, and I understood you to say yes.

Sir Joseph Ward: Yes, I propose that it should be created by legislation.

The President: Created by legislation, yes; but to have legislative power is a different thing.

Sir Joseph Ward: And that its powers should be defined by legislation.

Mr. Fisher: I understand you to say that it

would have legislative powers as a constitutional body.

Sir Joseph Ward: Perhaps it would be more convenient if you would wait until I explain what it is I suggest should be done.

The President: While we are on the point that Sir Wilfrid Laurier put, which I should like you to give us a little further explanation about, the proposition which I understand you are making contemplates, when the Imperial Council is brought into existence, the establishment of a policy of what is called naval contributions on the part of all the different parts of the Empire. That would involve, would it not, the reversal of the new departure, as I might call it, which has taken place, certainly in Australia and Canada, of having separate local navies of their own. You contemplate that as a desirable possibility?

Sir Joseph Ward: I contemplate that the power should be given to the Imperial Council, which would, of course, include representatives from Canada and Australia, of providing uniformity of system as far as the sea defences of the Empire are concerned.

Sir Wilfrid Laurier: That would mean that the Council would fix the policy of Canada.

The President: It would impose a system. It is important that we should have that clearly in our minds.

Mr. Fisher: Would it have the power of coercion by a legislative Act or otherwise?—that is the point.

The President: We shall come to that presently.

Sir Joseph Ward: I wish to make some further

observations in connexion with the defence of the Empire, and then I propose to show what I believe to be the way in which the different parts of the Empire should proceed in order to establish a system of government in connexion with defence matters that would conduce to the best interests of the whole.

Mr. Pearce: May I say this before you proceed? I understand that there is to be a meeting to discuss the question of naval co-operation?

The President: To-morrow.

Mr. Pearce: I would point out to Sir Joseph Ward, that the remarks which he is now making will call for a reply, certainly from the representatives of Canada and Australia, because he is attacking the principle of a local navy, and in some way he is connecting it with an Imperial Council. I understand the interpolation by Sir Wilfrid Laurier was to get an understanding as to whether that was a condition of the Council; and I think we should have some assurance upon that point, otherwise we shall be compelled to defend the policy we are putting forward, and this seems not to be the time to defend it.

Sir Joseph Ward: I want to say at once that I am here, as I presume the other delegates are, for the purpose of freely discussing all matters affecting the Empire as a whole. I do not suppose for a moment that Mr. Pearce suggests that I am going to defer my observations upon matters of Imperial consequence to the portion of the world I represent until we get where I recognize secrecy is necessary upon some matters. I am fully cognisant of the fact that anything I am

saying here is subject to criticism, perhaps of the most destructive character, from any other representative at this Conference; but that is no reason whatever for its being suggested that I should not address to the Conference any line of argument which I consider necessary.

Mr. Pearce: I think it necessary, in fairness to us, that we should know if that is put forward by you as a condition of the Council.

Sir Joseph Ward: By the time I have finished, I will have endeavoured to make myself as clear as I possibly can, and, of course, I quite recognize that what I am saying calls for a reply from other representatives here. I also recognize that, perhaps, the views I entertain may not be in accord with those of any other member of the Conference. But you will also realize that, even though he should stand alone, that fact should not deter one from expressing his sincere opinions upon matters which he considers to be of sufficient importance for every member of the Conference to discuss.

I must say, Mr. Asquith, that I am not attacking—I want to make that quite clear—either the Dominion of Canada or the Commonwealth of Australia. Quite the contrary. I recognize that the responsibility for the policy of those countries rests entirely with the Governments of the respective countries. I am trying, what I admit to be a difficult task, to point out how I believe the whole strength of the naval protection across the seas, irrespective of the sea-coast of all our countries, could be made very much stronger, and how the protection of all parts of the Empire could

be made better by abandoning the present divided system. And my belief is that the only way in which that change could be brought about is by the creation of some authorized Council of Defence or Council of State, with the representatives of Great Britain, Canada, Australia, South Africa, New Zealand, and Newfoundland upon it, and giving them the necessary powers to deal with the question of naval defence, and of naval defence only, and the right to be consulted before they are committed to a war policy which may be necessary in the best interests of the Empire as a whole. The overseas Dominions are bound to be a minority of such a council, I recognize; but it is because to-day the people are not consulted, and cannot be consulted under the existing system, that I am putting forward this proposition. I recollect Sir Wilfrid Laurier himself on one occasion stating that Canada would have no voice in a matter of the kind, and that for that reason he took exception to proposals to have but one British Navy. I think that is a strong position to take up, and it is one I take up myself.

Sir Wilfrid Laurier: The point of my observation was that you are advocating the creation of an Imperial Council.

Sir Joseph Ward: Yes.

Sir Wilfrid Laurier: You are advocating at the same time contributions. I do not see the relevancy of your argument towards the object which you have in view in addressing the Conference as to the Imperial Council. Contributions can be given to-day if any of the Dominions choose to do so. You have done it; other parties have

refused to do so. Therefore I do not see the relevancy of it, except it also involves that this Imperial Council which you propose would have the power to fix the contribution, to which, for my part, I would very seriously object.

Sir Joseph Ward: In reply to Sir Wilfrid Laurier, Mr. Asquith, the point I want to make clear is this. It is quite true that any one of the oversea Dominions to-day may give a contribution; but they may withhold it; and it is quite true that in the event of any portion of the British Empire being drawn into a war, that one portion of the Empire might say, 'I am not going to take part in it,' and they need not give a contribution, although under international law I think they could not avoid having the responsibility of being a belligerent put upon them. What I want to bring about is a uniformity of system for the preservation of the whole of our oversea interests.

Sir Wilfrid Laurier: That is to say, the Imperial Council could compel us.

Sir Joseph Ward: We should fix a basis upon which a contribution should be levied for sea defence in the general interests of the whole.

The President: Your suggestion is that the Imperial Council, unless it is to be a mere academic thing, is to have the power of imposing that obligation?

Sir Joseph Ward: Quite so.

The President: Even on a dissentient Dominion?

Sir Joseph Ward: Mr. Asquith, at the present moment if England went to war all the oversea Dominions are directly affected by the results, and

that could happen without the slightest reference to either an assenting or a dissenting Dominion.

The President: We cannot get a contribution to the Navy without the assent of the Dominion.

Sir Joseph Ward: But you can involve them in war.

The President: That is another matter. I am speaking now of the naval contribution. Canada has never given us a naval contribution.

Sir Joseph Ward: I know that is so.

The President: And we have never attempted to exact one from her. Of course, we know our business better than that. I only want to understand, and I think the members of the Conference want to understand, what the length and breadth of the proposal is. Is it that, so far as regards what you call the uniform naval system, it should be in the power of this new body to impose *in invitum*, against a particular Dominion, a policy of contribution to which that Dominion would not voluntarily assent?

General Botha: And fix the amount?

The President: And fix the amount.

Mr. Fisher: By a benevolent revolution, I suppose?

Sir Joseph Ward: As a matter of fact, if the proposal is to establish an ineffective, nominal council which is going to hold out to the eye the prospect of doing something of interest to the Empire as a whole, if we are not to establish something that has got some power to do good to the Empire as a whole, it is far better to drop the whole thing. That is my opinion; we have to consider whether the time has not arrived, in the

general interests of Great Britain and the whole of our oversea Possessions, when we should not have some uniformity of system of contribution, or whether it is to be left to the voluntary decision of those oversea countries whose requirements for protection by the British Navy are becoming greater every year. If we are not to have some effective system, then, as far as my judgement goes, all the efforts to bring about co-ordination and co-operation are to a very large extent in vain and a drifting apart must inevitably ensue.

I want to say again, and to emphasize it, that I am not foolish enough not to recognize that the proposals I am making are surrounded with very great difficulties. I realize that from the start; but that does not deter one from making them, if he believes something in the direction he is advocating is desirable and that it may, in the future at all events, be brought into operation. For that reason my opinion is that there ought to be established an Imperial Council or an Imperial Parliament of Defence, in the interests——

Sir Wilfrid Laurier: There is a difference between a council and a parliament. What do you propose, a parliament or a council? I want a proper definition of what you mean, because you have proposed neither so far.

Sir Joseph Ward: I prefer to call it a Parliament of Defence.

Sir Wilfrid Laurier: Very well.

The President: That is a very different proposition to the one in your resolution. Your resolution is 'An Imperial Council of State,'—nothing about defence—'advisory to the Imperial

Government.' It is limited, as I understand the resolution, to giving advice.

Sir Wilfrid Laurier: When it is started it is to be a parliament; who is going to elect that parliament?

Sir Joseph Ward: I will presently explain it.

The President: All I say is that that is not the resolution in any of those particulars.

Sir Joseph Ward: I would point out that the resolution is 'with representatives from all the self-governing parts of the Empire.'

Sir Wilfrid Laurier: But you say 'Council.' Is it a council, or is it a parliament? It is important we should know exactly what is the proposal.

Sir Joseph Ward: I prefer to call it a parliament.

Sir Wilfrid Laurier: Very good, then; now we understand what you mean.

Sir Joseph Ward: I prefer to call it a parliament, although I admit there is a good deal in the name.

Sir Wilfrid Laurier: There is everything in the name.

Mr. Fisher: Would it not be as well to amend your resolution on those lines?

Sir Joseph Ward: No, I do not propose to amend it; if it is necessary afterwards I should have no objection.

Sir Wilfrid Laurier: You propose a council in your resolution; but you advocate a parliament.

Sir Joseph Ward: You can call it a council if you like.

The President: We want to know what you call it.

Sir Joseph Ward: It is a Parliament of Defence that I am suggesting. I have no objection to its being called by any suitable name. I think perhaps at this juncture I will state my proposal—and then later on I will deal with one or two of the matters I was going to refer to just now.

I indicated in my opening remarks on Tuesday, that I would ask the Conference to deal with Imperial unity; organized Imperial Defence; equitable distribution of the burdens of defence throughout the Empire; representation of self-governing oversea Dominions in an Imperial Parliament of Defence for the purpose of determining peace or war; contributions to Imperial Defence; foreign policy so far as it affects the Empire; International treaties so far as they affect the Empire; and such other Imperial matters as may by agreement be transferred to such Parliament. I suggested that the principles of the scheme should be: (1) That Canada, Australia, South Africa, New Zealand, and Newfoundland elect to an Imperial House of Representatives for naval Defence, one representative for each 200,000 of their respective populations; that is (approximately) Canada 37, Australia 25, South Africa 7, New Zealand 6, Newfoundland 2. That is a total of 77.

Mr. Malan: You have only taken the European population, then?

Sir Joseph Ward: Entirely so, the white population.

Mr. Malan: Why?

The President: You do not make any allowance for the coloured population?

Sir Joseph Ward: I understood that when you were framing the South African Constitution you refused to give the coloured population there the right to vote. Speaking generally, you could hardly expect, in connexion with an important proposal such as this, that a departure should be made so different to what has been carried out in South Africa, and, speaking generally, in some other countries too. However, that is a matter that can be discussed perhaps in connexion with the proposals. I am dealing with the white population, and the white population only. (2) That the mode of electing the representatives be left in each case to the determination of each of the oversea Dominions.

Mr. Batchelor: Sir Joseph, how would the Imperial Government be represented upon that?

Sir Joseph Ward: Perhaps if you will allow me to proceed I can explain; I must take these points in their sequence: (3) That the United Kingdom elect representatives on the same basis—that is one for every 200,000 of the population; that is, say, 220 members. That the total members of this Imperial House of Representatives thus——

The President: What would that add up to?

Sir Joseph Ward: 300. (4) That the term for which they are elected be five years. (5) That the United Kingdom, Canada, Australia, South Africa, New Zealand, and Newfoundland each elect two representatives to be members of an Imperial Council of Defence, thus providing a Council of 12.

Sir Wilfrid Laurier: Out of that representation?

Sir Joseph Ward: No, I am dealing with the Senate, which is to be elected for such term and in such manner as each of these divisions of the Empire shall determine.

The President: With a Council of 12 the United Kingdom would have two?

Sir Joseph Ward: Yes.

The President: And the Dominions are to have 10?

Sir Joseph Ward: That is the same principle as exists in all Federal Governments.

The President: You treat them as separate States?

Sir Joseph Ward: Perhaps if you would allow me, I might go on to the functions of this Council. (6) That the functions of this Council are to be limited and to be mainly consultative and revisory. (7) An executive to consist of not more than 15, of whom not more than one be chosen from the members of the Senate. (8) That there be transferred to this Imperial Parliament of Defence exclusively:—(*a*) Those matters common to the whole Empire—that is, all those in which every part of it is alike interested.

Sir Wilfrid Laurier: Will that be concerning defence only, or everything?

Sir Joseph Ward: It is to deal with defence in times of peace and war, that is Imperial Defence.

Mr. Pearce: Shipping?

Sir Joseph Ward: No.

Mr. Fisher: I understood you to call it an Imperial Parliament of Defence; that is one of the difficulties we meet with. This is going to deal with general subjects and the difficulty of it

is, that you stated definitely just now that it would be an Imperial Parliament of Defence.

Sir Joseph Ward: So far as the name is concerned, that is so. After you have heard what I suggest, if the name is in any way anomalous to the proposals contained in it, I have not the slightest objection to changing it. There is no trouble about the name so far as I am concerned; but I want to try and indicate what I believe would be a good thing if it could be carried out.

Mr. Fisher: I am very sorry to interrupt you, but the point is this: this is a select body from Members of Parliament called specially to deal with defence, I understand, and now you are trenching on to other subjects besides defence.

Sir Joseph Ward: No.

Mr. Fisher: I beg your pardon.

Sir Joseph Ward: (*a*) Only in regard to those matters common to the whole Empire—that is, all those in which every part of it is alike interested. I am dealing with naval defence. (*b*) Those matters which can be satisfactorily undertaken only by the Empire as a whole. Including: —(1) Peace and war treaties and foreign relations generally.

Sir Wilfrid Laurier: Does that treat with commerce?

The President: It is not defence.

Sir Joseph Ward: It is all bearing on defence.

Mr. Fisher: I do not understand it in that light.

Sir Joseph Ward: I will try to make it as clear as I can.

The President: It is to have exclusive control

over the Empire as a whole in all questions involving peace or war.

Sir Joseph Ward: That is so, with England reigning supreme upon it.

The President: The new body is to have that exclusive power of treaties and foreign relations too.

Sir Joseph Ward: (1) Peace and war treaties and foreign relations generally. (2) Imperial Defence and the providing of the revenues for the foregoing purposes and for the general support of this Imperial proposal.

(A) For the first 10 years after the first election of this Parliament, it shall have no power of taxation, but the amount payable by each of the oversea Dominions represented as its proportion of the revenue required for the purposes I have indicated shall be deemed to be a debt due by each Dominion and shall be raised and paid by that Dominion to the Exchequer of the Imperial Parliament of Defence. (B) At the expiration of 10 years such amount shall be raised and paid in such manner as the respective Dominions agree to. (C) This Imperial Parliament to determine the amount to be contributed by the overseas Dominions for the following purposes: (1) Imperial Defence, (2) War. The amount to be contributed by the oversea Dominions estimated *per capita* of population, not to exceed 50 per cent, of the amount (estimated *per capita* of population) contributed by the United Kingdom for these purposes; but for all other purposes the contributions shall be on an equal *per capita* basis. This is dealing entirely with defence, and with the

Imperial relations, and with the relations that are closely allied with defence of those matters which may bring the whole Empire into a war.

Mr. Pearce: Would you mind repeating the proportions? I did not catch your figures as to the proportion they should contribute.

Mr. Fisher. The United Kingdom twice the amount of the oversea Dominions.

Sir Joseph Ward: That is so; the amount to be so contributed for Imperial Defence and War shall, estimated *per capita* of population, not exceed 50 per cent. of the amount (estimated *per capita* of population) contributed by the United Kingdom for these purposes; but for all other purposes the contributions shall be on an equal *per capita* basis. And the reason for that must be obvious: at present the British interests are so very much greater than those of the outlying Possessions that it is only a fair proposition to concede that there should be a difference as between them, and I believe the difference suggested here is not an unfair one.

In submitting this matter, I have not interfered—and I do not propose now, except so far as to indicate what is passing through my mind, to interfere—in any way in connexion with the politics of the Homeland. I have not done so at any time, and in anything I am stating here I am stating it only from the point of view that I believe that circumstances in the future will call for it as being required to enable the great work of Empire to be carried on successfully. What I am indicating here presupposes in the United Kingdom a completed system of local autonomy for the

national divisions of the Kingdom, each, including England, having its own Parliament——

The President: What we call Home Rule all round.

Sir Joseph Ward: Yes. Of course, I am not discussing the pros and cons of it, but what I am suggesting here presupposes that a system of that kind will be brought into being; and, if I may be allowed to say so, in my opinion, as one who is perhaps entitled to express his opinion in connexion with a matter of this kind, it appears to me to be a necessity in connexion with the development that has taken place both in the Old World and in its relationship to the outlying portions of it, and to other important countries, too, that such a system should be brought into being.

Presupposing that that alteration should be made, as an outcome of that alteration, necessarily there would be a tremendous change made in the Old Country in connexion with the present Imperial Parliament. As I have said, what I am suggesting presupposes developments taking place in the old land in that respect.

Sir Wilfrid Laurier: You propose a new Parliament to be elected by all the Dominions?

Sir Joseph Ward: For defence only.

Sir Wilfrid Laurier: That can be done without any alteration of the present constitution of the United Kingdom. I cannot see the logic of your position. You propose a new Parliament on top of what we have already?

Sir Joseph Ward: No. In my opinion, Sir Wilfrid, with all due deference to you, any pro-

posal of this kind presupposes an alteration in the Homeland to a federal system, and in connexion with that federal system there must of necessity be a change in the numbers of the great Houses that represent Great Britain and Ireland at the present time. In other words, if there are created in different portions of the British Isles separate Parliaments for local government, it stands to reason some alteration would take place in the larger ones that exist for the whole of Great Britain at the present time. I believe, in connexion with federation for naval defence purposes of the oversea Dominions, that it is necessary to presuppose an alteration in the United Kingdom itself on some such lines as I have described.

The President: I do not want to interrupt you, but for the sake of making it clear as you go along I want to see how we stand. We in the United Kingdom will have to consider how it would affect us. You presuppose what is called Home Rule all round here, that is to say, the delegation to local bodies of all local concerns in England, Scotland, Ireland, and Wales.

Sir Joseph Ward: Yes.

The President: Is your new Imperial Parliament of Defence (I merely ask for information), then, to step into the shoes of the old Imperial Parliament?

Sir Joseph Ward: Yes, at any rate ultimately.

The President: It is to exist side by side with it?

Sir Joseph Ward: If desired, but I want to develop a true Imperial Parliament.

The President: But side by side with it?

Sir Joseph Ward: Yes, if you want it for the purposes I have named.

The President: The old Imperial Parliament will still go on, under your scheme, representing the different constituent elements in the United Kingdom?

Sir Joseph Ward: If you had separate Parliaments existing for Scotland, England, Wales and Ireland on their own account, to a very considerable extent you would alter the position of the old Imperial Parliament and it might be merged ultimately, at least, in the new one.

The President: We should relieve it of a good deal of business which at present it transacts.

Sir Joseph Ward: Besides the point I am making, in presupposing that the United Kingdom establishes Home Rule all round as you call it—I have called it creating separate parliaments for local government—

The President: I use the popular expression.

Sir Joseph Ward: I call it creating parliaments for the different nationalities in the Kingdom, and, if you did that, I apprehend you must make a material alteration in the Imperial Parliament consequent on a change of that kind. I am not demanding the taking away of any of the powers of the present Imperial Parliament, although I think it should be merged in the new one for the Empire, or of any of the powers of the overseas Dominions' Parliaments. I am suggesting that in naval defence matters for the Empire as a whole, if the people in New Zealand (I will deal with New Zealand alone) are to take their responsibilities, which they are doing now to some

extent, in connexion with the general defence of the Empire, including the protection of New Zealand, they are entitled to some representation on some body that has got the power of saying when New Zealand should go into war, although we recognize that the British representatives would settle it every time because they would be in the majority. We to-day, however, have no voice of any sort or kind, and I am suggesting that some body should be created upon which the people of New Zealand and all the other Dominions could be represented. It is possible that the proposals I am making may not fit in with the existing conditions; but I believe they ought to be capable of being put into shape with a view to help all portions of the Empire. I am suggesting an Imperial Parliament of Defence, as I call it, for the purpose of helping to make the defence of the Empire as a whole stronger than it is to-day. I want to make it absolutely invulnerable for all parts of the British Empire.

What I am trying to do does presuppose that there is a completed system of local autonomy for the national divisions of the United Kingdom, and then all portions of the Empire would be in a similar position from the point of view of their local Governments as far as the local autonomy is concerned. That, this local autonomy fully established, a true Imperial Parliament, which at first could be limited to foreign policies, defence, and peace or war, should be set up, the local governments to have the powers they have now.

Mr. Brodeur: Except with regard to Naval Defence.

Sir Joseph Ward: Except with regard to Naval Defence, that is so.

Mr. Brodeur: As to Naval Defence, you do not want to recognize the local autonomy of the different parts of the Empire?

Sir Joseph Ward: No. In the matter of oversea Naval Defence, my argument is that there is no portion of the British Possessions at the present time—certainly, as far as the United Kingdom is concerned, it applies less to them than to any other portion of the British Possessions—which can deal with the matter of oversea defences effectively without the co-operation and goodwill of all parts of the Empire. What I want to see brought about is some system to enable that to be done. I call it an Imperial Parliament of Defence.

Sir Frederick Borden: Naval Defence, I think you mean.

Sir Joseph Ward: Naval Defence, as I have already stated.

The President: It is not to deal with military matters, I think you told us before.

Mr. Fisher: But it is to deal with treaties, I understand.

Sir Joseph Ward: Certainly treaties, because they necessarily affect defence.

Mr. Fisher: That is a very important item.

Sir Joseph Ward: The question of treaties, as a matter of fact, has a very large bearing on the possibility of troubles affecting all portions of the Empire.

Mr. Fisher: It is as big as the other.

Sir Joseph Ward: Yes, it is. At all events I

am submitting this proposal because I am impressed with the fact that to-day in reality the oversea Dominions are helpless. I have no hesitation in saying in the presence of other representatives here that I am certain they are all prepared to accept their responsibilities in connexion with defence matters; but, as a matter of fact, they are all helpless and they know nothing. I speak for New Zealand, and though we take our part quite willingly we know nothing whatever as to the possibilities of troubles arising that we are bound to be drawn into. But as British countries, with people of various nationalities in them, we have come to a point when a change is necessary if we are to have our people with us in taking our part in connexion with the general defence of the Empire. We must have some alteration of the present disjointed so-called system. That is what I am trying to arrive at, and what I am hopeful that something may be done in connexion with. I recognize to the full the truth of what Mr. James Bryce, the British Ambassador in America, says upon this point of central control as against divided control in distant portions of the Empire. He says that: 'The great principle applicable'——

The President: What are you quoting from—his book?

Sir Joseph Ward: Yes. 'The great principle applicable in every branch and art of government is that the more power that is given to the units which compose an empire, be these units large or small, and the less that is given to a central or imperial authority, so much the fuller will be

the liberty and so much greater the energy of the individuals who compose the people as a whole.' I agree with those sentiments absolutely, and, apart from any of the proposals I make to this Conference, that is the spirit that underlies the proposals I am making; the motive I have endeavoured, however imperfectly, to explain to the members of the Conference.

Now I want just to say one word upon what I believe, if we had a properly constituted authority, our respective Dominions, as far as the people are concerned, would be favourable to, namely, what might be done in the matter of general Naval Defence, without loss of local dignity to any Dominion, without any loss of prestige, and still would, I believe, be of superior advantage to the individual portions of the Empire, especially to the Old World, and would go towards making the peace of the world assured. I spoke of the absence of uniformity of system by which a contribution could be made for naval purposes. I know what is being done in Canada, I know what is being done in Australia, and I recognize the enormous amount the Old Country is doing quite irrespective of all our Dominions in every possible way. I recognize, too, the large share the British taxpayer has taken in contributing towards the general support of the oversea Dominions as far as Naval Defence is concerned, and what they have done so magnificently and cheerfully in the past.

I believe we ought as far as the white people in our respective countries are concerned, to have a uniform system of contribution—and I want to make that clear—for Naval Defence. Upon the

basis of 13 millions of white people (and there are more than that—I am not overstating it) in the British Dominions, if we were to give for Naval Defence 10*s. per capita* we would provide £6,500,000 a year, and if our annual amount of £6,500,000 was put into the purchase of battleships (I call them Dreadnoughts for the purposes of my argument) at £2,000,000 each, there could be provided for out of the annual contribution three Dreadnoughts per annum. But as a matter of practice, I think I ought to say, Mr. Asquith, that although it may be done occasionally the building of battleships is not generally provided for out of revenue.

The President: We do it here, you know.

Sir Joseph Ward: Not always.

Mr. Fisher: Our proposal is always revenue, and no other policy will ever be tolerated.

Sir Joseph Ward: I am going to state what my opinion is, because I am of the opinion that at times considerable sums are used other than out of revenue for the purpose of providing armaments.

The President: As to the battleships and munitions of war, we have done such things, I agree; but our normal practice is to provide for the construction of ships entirely out of revenue.

Sir Joseph Ward: However, for the purposes of my argument, three Dreadnoughts certainly could be provided for yearly out of the annual revenue. But supposing, in order to place them in a position of supreme invulnerability and of absolute safety from every point of view, by co-operating with the British Navy, all these

oversea Dominions, instead of waiting for a period of 20 years with a gradual expenditure only of a very considerable sum of money yearly, decided as a matter of policy to borrow at once the necessary money to equip their territories with a practically impregnable naval defence system; this could be done out of the £6,500,000 a year upon the basis I have suggested. I conceive that by this means such a position could be simply and efficiently arrived at within five years from now. Twenty-five Dreadnoughts at £2,000,000 each would amount to 50 million sterling, and the annual *per capita* contribution would, upon a basis of 6 per cent., including 3 per cent. for sinking fund, ensure that every one of them would be paid for in 15 years. In Australia, for instance—I am saying this, as my friend Mr. Fisher will recognize, with all respect——

Mr. Fisher: Yes, I quite admit that.

Sir Joseph Ward: In Australia, for instance, with all its Eastern possibilities, instead of having a minimized or ineffective fleet to meet the requirements of the great Commonwealth for protective purposes, ample protection would be afforded in a comparatively short period. To build up their own navy will take many years, with an enormous burden, in proportion to its population, in the interval placed on the people of the Commonwealth; but if a proposal of the kind I am suggesting (if any voluntary system which is suggested can be brought about, well and good, but I do not believe it can) were given effect to, what would the position be in Australia, in Canada, in New Zealand, South Africa, and New-

foundland? Why, by making provision for the repayment of those 25 Dreadnoughts if the vessels could be supplied within five years from now, every point of those Possessions would be in a position for defensive purposes absolutely unsurpassed by any other part of the world.

Mr. Fisher: But, Sir Joseph, if you will allow me to interrupt, you would have no fleet at all at the end of fifteen years.

Sir Joseph Ward: Why?

Mr. Fisher: Because it would be scrap iron then, and you would only have paid for it.

Sir Joseph Ward: I do not agree with you, Mr. Fisher, because I want to point out that if you provide for depreciation at the rate of 3 per cent., which I am suggesting on the establishment of the fleet——

Mr. Fisher: Fifteen years?

Sir Joseph Ward: Yes, and if any vessel went out altogether at that period you would have replaced her out of sinking funds that had accumulated because you would be providing for depreciation all the time. According to your argument, your railways ought to have been scrap iron twenty-five years ago.

Mr. Fisher: No.

Sir Joseph Ward: Your Houses of Parliament ought to have been out of existence twenty-five years ago, if that argument is a sound one.

Mr. Fisher: You cannot keep a fighting ship in permanent repair; the Admiralty will tell you that.

Sir Joseph Ward: As a matter of fact they are kept in repair now. Even on the 10*s. per capita*

basis, I am suggesting the utilization of only half the amount that would be given per annum for the purpose of providing the interest and sinking fund, and warships that would be up-to-date could be built in your own country with great promptitude compared to what is being done now, and this would make for early protective efficiency, without having the uncertainty that an inadequate fleet must create if its building up is extended over a long period of years.

Mr. Fisher: I only say that I think it is a faulty calculation.

Sir Joseph Ward: In my opinion, where you are providing for the full redemption of debt in a period of years, the argument my friend Mr. Fisher is putting forward is not a sound one, because the same principle applies to replacements. If you provide a sinking fund for the complete restoration of anything within a given period, there can be no such thing as it being out of existence at the end of the time, otherwise no railway system would exist after a period of years has passed by. They would all disappear.

Sir Wilfrid Laurier: Railways are producing revenue and they are therefore replaced all the time; but warships do not produce any revenue.

Sir Joseph Ward: Railways are built out of capital borrowed and not out of revenue, but out of that revenue there should be a sinking fund established and continual repair on the railways should be effected out of revenue also.

Sir Wilfrid Laurier: Yes, out of revenues of the railway. There is no possible comparison between the two things.

Sir Joseph Ward: I do not agree, because the 10*s. per capita* that I suggest takes the place of the ordinary revenue received from any commercial department such as railways. However, I want to place on record my view on this matter, and to say that in my opinion a position of enormous strength, with at least three of the most powerful battleships, could be provided for Australia, that six of them could be provided for Canada for dealing with both the Pacific and Atlantic coasts, that three of them could be provided for South Africa, if South Africa required them, although I know they are in a similar position to New Zealand in the matter of their naval defences, two could be provided for New Zealand and one for Newfoundland, and all the subsidiary vessels that make up fleet units could be provided for all those countries. In addition ten Dreadnoughts could be added promptly to the British Navy, and all this could be done entirely by the oversea Dominions out of the proposal which I am speaking of at the present moment.

Mr. Batchelor: That policy could be adopted now, could it not?

Sir Joseph Ward: If you could tell me, Mr. Batchelor, what machinery there is in existence to enable all of the oversea countries and the Motherland to adopt a uniform policy in the matter of naval defence to make an invulnerable Empire Navy, no suggestion of mine is necessary; because at the present time we do not act together—for instance, Sir Wilfrid Laurier holds a pronounced view in one direction, and I do not hold the same view with him; the Commonwealth of Australia

holds a different view; if it comes to individual attempts to act on the part of the respective countries, then how could we possibly act together?

Sir Wilfrid Laurier: We must have a body above us to force us to be good boys and pay our share while the superior body spends it.

Sir Joseph Ward: If the people of our respective countries were empowered to elect representatives to a corporate body for the preservation of their interests round their own coasts and the sea routes, if that is called a superior body to the people themselves, then I admit that your argument is right. But what I am suggesting is that the same people who create the individual Parliaments should elect their representatives and have a voice in the matter of their protection, and also upon the point of going to war or otherwise; that they should have a voice in the creation of a system which is going to be really of value to them.

Sir Wilfrid Laurier: That is a very different position.

Sir Joseph Ward: That is what I am suggesting, and I know the difficulties surrounding it; I apprehend the difficulties fully, but I suggest this as one way, and, if any other gentleman at this Conference can suggest as good or a better way, I would be only too happy to support it. But at present I say this—with all respect to every portion of the British Dominions—individually, though we are involved when Great Britain has a fight for the supremacy of the seas, we have no voice at all, we are helpless.

The President: I should like, if I may, to ask

you this question. You say this proposed body is to have a voice—I suppose you mean a decisive voice—in the question of peace or war. How is that to be worked out practically? Are we to have a debate on the question of whether or not the Empire shall go to war, at which everybody is to speak, with a division, and so on—300 members?

Sir Joseph Ward: I have not suggested anything of that sort.

The President: That is your suggestion—the only suggestion before the Conference.

Sir Joseph Ward: I have not suggested anything of the kind, with all due deference.

The President: Then I do not understand it.

Sir Joseph Ward: I have suggested an executive of fifteen, and if there was an executive of fifteen I apprehend that they would accept the full responsibility of doing whatever they thought proper as representing the Imperial Council of Defence.

The President: Is the executive of fifteen to be elected by or responsible to the parliamentary body?

Sir Joseph Ward: Entirely so.

The President: Then they are the ultimate arbiters?

Sir Joseph Ward: Yes. The fifteen members of the executive, or whatever the number of the executive might be fixed at, would be representative of all portions of the British Empire even although no man outside of Great Britain was on the executive. Then if the people of the several portions of the Empire selected representatives they would have no right to complain, as they

have to-day, that they have no voice, even although I recognize that they would be in a minority under the new system. They have no voice or say at present in connexion with matters in which they are deeply concerned, and I do not suggest a one-sided proposal because I advocate the oversea Dominions contributing 10*s.* *per capita*.

The President: What is to be the position of the Imperial Government? Where does it come in? Are they to conduct negotiations with Foreign Powers up to the point when there is a possibility of a rupture, and then is your executive to come in to determine whether or not we are to go to war?

Sir Joseph Ward: They would have 220 members from Great Britain.

The President: I am speaking of the executive. The British Cabinet, at present, is responsible for the conduct of our relations with foreign countries. We carry on, of course with all the secrecy that diplomacy requires, these negotiations in the interests of the Empire as a whole. We get to a point, or we might conceivably get to a point, in which it was a question whether or not there should be a rupture between us and a great Foreign Power. At present the Cabinet decides that on its own responsibility. Parliament dismisses them if they are not satisfied that they have acted rightly. What I want to know from you is—so as to understand the proposition, whether it amounts to this: that at that point, the negotiations having been conducted up to that point by the British Cabinet, it is then to hand over the

determination of the question of peace or war to your new executive, responsible to the Parliament of Defence? I do not ask in any hostile spirit; I only want to know if that is the proposal?

Sir Joseph Ward: My answer to that, Mr. Asquith, is that the executive suggested in this would be an executive representing in the same proportions the British people as are now represented by the British public in the Imperial Parliament. There would, of course, be a preponderance of British representatives upon that body which would carry on everything you are suggesting with the same secrecy.

The President: How then would you be better off than now?

Sir Joseph Ward: Because now we have no voice or say.

The President: Your voice, as you say, would always be overruled: you say it is an essential factor of the arrangement that the British should always be in a vast preponderance.

Sir Joseph Ward: That does not get over the fact that none of the British Dominions are represented directly or indirectly at the present time.

The President: I wanted to see what the effect would be.

Sir Joseph Ward: I think the people of the oversea Dominions are entitled to representation in connexion with such far-reaching matters. I recognize that representation does not mean control—very far from it; if it meant control I should say that your view of the matter was abso-

lutely unanswerable. The control still remains with the British people.

The President: I am not putting any view in opposition; I only asked you the question.

Sir Joseph Ward: I know. In matters of naval defence I believe sincerely the whole position could be made impregnable as far as the oversea Dominions are concerned, providing for them all the advantages they get by having anything in the shape of local navies. The whole of the building operations could be carried out without any difficulty, naval construction yards could be provided in the several Dominions by a *per capita* contribution such as I have named. By this means the distant countries might certainly hope to have, not an imaginative local navy that in all human probability would not be able to do what they required in times of stress, but they would have one that could beyond all question do what was necessary, and which, added to the present British Navy, would make it so powerful as to make the peace of the world absolutely assured. In other words, there would be all the advantages that now accrue, only greater in my opinion, to the local places. The building programme in the Dominions themselves to which they attach importance could be provided, with this material difference, that they would have effective and efficient naval strength at an early period, instead of, to put it mildly, an inadequate and uncertain strength being built up over a long period of years.

I have no hesitation whatever in saying with regard to this important question of the Declara-

tion of London (I am not going to discuss it now, of course) that if we had the position regarding the protection of the sea routes properly provided for at points from Canada, South Africa, Australia, and New Zealand, the Declaration of London, in my opinion, would be a matter of absolutely no consequence at all; because, after all, the whole thing comes back to the superiority of the British Navy in protecting the different parts of the sea routes of the world, to keep the routes open so as to enable the requisite food supplies to come to this Old Country.

The whole matter is a very important one; the protecting of the widespread and far-reaching interests of the British Empire is worth working for, and I say quite frankly that, even after discussion here, if this should not meet with the acceptation of any single member of the Conference, I will still continue to hold the view that the present position is not right, that an important alteration is necessary. I think I am further right in expressing the opinion that, as the years go on, the voice of the great democracies in the overseas Dominions will not be stopped from advocating that where they are expected, and rightly so, to share in the responsibilities of the troubles that may ensue connected with any war affecting the stability of the British Empire, they are entitled, as a matter of right, not as a matter of appeal, to have some say, even although they be in a minority, upon some properly constituted body that is going to decide the question as to whether there is to be peace or war. My opinion is that they ought to have some representation,

and that it ought to be upon a basis that will meet with the general approval of the people of Great Britain and the oversea Dominions.

I will not discuss the matter any further, Mr Asquith, excepting to say that I know that no scheme for bringing about Imperial unity, that no scheme for establishing a system of organized Imperial Defence, that no scheme for the equitable distribution of the burdens of Defence throughout the Empire, and that no scheme for the representation of the self-governing oversea Dominions in an Imperial Council or Parliament of Defence or for the purpose of dealing with the matters I have suggested, can be brought about in a hurry. I recognize that the proposals I have made are far from perfect, but I believe as certainly as that we men are sitting round this Conference table that the future will call for an alteration, in the direction at least of what I am suggesting. The growth of these oversea Dominions on attaining the proportions they will within a limited period of years from now, will be such that with the kindliest feeling, with the deepest ties of affection to the old world, the people who are free, independent, and recognize all the values of British institutions, and who value to the full the tremendous protection they have received as the outcome of the payments of the British taxpayers to the coffers of the British Treasury in the general interests of the people in the Old Land as well as the people in the distant portions of the Empire—I say, notwithstanding all that you will find that the strength of those rising oversea democracies in future will be such that their peoples will call for

representation, they will call for a voice in determining the all-important question of peace or war, how they are to bear their proportions and how they are effectually to help in establishing a system of naval defence that will go for maintaining the solidarity of the Empire as a whole, and in reality will go for bringing about and continuing that which every civilized community desires, the peace of the world.

. . . . .

General Botha's Criticism

Mr. President, I have listened with the greatest interest to the speech which has been delivered by my friend the Prime Minister of New Zealand, and although I highly appreciate the spirit in which he has brought forward his proposal I am sorry to say that I cannot agree with him.

I am sure that every one of us is equally anxious to knit the various parts of the British Empire together as closely as possible, and that any practical scheme to attain this object would receive our most cordial support, and our Imperial Conferences are held with that object.

We must not, however, look upon these Conferences as affording in the first place an opportunity for the passing of a number of resolutions which will be carried into effect throughout the Empire—if we do this I am afraid that we shall be disappointed—I look upon these Conferences with very different views. I consider that they are of the greatest possible value in periodically

bringing together the governments of the Empire and enabling them to discuss matters of common interest.

Even if we were not formally to pass a single resolution, I should be very far from saying that our Conference had been a failure. We would all return to the several parts of the Empire having heard each other's views on most important questions, and we would all be able to work towards the attainment of one common ideal.

These conferences have already been of the greatest value, and I am convinced that they are in a great measure responsible for the greater unity of the Empire, which we have undoubtedly already attained since they were first organized.

These conferences are undoubtedly an important step in the right direction, but I have grave doubts whether an Imperial Council such as proposed would bring us nearer to our object.

I have asked myself whether this proposal which has been brought forward is a practical one. No one can feel more than I do, that as often as the British Government has to deal with matters which may affect a particular part of the Empire, it is essential that the particular Dominion concerned should have an opportunity of being heard and of expressing its views. After the most careful consideration, however, I have come to the conclusion that this object cannot satisfactorily be attained through an Imperial Council such as proposed in this resolution. How is such a Council to be appointed? Who will decide what matters must come before it? What authority is to be

vested in it? To what representative body is such a Council to be responsible? These are only a few of the questions which crop up immediately, and it seems to me that no satisfactory reply can be given to them. If any real authority is to be vested in such an Imperial Council, I feel convinced that the self-governing powers of the various parts of the Empire must necessarily be encroached upon, and that would be a proposition which I am certain no Parliament in any part of the Empire will entertain for one moment.

If no real authority is to be given to such a Council, I fear very much that it would only become a meddlesome body which will continually endeavour to interfere with the domestic concerns of the various parts of the Empire, and cause nothing but unpleasantness and friction—in fact, the very opposite of what we desire. I feel certain that, with the political genius which characterizes the British race, a solution of this difficult problem will ultimately be evolved. It may be that the time will arrive when a body will come into existence upon which the various parts of the Empire are represented by men elected by the people of the Empire, and it may be that in years to come these Imperial Conferences which we are holding to-day will be looked upon as a link in the long chain of evolution of such a body. But that day has not arrived yet, and we must not try to force the pace unduly. If our Imperial Conferences are not quite as satisfactory as we might wish them to be, then let us do our best to make them more so.

But what are we asked to do now? It would

probably mean, I submit, the creation of some body in which would be centralized authority over the whole Empire. Now this would in my mind be a step entirely antagonistic to the policy of Great Britain which has been so successful in the past and which has undoubtedly made the Empire what it is to-day. It is the policy of decentralization which has made the Empire—the power granted to its various peoples to govern themselves. It is the liberty which these peoples have enjoyed and enjoy under the British Flag which has bound them to the Mother Country. That is the strongest tie between the Mother Country and the Dominions, and I am sure that any scheme which does not fully recognize this, could only bring disappointment and disillusionment. I fear that the premature creation of such an Imperial Council as is suggested would—rather than bring the different parts of the Empire closer together—tend to make the connexion onerous and unpleasant to the Dominions. Let us beware of such a result. Decentralization and liberty have done wonders. Let us be very careful before we, in the slightest manner, depart from that policy. It is co-operation and always better co-operation between the various parts of the Empire which we want, and that is what we must always strive for.

I have very seriously considered this proposal, but I cannot come to any other conclusion than that the objections against such a scheme are far weightier than any benefits which may arise therefrom, and I regret, therefore, that I shall not be able to record my vote in favour of it.

Mr. Asquith's Criticism

I should inform the Conference, for I promised to do so, that I received some weeks ago a memorial signed by a very large number of the Members of the Imperial House of Commons—I think something like three hundred belonging to various parties in the State (it was not at all confined to one body),—which was in these terms: 'We the undersigned Members of Parliament, representing various political parties, are of the opinion that the time has arrived to take practical steps to associate the oversea Dominions in a more practical manner with the conduct of Imperial affairs; if possible, by means of an established representative council of an advisory character in touch with public opinion throughout the Empire.' I promised to communicate that resolution to the Conference, and at the same time I informed the gentlemen who were good enough, on behalf of the signatories, to present it to me, that while his Majesty's Government had the strongest sympathy with any practical step for bringing into closer communication the Imperial and overseas Governments, yet when it came to anything in the nature of the setting up of new political or constitutional machinery, a condition precedent must be that the change had the unanimous consent of the Dominions themselves, and the gentlemen who represented the memorialists concurred or appeared to me to concur in that view. At the same time I think it only right and proper that the Conference should be aware that such a memorial was presented. Does it not also show

how much easier a thing it is to express an abstract aspiration for something in the nature of closer political union than to translate that aspiration into practical terms ?

Sir Joseph Ward, in a speech the ability and interest of which we all acknowledge, which must and undoubtedly did represent the expenditure of a great deal of time and thought, has presented us with a concrete proposition, but it is a proposition which not a single representative of any of the other Dominions, nor I as representing for the time being the Imperial Government, could possibly assent to. For what does Sir Joseph Ward's proposal come to ? I might describe the effect of it without going into details in a couple of sentences. It would impair if not altogether destroy the authority of the Government of the United Kingdom in such grave matters as the conduct of foreign policy, the conclusion of treaties, the declaration and maintenance of peace, or the declaration of war and, indeed, all those relations with Foreign Powers, necessarily of the most delicate character, which are now in the hands of the Imperial Government, subject to its responsibility to the Imperial Parliament. That authority cannot be shared, and the co-existence side by side with the Cabinet of the United Kingdom of this proposed body—it does not matter by what name you call it for the moment—clothed with the functions and the jurisdiction which Sir Joseph Ward proposed to invest it with, would, in our judgement, be absolutely fatal to our present system of responsible government.

That is from the Imperial point of view. Now

from the point of view of the Dominions I cannot do better than repeat in my own words what was said by Sir Wilfrid Laurier. So far as the Dominions are concerned, this new machine could impose upon the Dominions by the voice of a body in which they would be in a standing minority (that is part of the case), in a small minority indeed, a policy of which they might all disapprove, of which some of them at any rate possibly and probably would disapprove, a policy which would in most cases involve expenditure and an expenditure which would have to be met by the imposition on a dissentient community of taxation by its own government.

We cannot, with the traditions and the history of the British Empire behind us, either from the point of view of the United Kingdom, or from the point of view of our self-governing Dominions, assent for a moment to proposals which are so fatal to the very fundamental conditions on which our Empire has been built up and carried on. Therefore, with the highest possible respect, as we all have, for the skill and ability with which Sir Joseph Ward has presented his case, and a great deal of sympathy with many of the objects he has in view, I think we must agree that on its merits this proposal is not a practical one, and that, even if it were so, even if it could be shown to be so, the fact that it not only does not receive the unanimous consent of all the representatives of the Dominions, but is repudiated by them all except Sir Joseph Ward himself, is for the purposes of this Conference a fatal and, indeed, an insuperable objection to its adoption.

7. THE NAVAL AGREEMENT OF 1911

1. THE naval services and forces of the Dominions of Canada and Australia will be exclusively under the control of their respective Governments.

2. The training and discipline of the naval forces of the Dominions will be generally uniform with the training and discipline of the fleet of the United Kingdom, and, by arrangement, officers and men of the said forces will be interchangeable with those under the control of the British Admiralty.

3. The ships of each Dominion naval force will hoist at the stern the white ensign as the symbol of the authority of the Crown, and at the jack-staff the distinctive flag of the Dominion.

4. The Canadian and Australian Governments will have their own naval stations as agreed upon from time to time. The limits of the stations are as described in Schedule (A), Canada, and Schedule (B), Australia.

5. In the event of the Canadian or Australian Government desiring to send ships to a part of the British Empire outside of their own respective stations, they will notify the British Admiralty.

6. In the event of the Canadian or Australian Government desiring to send ships to a foreign port, they will obtain the concurrence of the Imperial Government, in order that the necessary

arrangements with the Foreign Office may be made, as in the case of ships of the British fleet, in such time and manner as is usual between the British Admiralty and the Foreign Office.

7. While the ships of the Dominions are at a foreign port a report of their proceedings will be forwarded by the officer in command to the Commander-in-Chief on the station or to the British Admiralty. The officer in command of a Dominion ship so long as he remains in the foreign port will obey any instructions he may receive from the Government of the United Kingdom as to the conduct of any international matters that may arise, the Dominion Government being informed.

8. The Commanding Officer of a Dominion ship having to put into a foreign port without previous arrangement on account of stress of weather, damage, or any unforeseen emergency will report his arrival and reason for calling to the Commander-in-Chief of the station or to the Admiralty, and will obey, so long as he remains in the foreign port, any instructions he may receive from the Government of the United Kingdom as to his relations with the authorities, the Dominion Government being informed.

9. When a ship of the British Admiralty meets a ship of the Dominions, the senior officer will have the right of command in matters of ceremony or international intercourse, or where united action is agreed upon, but will have no power to direct the movements of ships of the other service unless the ships are ordered to co-operate by mutual arrangement.

10. In foreign ports the senior officer will take command, but not so as to interfere with the orders that the junior may have received from his own Government.

11. When a court martial has to be ordered by a Dominion and a sufficient number of officers are not available in the Dominion service at the time, the British Admiralty, if requested, will make the necessary arrangements to enable a Court to be formed. Provision will be made by order of his Majesty in Council and by the Dominion Governments respectively to define the conditions under which officers of the different services are to sit on joint courts martial.

12. The British Admiralty undertakes to lend to the Dominions during the period of development of their services, under conditions to be agreed upon, such flag officer and other officers and men as may be needed. In their selection preference will be given to officers and men coming from, or connected with, the Dominions, but they should all be volunteers for the service.

13. The service of officers of the British fleet in the Dominion naval forces, or of officers of these forces in the British fleet, will count in all respects for promotion, pay, retirement, &c., as service in their respective forces.

14. In order to determine all questions of seniority that may arise, the names of all officers will be shown in the Navy List and their seniority determined by the date of their commissions, whichever is the earlier, in the British, Canadian, or Australian services.

15. It is desirable, in the interests of efficiency

and co-operation, that arrangements should be made from time to time between the British Admiralty and the Dominions for the ships of the Dominions to take part in fleet exercises or for any other joint training considered necessary under the Senior Naval Officer. While so employed, the ships will be under the command of that officer, who would not, however, interfere in the internal economy of ships of another service further than absolutely necessary.

16. In time of war, when the naval service of a Dominion, or any part thereof, has been put at the disposal of the Imperial Government by the Dominion authorities, the ships will form an integral part of the British fleet, and will remain under the control of the British Admiralty during the continuance of the war.[1]

17. The Dominions having applied to their naval forces the King's Regulations and Admiralty Instructions and the Naval Discipline Act, the British Admiralty and Dominion Governments will communicate to each other any changes which they propose to make in those Regulations or that Act.

June, 1911.

[1] On the outbreak of war in 1914, the Australian naval forces, consisting of a Dreadnought, cruisers, destroyers, and submarines was placed under the control of the Admiralty.

8. THE NAVAL POLICY OF CANADA

SPEECH OF RT. HON. R. L. BORDEN, IN THE CANADIAN HOUSE OF COMMONS, DECEMBER 5, 1912

RIGHT HON. R. L. BORDEN (Prime Minister) moved for leave to introduce Bill (No. 21) to authorize measures for increasing the effective naval forces of the Empire. He said:

Mr. Speaker, in addressing the House upon so important a subject as that which I propose to discuss, I shall speak in no controversial spirit. If a portion of my remarks may necessarily controvert opinions which have been expressed by hon. gentlemen on either side of the House, let it be understood that I do so, not by way of criticism, but purely for the purpose of giving frankly to the House the reasons which have led the Government to adopt the course which I shall now outline.

It is not necessary to dwell upon the increasing power and influence of Canada within the Empire, due to its remarkable growth and expansion, and to the wonderful and rapid development of its resources during the past quarter of a century. With this increasing power and influence there has necessarily come by sure and gradual steps a certain development in our relations with the

United Kingdom and the other dominions. The evolution of the constitutional relations within the Empire during the past half-century has not been less marked than its material progress. In this constitutional development we are necessarily confronted with the problem of combining co-operation with autonomy. It seems most essential that there should be such co-operation in defence and in trade as will give to the whole Empire an effective organization in these matters of vital concern. On the other hand, each Dominion must preserve in all important respects the autonomous government which it now possesses. Responsibility for the Empire's defence upon the high seas, in which is to be found the only effective guarantee of its existence, and which has hitherto been assumed by the United Kingdom, has necessarily carried with it responsibility for and control of foreign policy. With the enormous increase of naval power which has been undertaken by all great nations in recent years, this tremendous responsibility has cast an almost impossible burden upon the British Islands, which for nearly a thousand years have exercised so profound an influence upon the world's history. That burden is so great that the day has come when either the existence of this Empire will be imperilled or the young and mighty Dominions must join with the Mother Land to make secure the common safety and the common heritage of all. When Great Britain no longer assumes sole responsibility for defence upon the high seas, she can no longer undertake to assume sole responsibility for and sole control of foreign policy which

is closely, vitally, and constantly associated with that defence in which the dominions participate. It has been declared in the past, and even during recent years, that responsibility for foreign policy could not be shared by Great Britain with the Dominions. In my humble opinion, adherence to such a position could have but one and that a most disastrous result. During my recent visit to the British Islands, I ventured on many public occasions to propound the principle that the great Dominions, sharing in the defence of the Empire upon the high seas, must necessarily be entitled to share also in the responsibility for and in the control of foreign policy. No declaration that I made was greeted more heartily and enthusiastically than this. It is satisfactory to know that to-day not only his Majesty's ministers but also the leaders of the opposite political party in Great Britain have explicitly accepted this principle and have affirmed their conviction that the means by which it can be constitutionally accomplished must be sought, discovered, and utilized without delay.

Before proceeding to declare and explain the proposals of the Government, I desire to call attention to certain remarks which I addressed to this House just two years ago in replying to inquiries as to the course we would pursue after attaining power. These remarks were as follows:

> It may be fairly asked what we would do if we were in power to-day with regard to a great question of this kind. It seems to me that our plain course and duty would be this. The Government of this country are able to ascertain and to know, if they take the proper action for that purpose, whether the conditions which face the Empire at this time in respect of naval

defence are grave. If we were in power we would endeavour to find that out, to get a plain, unvarnished answer to that question, and if the answer to that question based upon the assurance of the Government of the Mother Country and the report of the naval experts of the Admiralty were such—and I think it would be such—as to demand instant and effective action by this country, then I would appeal to Parliament for immediate and effective aid, and if Parliament did not give immediate and effective aid I would appeal from Parliament to the people of the country.

Then, Sir, as to the permanent policy, I think the people have a right to be consulted. I do not know whether I have made my position clear, but I have done so according to my humble capacity. I think the question of Canada's co-operation upon a permanent basis in Imperial defence involves very large and wide considerations. If Canada and the other dominions of the Empire are to take their part as nations of this Empire in the defence of the Empire as a whole, shall it be that we, contributing to that defence of the whole Empire, shall have absolutely, as citizens of this country, no voice whatever in the councils of the Empire? I do not think that such would be a tolerable condition. I do not believe the people of Canada would for one moment submit to such a condition. Shall members of this House, representative men, representing 221 constituencies of this country from the Atlantic to the Pacific, shall no one of them have the same voice with regard to those vast Imperial issues that the humblest taxpayer in the British Isles has at this moment? It does not seem to me that such a condition would make for the integrity of the Empire, for the closer co-operation of the Empire. Regard must be had to these far-reaching considerations, a permanent policy would have to be worked out, and when that permanent policy has been worked out and explained to the people of Canada, to every citizen in this country, then it would be the duty of any government to go to the people of Canada to receive their mandate and accept and act upon their approval or disapproval of that policy.

The present Government assumed office on the 10th of October, 1911, and met Parliament on the 17th day of November following. It is hardly necessary to point out that there was no opportunity until after the close of the session to visit Great Britain or to consult the Admiralty in any effective way. Shortly after the session closed, I went to England accompanied by some of my colleagues, and for several weeks we had the opportunity from time to time of conferring with the British Government and of consulting with the technical and expert advisers of the Admiralty respecting the whole question of naval defence, and especially the conditions which confront the Empire at present and in the early future. I desire to express my warm appreciation of the manner in which we were received by his Majesty's Government, who took us most fully into their confidence on the great questions of foreign policy and of defence, and who accorded to us all relevant information at their disposal. A portion of this necessarily is of a very confidential character, which cannot be made public; but an important part will be communicated to the House in a document which I shall lay on the table this afternoon.

In considering the power of the British Empire to maintain that predominance upon the sea which is essential to its safety and to its very existence, it is clear that reference to the other naval forces of the world cannot be excluded. Such references and comparisons are frequently made by all the Great Powers, and they do not imply anything unfriendly in intention or in spirit to other nations.

Indeed, a most distinct reference to the naval power of Great Britain has been set forth in the preamble to the naval law of one great Empire which in recent years has sprung to the front with amazing rapidity in the development of its naval forces.

I now proceed to submit to the House the information which we have received from his Majesty's Government. It is in the form of a memorandum, as follows:

From the Secretary of State for the Colonies to his Royal Highness the Governor-General

DOWNING STREET,
October 25, 1912.

SIR,—I have the honour to transmit to your Royal Highness the accompanying copy of a memorandum relating to the requirements of the naval defence of the Empire.

2. This document has been prepared by the Admiralty on the instructions of his Majesty's Government in compliance with the request of Mr. Borden, with a view to presentation to the Dominion Parliament if, and when, the Dominion ministers deem it necessary.

I have, &c.,
L. HARCOURT.

Prepared by the Board of Admiralty on the General Naval Situation and communicated to the Government of Canada by his Majesty's Government

1. The Prime Minister of the Dominion of Canada has invited his Majesty's Government, through the Board of Admiralty, to prepare a statement of the present and immediately prospective requirements of

the naval defence of the Empire for presentation to the Canadian Parliament if the Dominion Cabinet deem it necessary.

The Lords Commissioners of the Admiralty are prepared to comply and to supplement, in a form which can be made public, the confidential communications and conversations which have passed between the Admiralty and ministers of the Dominion Parliament during the recent visit to the United Kingdom.

The Admiralty set the greatest store by the important material, and still more important moral, assistance which it is within the power of Canada to give to maintaining British naval supremacy on the high seas, but they think it necessary to disclaim any intention, however indirect, of putting pressure upon Canadian public opinion, or of seeking to influence the Dominion Parliament in a decision which clearly belongs solely to Canada.

The Admiralty therefore confine themselves in this statement exclusively to facts, and it is for the Dominion Government and Parliament to draw their own conclusions therefrom.

2. The power of the British Empire to maintain the superiority on the sea which is essential to its security, must obviously be measured from time to time by reference to the other naval forces of the world, and such a comparison does not imply anything unfriendly in intention or in spirit to any other Power or group of Powers. From this point of view the development of the German fleet during the last fifteen years is the most striking feature of the naval situation to-day. That development has been authorized by five successive legislative enactments, viz. the Fleet Laws of 1898, 1900, 1908, and 1912. These laws cover the period up to 1920.

Whereas in 1898 the German fleet consisted of :

9 battleships (excluding coast defence vessels),
3 large cruisers,
28 small cruisers,
113 torpedo boats, and
25,000 men.

maintained at an annual cost of £6,000,000, the full fleet of 1920 will consist of :

41 battleships,
20 large cruisers,
40 small cruisers,
144 torpedo boats,
72 submarines, and
101,500 men,

estimated to be maintained at an annual cost of £23,000,000. These figures, however, give no real idea of the advance, for the size and cost of ships has risen continually during the period, and, apart from increasing their total numbers, Germany has systematically replaced old and small ships, which counted as units in her earlier fleet, by the most powerful and costly modern vessels. Neither does the money provided by the estimates for the completed law represent the increase in cost properly attributable to the German Navy, for many charges borne on British naval funds are otherwise defrayed in Germany ; and the German Navy comprises such a large proportion of new ships that the cost of maintenance and repair is considerably less than in navies which have been longer established.

3. The naval expansion of Germany has not been provoked by British naval increases. The German Government have repeatedly declared that their naval policy has not been influenced by British action, and the following figures speak for themselves :

In 1905 Great Britain was building 4 capital ships, and Germany 2.

In 1906 Great Britain reduced to 3 capital ships, and Germany increased to 3.

In 1907 Great Britain built 3 capital ships, and Germany built 3.

In 1908 Great Britain further reduced to 2 capital ships, and Germany further increased to 4.

It was not until the efforts of Great Britain to procure the abatement or retardation of naval rivalry had failed for three successive years that the Admiralty were forced in 1909, upon a general review of the naval

situation, to ask Parliament to take exceptional measures to secure against all possible hazards the safety of the Empire. In that year, 8 capital ships were laid down in Great Britain, and 2 others were provided by the Commonwealth of Australia and the Dominion of New Zealand respectively—a total of 10.

4. In the spring of the present year the fifth German Navy Law was assented to by the Reichstag. The main feature of that law is not the increase in the new construction of capital ships, though that is important, but rather the increase in the striking force of ships of all classes which will be immediately available at all seasons of the year.

A third squadron of 8 battleships will be created and maintained in full commission as part of the active battle fleet. Whereas, according to the unamended law, the active battle fleet consisted of 17 battleships, 4 battle or large armoured cruisers, and 12 small cruisers, it will in the near future consist of 25 battleships, 8 battle or large armoured cruisers, and 18 small cruisers; and whereas at present, owing to the system of recruitment which prevails in Germany, the German fleet is less fully mobile during the winter than during the summer months, it will, through the operation of this law, not only be increased in strength, but rendered much more readily available. Ninety-nine torpedo-boat destroyers, instead of 66, will be maintained in full commission out of a total of 144; 72 new submarines will be built within the currency of the new law, and of these it is apparently proposed to maintain 54 with full permanent crews. Taking a general view, the effect of the law will be that nearly four-fifths of the entire German Navy will be maintained in full permanent commission; that is to say, instantly and constantly ready for war.

So great a change and development in the German fleet involves, of course, important additions to their personnel. In 1898 the officers and men of the German Navy amounted to 25,000. To-day that figure has reached 66,000. The new law adds 15,000 officers and men, and makes a total in 1920 of 101,500.

The new construction under the law prescribes the building of 3 additional battleships—1 to be begun next year, 1 in 1916—and 2 small cruisers, of which the date has not yet been fixed. The date of the third battleship has not been fixed. It has been presumed to be later than the six years which are in view. The cost of these increases in men and in material during the next six years is estimated at £10,500,000 spread over that period above the previous estimates.

The facts set forth above were laid before the House of Commons on the 22nd July, 1912, by the First Lord of the Admiralty.

5. The effect of the new German Navy Law is to produce a remarkable expansion of strength and readiness. The number of battleships and large armoured cruisers which will be kept constantly ready and in full commission will be raised by the law from 21, the present figure, to 33—an addition of 12, or an increase of about 57 per cent.

The new fleet will, in the beginning, include about 20 battleships and large cruisers of the older type, but gradually as new vessels are built the fighting power of the fleet will rise until in the end it will consist completely of modern vessels.

The complete organization of the German fleet, as described by the latest law, will be 5 battle squadrons and a fleet flagship, comprising 41 battleships in all, each attended by a battle or armoured cruiser squadron, complete with small cruisers and auxiliaries of all kinds and accompanied by numerous flotillas of destroyers and submarines.

This full development will only be realised step by step; but already, in 1914, two squadrons will, according to Admiralty information, be entirely composed of what are called Dreadnoughts, and the third will be made up of good ships like the *Deutschlands* and the *Braunschweigs*, together with 5 Dreadnought battle cruisers.

This great fleet is not dispersed all over the world for duties of commerce protection or in discharge of colonial responsibilities; nor are its composition and

character adapted to those purposes. It is concentrated and kept concentrated in close proximity to the German and British coasts.

Attention must be drawn to the explicit declaration of the tactical objects for which the German fleet exists as set forth in the preamble to the naval law of 1900 as follows:

'In order to protect German trade and commerce under existing conditions, only one thing will suffice, namely, Germany must possess a battle fleet of such a strength that even for the most powerful naval adversary a war would involve such risks as to make that Power's own supremacy doubtful. For this purpose it is not absolutely necessary that the German fleet should be as strong as that of the greatest naval Power, for, as a rule, a great naval Power will not be in a position to concentrate all its forces against us.'

6. It is now necessary to look forward to the situation in 1915.

In Home Waters

In the spring of the year 1915—

Great Britain will have 25 Dreadnought battleships and 2 'Lord Nelsons.'

Germany will have 17 Dreadnought battleships.

Great Britain will have 6 battle cruisers. Germany will have 6 battle cruisers.

These margins in new ships are sober and moderate. They do not err on the side of excess. The reason they suffice for the present is that Great Britain possesses a good superiority in battleships, and especially armoured cruisers, of the pre-Dreadnought era.

The reserve of strength will steadily diminish every year, actually, because the ships of which it is composed grow old, and relatively, because the new ships are more powerful. It will diminish more rapidly if new construction in Germany is increased or accelerated. As this process continues, greater exertions will be required by the British Empire.

Mediterranean Station

Four battle cruisers and four armoured cruisers will be required to support British interests in the Mediterranean during the years 1913 and 1914. During those years the navies of Austria and Italy will gradually increase in strength, until in 1915 they will each possess a formidable fleet of 4 and 6 Dreadnought battleships respectively, together with strong battleships of the pre-Dreadnought types and other units, such as cruisers, torpedo-craft, &c. It is evident, therefore, that in the year 1915 our squadron of 4 battle cruisers and 4 armoured cruisers will not suffice to fulfil our requirements, and its whole composition must be reconsidered.

Overseas

It has been necessary within the past decade to concentrate the fleet mainly in home waters.

In 1902 there were 160 British vessels on the overseas stations against 76 to-day.

7. Naval supremacy is of two kinds: general and local. General naval supremacy consists in the power to defeat in battle and drive from the seas the strongest hostile navy or combination of hostile navies wherever they may be found. Local superiority consists in the power to send in good time to, or maintain permanently in, some distant theatre, forces adequate to defeat the enemy or hold him in check until the main decision has been obtained in the decisive theatre. It is the general naval supremacy of Great Britain which is the primary safeguard of the security and interests of the great dominions of the Crown, and which for all these years has been the deterrent upon any possible designs prejudicial to or inconsiderate of their policy and safety.

The rapid expansion of Canadian sea-borne trade, and the immense value of Canadian cargoes always afloat in British and Canadian bottoms, here require consideration. On the basis of the figures supplied

by the Board of Trade to the Imperial Conference of 1911, the annual value of the overseas trade of the Dominion of Canada in 1909–10 was not less than £72,000,000, and the tonnage of Canadian vessels was 718,000 tons, and these proportions have already increased and are still increasing. For the whole of this trade wherever it may be about the distant waters of the world, as well as for the maintenance of her communications, both with Europe and Asia, Canada is dependent, and has always depended, upon the Imperial Navy, without corresponding contribution or cost.

Further, at the present time and in the immediate future, Great Britain still has the power, by making special arrangements, and mobilizing a portion of the reserves, to send, without courting disaster at home, an effective fleet of battleships and cruisers to unite with the Royal Australian Navy and the British squadrons in China and the Pacific for the defence of British Columbia, Australia, and New Zealand. And these communities are also protected and their interests safeguarded by the power and authority of Great Britain so long as her naval strength is unbroken.

8. This power, both specific and general, will be diminished with the growth not only of the German Navy, but by the simultaneous building by many Powers of great modern ships of war.

Whereas, in the present year, Great Britain possesses 18 battleships and battle-cruisers of the Dreadnought class against 19 of that class possessed by the other Powers of Europe, and will possess in 1913, 24 to 21, the figures in 1914 will be 31 to 33; and in the year 1915, 35 to 51.

The existence of a number of navies all comprising ships of high quality must be considered in so far as it affects the possibilities of adverse combinations being suddenly formed. Larger margins of superiority at home would, among other things, restore a greater freedom to the movements of the British squadrons in every sea, and directly promote the security of the Dominions.

Anything which increases our margin in the newest

ships diminishes the strain and augments our security and our chances of being left unmolested.

9. Whatever may be the decision of Canada at the present juncture, Great Britain will not in any circumstances fail in her duty to the Overseas Dominions of the Crown.

She has before now successfully made head alone and unaided against the most formidable combinations, and she has not lost her capacity by a wise policy and strenuous exertions to watch over and preserve the vital interests of the Empire.

The Admiralty are assured that his Majesty's Government will not hesitate to ask the House of Commons for whatever provision the circumstances of each year may require. But the aid which Canada could give at the present time is not to be measured only in ships or money. Any action on the part of Canada to increase the power and mobility of the Imperial Navy, and thus widen the margin of our common safety, would be recognized everywhere as a most significant witness to the united strength of the Empire, and to the renewed resolve of the Overseas Dominions to take their part in maintaining its integrity.

10. The Prime Minister of the Dominion having inquired in what form any immediate aid that Canada might give would be most effective, we have no hesitation in answering, after a prolonged consideration of all the circumstances, that it is desirable that such aid should include the provision of a certain number of the largest and strongest ships of war which science can build or money supply.

In this twentieth century of Christianity, in this age which boasts of its civilization, the increasing tendency of the nations to arm themselves against each other is not only regrettable, but depressing and alarming. May the day soon approach when international differences will be settled by appeal to a tribunal established by

international authority, and so constituted that its decrees will unfailingly command respect and obedience. But, while war is still the supreme arbiter between the nations, we to whose care this vast heritage has been committed must never forget that we are the trustees of its security.

Do Canadians sufficiently realize the disparity between the naval risks of our Empire and those of any other nation? The armies of continental Europe number their men by the million, not by the thousand. They are highly equipped and organized; the whole population have undergone military training, and any one of these countries is absolutely secure against invasion from Great Britain, which could not send an expeditionary force of more than one hundred and fifty thousand men, at the highest estimate. Such a force would be outnumbered twenty to one by any of the great European Powers. The Empire is not a great military Power, and it has based its security in the past, as in the present, almost entirely on the strength of the Navy. A crushing defeat upon the high seas would render the British Islands or any of the Dominions subject to invasion by any great military Power. The loss of such a decisive battle by Great Britain would practically destroy the United Kingdom, shatter the British Empire to its foundation, and change profoundly the destiny of its component parts. The advantages which Great Britain could gain from defeating the naval forces of any other Power would be non-existent except in so far as the result would ensure the safety of the Empire. On the other hand, there are practically no limits to the ambi-

tions which might be indulged in by other Powers if the British Navy were once destroyed or disabled. There is, therefore, grave cause for concern when once the naval supremacy of the Empire seems on the point of being successfully challenged.

The great outstanding fact which arrests our attention in considering the existing conditions of naval power is this. Twelve years ago the British Navy and the British flag were predominant in every ocean of the world and along the shores of every continent. To-day they are predominant nowhere except in the North Sea. The paramount duty of ensuring safety in home waters has been fulfilled by withdrawing or reducing squadrons in every part of the world, and by concentrating nearly all the effective naval forces in close proximity to the British Islands. In 1902 there were fifty-five British warships on the Mediterranean station; to-day there are nineteen. There were fourteen on the North America and West Indies station; to-day there are three. There were three on the south-east coast of South Africa; to-day there is one. There were sixteen on the Cape of Good Hope station; to-day there are three. There were eight on the Pacific station; to-day there are two. There were forty-two on the China station; to-day there are thirty-one. There were twelve on the Australian station; to-day there are eight. There were ten on the East Indies station; to-day there are nine. Or, to sum up, in 1902 there were one hundred and sixty ships on foreign and colonial stations against seventy-six to-day.

Do not imagine that this result has been brought about by any reduction in expenditure, for the case is practically the reverse. Great Britain's total naval expenditure in 1902 was less than $152,000,000. For the present fiscal year it will exceed $220,000.000. Why, then, has the naval force of the Empire been so enormously reduced throughout the world, while at the same time the expenditure has increased by nearly fifty per cent. ? For the simple reason that the increasing strength of other navies, and especially of the German Navy, has compelled Great Britain not only to increase her fleet, but to concentrate it in the vicinity of the British Islands; and there has been, of course, a substantial increase of strength in home waters. In short, the strain of meeting changed conditions has been so heavy and unceasing that, in spite of largely increased expenditure and every possible exertion, the Admiralty have been compelled by pressure of circumstances to withdraw or diminish forces throughout the world which in time of peril safeguarded the security and integrity of the King's dominions and in time of peace were a living and visible symbol of the tie that unites all the subjects of the Crown.

It is neither necessary nor desirable in this place to debate or discuss the probability or imminence of war. The real test of our action is the existence or non-existence of absolute security. We cannot afford to be satisfied with anything less than that, for the risks are too great. It should never be forgotten that without war, without the firing of a shot or the striking of a blow,

our naval supremacy may disappear, and with it the sole guarantee of the Empire's continued existence. I especially desire to emphasize this consideration; for all history, and especially modern history, conveys to us many grave warnings that the issue of great events may be determined, and often is determined, not by actual war resulting in victory or defeat, but by the mere existence of unmistakable and pronounced naval or military superiority on either side.

The fact that trade routes, vital to the Empire's continued existence, are inadequately defended and protected, by reason of necessary concentration in home waters, is exceedingly impressive and even startling. Even during the present year the battleships of the British Mediterranean fleet based on Malta have been withdrawn and based on Gibraltar in order that they might become more easily available if necessary for aid in home waters. The Atlantic fleet based on Gibraltar has been withdrawn to the vicinity of the British Islands for the same reason. Under such conditions the British flag is not predominant in the Mediterranean, and, with every available exertion on the part of the whole Empire, it will be impossible to regain the necessary position of strength in that great highway before 1915 or 1916. Austria-Hungary, with only one hundred and forty miles of sea-coast, and with absolutely no colonial possessions, is building in the Mediterranean a formidable fleet of Dreadnoughts which will attain its full strength in about three years; this fleet will be supported by strong battleships of the pre-Dreadnought type, and by cruisers,

torpedo craft, and other necessary auxiliaries. The fleet of Italy in the same theatre will be even more powerful and more formidable.

The withdrawal of the British flag and the British Navy from so many parts of the world for the purpose of concentration in home waters has been necessary but unfortunate. Our Navy was once dominant everywhere, and the white ensign was the token of naval supremacy in all the seas. Is it not time that the former conditions should in some measure be restored? Upon our own coasts, both Atlantic and Pacific, powerful squadrons were maintained twelve years ago. To-day the flag is not shown on either seaboard. I am assured that the aid which we propose will enable such special arrangements to be consummated that, without courting disaster at home, an effective fleet of battleships and cruisers can be established in the Pacific, and a powerful squadron can periodically visit our Atlantic seaboard, to assert once more the naval strength of the Empire along these coasts. I do not forget, however, that it is the general naval supremacy of the Empire which primarily safeguards the Overseas Dominions. New Zealand's battleship is ranged in line with the other British battleships in the North Sea because there New Zealand's interests may be best guarded by protecting the very heart of the Empire.

In presenting our proposals, it will be borne in mind that we are not undertaking or beginning a system of regular and periodical contributions. I agree with the resolution of this House in 1909, that the payment of such contributions would

not be the most satisfactory solution of the question of defence.

Upon the information which I have disclosed to the House, the situation is in my opinion sufficiently grave to demand immediate action. We have asked his Majesty's Government in what form temporary and immediate aid can best be given by Canada at this juncture. The answer has been unhesitating and unequivocal. Let me again quote it:

> We have no hesitation in answering, after a prolonged consideration of all the circumstances, that it is desirable that such aid should include the provision of a certain number of the largest and strongest ships of war which science can build or money supply.

Upon inquiry as to the cost of such a battleship, we are informed by the Admiralty that it is approximately £2,350,000, including armament and first outfit of ordnance stores and ammunition. The total cost of three such battleships, which when launched will be the most powerful in the world, would be approximately $35,000,000, and we ask the people of Canada, through their Parliament, to grant that sum to his Majesty the King of Great Britain and Ireland and of the Overseas Dominions, in order to increase the effective naval forces of the Empire, to safeguard our shores and our seaborne commerce, and to make secure the common heritage of all who owe allegiance to the King.

These ships will be at the disposal of his Majesty the King for the common defence of the Empire. They will be maintained and controlled

as part of the Royal Navy; and we have the assurance that if, at any time in the future, it should be the will of the Canadian people to establish a Canadian unit of the British Navy, these vessels can be recalled by the Canadian Government to form part of that Navy, in which case, of course, they would be maintained by Canada and not by Great Britain. In that event, there would necessarily be reasonable notice of such recall; and, indeed, Canada would not desire or suggest the sudden withdrawal of so powerful a contingent from any important theatre in which the naval forces of the Empire might be exposed to severe and sudden attack. In the meantime, I am assured that special arrangements will be made to give Canadians the opportunity of serving as officers on these ships.

Without intending or desiring to indulge in controversial discussion, I may be permitted to allude to British naval organization. Obviously, one could not make a very complete or thorough study of so great an organization in a few weeks, or even a few months; but during recent years, and especially during the past summer, I have had occasion to learn something of its methods, its character, and its efficiency, and good reason to conclude that it is undoubtedly the most thorough and effective in the world. There have been proposals, to which I shall no more than allude, that we should build up a great naval organization in Canada. In my humble opinion, nothing of an efficient character could be built up in this country within a quarter or perhaps half a century. Even then it would be but a poor and

weak substitute for that splendid organization which the Empire already possesses, which has been evolved and built up through centuries of the most searching experience and of the highest endeavour. Is there really any need that we should undertake the hazardous and costly experiment of building up a naval organization especially restricted to this Dominion, when upon just and self-respecting terms we can take such part as we desire in naval defence through the existing naval organization of the Empire, and in that way fully and effectively avail ourselves of the men and the resources at the command of Canada?

Where shall these ships be built? They will be built under Admiralty supervision in the United Kingdom, for the reason that at present there are no adequate facilities for constructing them in Canada. The plant required for the construction of a Dreadnought battleship is enormous, and it would be impossible at present to maintain shipbuilding in this country on such a scale. In any case, only the hull could be built in Canada; because the machinery, the armour, and the guns would necessarily be constructed or manufactured in the United Kingdom. The additional cost of construction in Canada would be about $12,000,000 for the three ships, and it would be impossible to estimate the delay. No one is more eager than myself for the development of shipbuilding industries in Canada, but we cannot, upon any business or economic considerations, begin with the construction of Dreadnoughts; and especially we could not do so when these

ships are urgently required within two or three years at the outside, for rendering aid upon which may depend the Empire's future existence. According to my conception, the effective development of shipbuilding industries in Canada must commence with small beginnings and in a business-like way.

I have discussed the subject with the Admiralty, and they thoroughly realize that it is not to the Empire's advantage that all shipbuilding facilities should be concentrated in the United Kingdom. I am assured, therefore, that the Admiralty are prepared in the early future to give orders for the construction in Canada of small cruisers, oil-tank vessels, and auxiliary craft of various kinds. The plant required is relatively small as compared with that which is necessary for a Dreadnought battleship, and such an undertaking would have a much more secure and permanent basis from a business standpoint. For the purpose of stimulating so important and necessary an industry, we have expressed our willingness to bear a portion of the increased cost for a time at least. I see no reason why all vessels required in the future for our Government service should not be built in Canada, even at some additional cost. In connexion with the development of shipbuilding, I should not be surprised to see the establishment of a higher class of engineering works, which would produce articles now imported and not presently manufactured in Canada. Therefore, although the sum which we propose to devote for necessary naval aid at this critical juncture is to be expended in Great Britain, yet we believe that

this step will result, under the conditions which I have described, in very marked development of more than one industry in Canada, and that, even from a purely economic and material standpoint, the step has much to commend it.

These ships will constitute an aid brought by the Canadian people to his Majesty the King as a token of their determination to maintain the integrity of the Empire and to assist in repelling any danger which may threaten its security. It is most appropriate that the opportunity should have come when the Crown is represented in Canada by his Royal Highness the Governor-General, who has rendered such valuable and eminent service to the State, and who takes so deep and splendid an interest in all that concerns the welfare and safety of every portion of his Majesty's Dominions. Canada is sending three ships to range themselves in the battle-line of the Empire with those of the Mother Country, of Australia, and of New Zealand. They will be the three most powerful battleships in the world, and they will bear historic names associated with this country. Thus, every Canadian will realize, in seeing or reading of these ships, that they are a gift in which he has participated, and that, by their presence in the battle-line of the Empire, he has freely taken a direct and distinct share in maintaining the Empire's safety.

No modern nation possessing a great seaborne commerce can afford to neglect its interest upon the high seas. Heaven forbid that in this country we should aid or abet any warlike or aggressive tendencies. This Empire will never undertake

any war of aggression, and all the influences of Canada will assuredly be arrayed against any such course; but we know that war has come many times within the past fifty years without warning, like a thunderbolt from a clear sky, and thereby the power, the influence, and the destiny of more than one nation have been profoundly affected. A naval war especially may come with startling suddenness, for these tremendous engines of war are always ready and prepared for battle. The security, indeed the very existence of this Empire, depends on sea power. When we are obliged to abdicate the seas, it may even be without war, but in the face of overwhelming force, the Empire's arteries will no longer pulsate, the blood will cease to flow in its veins, and dissolution will be at hand.

But if we should neglect a duty which I conceive we owe to ourselves, and if irreparable disaster should ensue, what would be our future destiny? Obviously, as an independent nation or as an important part of the great neighbouring republic. What, then, would be our responsibilities, and what the burden upon us for a protection on the high seas much less powerful and less effective than that which we enjoy to-day? Take the case of one nation whose territory, resources, population, and wealth may fairly be compared with those of Canada. The naval estimates of Argentina for four years, from 1909 to 1912 inclusive, amounted to $35,000,000. In addition to this the Parliament of Argentina voted during the same four years for special naval and military purposes more than $40,000,000. No

information is available as to the exact proportion of the last-mentioned sum which was appropriated for naval purposes, but it is understood that the greater portion was for naval construction. It is safe, therefore, to estimate that during the past four years Argentina has expended for naval purposes not less than sixty-five to seventy million dollars. The federal and state expenditure of the United States comprises a total annual outlay for armament of between $250,000,000 and $300,000,000, or at the rate of $2·75 per head. A similar expenditure by Canada would mean an annual outlay of some $20,000,000 or $25,000,000, or between eighty and one hundred million dollars during the same period.

It is apparent, therefore, that the aid which we propose to bring at this juncture is of a moderate and reasonable character. For forty-five years as a confederation we have enjoyed the protection of the British Navy without the cost of a dollar, and I venture to submit my firm conviction that this assistance, freely tendered by the people of Canada through their Parliament, is due to their own self-respect.

So far as official estimates are available, the expenditure of Great Britain in naval and military defence for the provinces which now constitute Canada, during the nineteenth century, was not less than $400,000,000. Even since the inception of our confederation, and since Canada has attained the status of a great Dominion, the amount so expended by Great Britain for the naval and military defence of Canada vastly exceeds the sum which we are now asking Parliament to

appropriate. From 1870 to 1890 the proportionate cost of North Atlantic squadrons which guarded our coasts was from $125,000,000 to $150,000,000. From 1853 to 1903 Great Britain's expenditure on military defence in Canada runs closely up to one hundred million dollars.

Has the protection of the flag and the prestige of the Empire meant anything for us during all that period? Hundreds of illustrations are at hand, but let me give just two. During a period of disorder in a distant country, a Canadian citizen was unjustifiably attacked and fifty lashes were laid on his back. Appeal was made to Great Britain, and with what result? A public apology was made to him, and fifty pounds were paid for every lash. In time of dangerous riot and wild terror in a foreign city a Canadian religious community remained unafraid. 'Why did you not fear?' they were asked, and unhesitatingly came the answer, 'The Union Jack floated above us.'

I have alluded to the difficulty of finding an acceptable basis upon which the great dominions, co-operating with the Mother Country in defence, can receive and assert an adequate voice in the control and moulding of foreign policy. We were brought closely in touch with both subjects when we met the British ministers in the Committee of Imperial Defence. That committee is peculiarly constituted, but in my judgement is very effective. It consists of the Prime Minister of Great Britain and of such persons as he may summon to attend it. Practically all the members of the Cabinet from time to time attend its deliberations, and

usually the more important members of the Cabinet are present. In addition, the naval and military experts and technical officers of the various departments concerned are in attendance. A very large portion of the committee's work is carried on by sub-committees, which are often composed in part of persons who are not members of the general committee itself, and who are selected for their special knowledge of the subjects to be considered and reported upon. The amount of work which has thus been performed, during the past five or six years in particular, is astonishing, and I have no doubt that it has contributed largely to the safety of the whole Empire in time of peril. The committee is not technically or constitutionally responsible to the House of Commons, and thus it is not supposed to concern itself with policy. As so many important members of the Cabinet are summoned to attend the committee, its conclusions are usually accepted by the Cabinet, and thus command the support of a majority of the House of Commons. While the committee does not control policy in any way, and could not undertake to do so, as it is not responsible to Parliament, it is necessarily obliged constantly to consider foreign policy and foreign relations, for the obvious reason that defence, and especially naval defence, is inseparably connected with such consideration.

I am assured by his Majesty's Government that, pending a final solution of the question of voice and influence, they would welcome the presence in London of a Canadian minister during the whole or a portion of each year. Such minis-

ter would be regularly summoned to all meetings of the Committee of Imperial Defence, and would be regarded as one of its permanent members. No important step in foreign policy would be undertaken without consultation with such a representative of Canada. This seems a very marked advance, both from our standpoint and from that of the United Kingdom. It would give to us an opportunity of consultation, and therefore an influence which hitherto we have not possessed. The conclusions and declarations of Great Britain in respect to foreign relations could not fail to be strengthened by the knowledge that such consultation and co-operation with the Overseas Dominions had become an accomplished fact.

No thoughtful man can fail to realize that very complex and difficult questions confront those who believe that we must find a basis of permanent co-operation in naval defence, and that any such basis must afford to the Overseas Dominions an adequate voice in the moulding and control of foreign policy. It would have been idle to expect, and indeed we did not expect, to reach in the few weeks at our disposal during the past summer a final solution of that problem, which is not less interesting than difficult, which touches most closely the future destiny of the Empire, which is fraught with even graver significance for the British Islands than for Canada. But I conceive that its solution is not impossible; and, however difficult the task may be, it is not the part of wisdom or of statesmanship to evade it. And so we invite the statesmen of Great

Britain to study with us this, the real problem of Imperial existence.

The next ten or twenty years will be pregnant with great results for this Empire, and it is of infinite importance that questions of purely domestic concern, however urgent, shall not prevent any of us from 'rising to the heights of this great argument.' But to-day, while the clouds are heavy and we hear the booming of the distant thunder, and see the lightning flashes above the horizon, we cannot and we will not wait and deliberate until any impending storm shall have burst upon us in fury and with disaster. Almost unaided, the Mother Land, not for herself alone, but for us as well, is sustaining the burden of a vital Imperial duty, and confronting an overmastering necessity of national existence. Bringing the best assistance that we may in the urgency of the moment thus to her aid, in token of our determination to protect and ensure the safety and integrity of this Empire, and of our resolve to defend on sea as well as on land our flag, our honour, and our heritage.

. . . . .

Right Hon. Sir Wilfrid Laurier: Mr. Speaker, I do not rise with any intention of discussing now the very important measure which has been submitted to the House by my right hon. friend. Indeed, under the rules of the House as interpreted by you, sir, there should be no discussion on the first reading of any Bill. With regard to the point of order which you have just stated, I think that my hon. friend is in order in stating that the

details of the Bill should not be discussed until the resolution is brought down. The money consideration, important as it is, is not the chief consideration, and I have no fault to find with my hon. friend in introducing the Bill before bringing down the resolution.[1]

[1] The Bill which finally passed the House of Commons was rejected by the Liberal majority in the Upper House. At the outbreak of war, accordingly, the Canadian naval forces consisted only of two cruisers, which were at once transferred to the control of the Admiralty.

9. IMPERIAL CO-OPERATION IN DEFENCE AND FOREIGN POLICY

Right Hon. L. Harcourt to the Governor-General of Australia, the Governor-General of the Union of South Africa, and the Governors of New Zealand and Newfoundland

DOWNING STREET,
10*th December*, 1912.

SIR,

I am forwarding by post, for the confidential information of your Ministers, a record of the proceedings at the Committee of Imperial Defence on May 30th, 1911 (during the Imperial Conference) and on August 1st, 1912 (during the visit of the Canadian Ministers to London).

This record deals solely with the question of the representation of the Dominions on the Committee of Imperial Defence.

[*Omitted to New Zealand.* Your Ministers, who were present on the first occasion, will remember that] the matter arose out of a Resolution by Sir Joseph Ward on the Agenda of the Imperial Conference, asking that the High Commissioners of the Dominions should be summoned to the Committee of Imperial Defence when naval and military matters affecting the Oversea Dominions were under consideration. The unanimous view

of all those present on May 30th, 1911, was that the representation of the Dominions should be not by the High Commissioner but by Ministers who would be responsible to their own colleagues and Parliament, and at the same time it was decided that a Defence Committee should be established in each Dominion which would be kept in close touch with the Committee of Imperial Defence at home. The Resolutions ultimately put forward by his Majesty's Government and accepted unanimously by the members of the Imperial Conference at the Committee of Imperial Defence were as follows: (1) That one or more representatives, appointed by the respective Governments of the Dominions, should be invited to attend meetings of the Committee of Imperial Defence when questions of naval and military defence affecting the Oversea Dominions are under consideration. (2) The proposal that a Defence Committee should be established in each Dominion is accepted in principle. The constitution of these Defence Committees is a matter for each Dominion to decide.

The Canadian Government having changed in the autumn of 1911, it was necessary, when Mr. Borden and his colleagues visited England this summer, to put these proposals before them, as they were of course unaware of the previous proceedings. Subject to consultation with his colleagues in Canada, Mr. Borden provisionally accepted the resolutions as passed and stated that he saw no difficulty in one of his Ministers, either with or without portfolio, spending some months of every year in London in order to carry out this

intention. Mr. Asquith and I had, subsequently, several private conversations with him, at which he expressed the desire that the Canadian and other Dominions Ministers who might be in London as members of the Committee of Imperial Defence should receive, in confidence, knowledge of the policy and proceedings of the Imperial Government in foreign and other affairs. We pointed out to him that the Committee of Imperial Defence is a purely advisory body and is not, and cannot under any circumstances become, a body deciding on policy, which is and must remain the sole prerogative of the Cabinet, subject to the support of the House of Commons. But, at the same time, we assured him that any Dominions Minister resident here would at all times have free and full access to the Prime Minister, the Foreign Secretary, and the Colonial Secretary for information on all questions of Imperial policy. In a public speech which I made a short time ago I used the following words:

> There is, on the part of Canadian Ministers and people, a natural and laudable desire for a greater measure of consultation and co-operation with us in the future than they have had in the past. This is not intended to, and it need not, open up those difficult problems of Imperial Federation which, seeming to entail questions of taxation and representation, have made that policy for many years a dead issue. But, speaking for myself, I see no obstacle, and certainly no objection, to the Governments of all the Dominions being given at once a larger share in the executive direction in matters of defence and in personal consultation and co-operation with individual British Ministers whose duty it is to frame policy here. I should welcome a more continuous representation of

Dominions Ministers, if they wish it, upon the Committee of Imperial Defence; we should all be glad if a member or members of those Cabinets could be annually in London. The door of fellowship and friendship is always open to them and we require no formalities of an Imperial Conference for the continuity of Imperial confidence.

The foregoing accurately represents the views and intentions of his Majesty's Government.

From Mr. Borden's public speech in introducing the Canadian Naval Bill, it appears that he accepts the proposals which we have made.[1] The same offer is, of course, open to all the other self-governing Dominions if and when they wish to adopt it, but the proposal is not one of necessary or strict uniformity, and can be varied in the case of each or any Dominion to suit their wishes or the special circumstances of their case. I should be glad to know, at their convenience, whether your Ministers desire to adopt some such method of more continuous connexion in naval and military affairs with the Committee of Imperial Defence in the United Kingdom.

I have, &c.

L. HARCOURT.

[1] On the death of Lord Strathcona, the Canadian Government sent one of its members, the Hon. Sir George Perley, as acting High Commissioner, to London in order to serve as a link between the Dominion and Imperial Governments. Cf. above, pp. 334–336.

10. RIGHT HON. WINSTON CHURCHILL'S SPEECH ON THE CREATION OF AN IMPERIAL SQUADRON

HOUSE OF COMMONS, MARCH 17, 1914

I COME now to the central problem of our standard. Formerly we have followed the two-Power standard—that is to say, 10 per cent. over the two strongest Powers. Now that standard has become quite meaningless. The two next strongest Powers, if you take the whole world, would be Germany and the United States, and if you left out the United States, as common sense would dictate, the two next strongest Powers would be Germany and France, which is not a very helpful or reasonable standard to adopt. As a matter of fact, in 1914-15 we shall be conforming to both these tests, absurd and unreasonable though they be. It would not be in the naval interest to base our strength on foundations from which common sense recoils. The 60 per cent. standard was adopted by the Admiralty in 1908 or 1909, and it was announced publicly by me two years ago. That is a building standard of new construction only, and it refers to capital ships only. For cruisers we follow a 100 per cent. standard, and have for many years. There are other standards for other classes. That 60 per cent. standard was described by me as follows:

To develop a 60 per cent. superiority in vessels of the 'Dreadnought' type over the German Navy on

the basis of the fleet law before its latest amendment, and to build at the rate of two keels to one for every ship added under that law, either by the last or subsequent amendments.

That is the standard we are following, and for which we claim full Parliamentary assent. That standard, of course, is not eternal; still less could it be made a binding international instrument. It is capable of revision in either one direction or the other. I have always carefully guarded myself against any inference that it could be made an absolute standard. Let me read to the House what I said on 18th March, 1912:

If Germany were to adhere to her existing law we believe that standard would, in the absence of any unexpected development in other countries, continue to be a financial guide for the next four or five years, so far, that is to say, as this capital class of vessel is concerned. Further than that it is idle to speculate. This, however, I must say, I must not be taken as agreeing that the ratio of sixteen to ten could be regarded as sufficient preponderance for British Naval strength as a whole above that of the next strongest naval Power. Even if we possessed an Army two-thirds as strong as that of the strongest military Power, we could not agree to that.

That was what I said originally on the first occasion this was announced to the public. There have been various disputes as to what ships should or should not come into the 60 per cent. standard, and I have no doubt the hon. Gentleman opposite has a well-filled arsenal of artillery on the subject. Some contend that the *Lord Nelsons*, the *New Zealand*, and the *Malaya* should be counted, and others contend that none of these

should count at all, and a flood of sterile controversy and partisan statistics, which sensible people would avoid, have been poured out on both sides on this subject. The editor of the *Economist* arrives at the conclusion that no ships should be built at all this year, while the editor of the *National Review*, in a comparatively lucid interval, announces that nothing less than sixteen 'Dreadnoughts' will save the Board of Admiralty from the traitor's doom. All this should be taken for what it is worth. The Admiralty have no need and no intention to enter into such a controversy. We have not merely stated our standard, but we have declared our programme. Programmes supersede standards, and actual figures are better than percentages. Two years ago I gave the whole series of programmes to the House which we considered necessary. They were 4, 5, 4, 4, 4, 4, as against German construction 2, 3, 2, 2, 3. 2. Parliament approved of the principle of that request. That is what we ask for now—no more, no less. That is the Admiralty interpretation of the 60 per cent standard. It takes into consideration all the disputable factors and makes all the necessary allowance for older ships declining in value. It has been carefully safeguarded so as not to tie the hands of this country in future, and to provide for the unforeseen. Since then we have had the *New Zealand* made available for home service, the *Malaya* presented to us without conditions, and we have had the talk about the Canadian ships, but our programmes must remain unaltered in spite of these additions.

We have now reached the third of these pro-

grammes, and when we consider that British shipbuilding is necessarily dependent on what other people do, it will be seen that three years is a long way to look ahead, and certainly a long way to look ahead successfully. I should not hesitate to admit that we were wrong if we had changed our mind, or to say that new steps must be taken if new circumstances had arisen, but after a full survey of the whole situation at home and abroad we consider that four ships are enough for the programme of this year, and we ask the House to affirm the proposals I submitted in my first year of responsibility for this Department.

In March 1912, speaking in the name of the Government and the Admiralty, I said:

> The Admiralty are prepared to guarantee absolutely the main security of the country and the Empire day by day for the next two years, and if the House will grant what we ask for the future that prospect may be indefinitely extended.

I feel that some of my hon. friends on this side of the House are justified in asking what has occurred since to make the additional ships necessary. Upon the general question of these ships and their propriety, and the need for Canada in common with the other Dominions of the Crown, to take an effective part in the defence of the Empire, there is nothing more to be said. The Admiralty view was expounded in the Canadian Memorandum of 1912. To that we adhere, and the facts there adduced have been strengthened rather than reduced by the passage of time. They constitute an absolute justification for Canadian action, and

for prompt Canadian action. But besides this general case there is a more particular reason. In July 1912, four months after my March statement, the Cabinet having made a new and searching examination of the Mediterranean problem, decided that a British battle squadron should be maintained in that sea, and that we could not afford to leave our interests there indefinitely to the care of powerful cruisers, or battle-cruiser squadrons and flotillas. The Admiralty were then charged with the duty of forming a battle squadron in the Mediterranean. This was foreshadowed to the House in general terms by the Prime Minister. I do not propose to enter into the reasons which led the Government, with, I think, the general approval of Parliament, to this conclusion. Outside the sphere of pure strategy and belonging to the domain of state policy, the other principal reason was that we should remain the independent guardians of our own important and long-established interests in the Mediterranean, and should not incur any exceptional obligations in any direction. The force of such a consideration must be freely admitted. Full effect may be given to it by the Admiralty providing the necessary margin of safety in the Mediterranean in the decisive and vital period. In accordance with that policy, we propose to place in the Mediterranean by the end of 1915 a battle squadron based on Malta of eight battleships, six at least of which will be Dreadnoughts of the *Lord Nelson* type, and to substitute this force for the four battle cruisers that are now stationed there. This will make our force in the Mediterranean by the

end of 1915 consist of eight battleships, four large armoured cruisers, four light cruisers of the *Town* class, and sixteen destroyers of the *Beagle* type, which have already gone out, and are a great increase on the force of the present flotilla. That we consider to be an adequate representation of our strength for all purposes in the Mediterranean during that year.

In order to do this and at the same time to maintain our indispensable margin in home waters it was necessary that the three Canadian ships should be laid down in the June of last year, or that the completion of three of our own ships of the 1913–14 programme should be hastened by beginning them eight or nine months earlier than was originally proposed. The failure of the Canadian Naval Aid Bill, on which we had counted, obliged us to adopt the second expedient, which was duly announced to Parliament and accepted by the House of Commons, and the Committee has since voted £437,000. With the acceleration of these ships, it will be possible, without impairing our necessary strength at home, to form and maintain a battle squadron in the Mediterranean from the latter part of 1915 to the middle of 1916. We now know, however, that owing to the adverse majority in the Canadian Senate, the Canadian Government will be unable to renew the Naval Aid Bill in the present session, and therefore no Canadian ships will be begun this year. In these circumstances it is necessary for us to repeat, though on a smaller scale, the course that was adopted last year, and to begin two ships of the 1914 programme at the earliest possible moment

so as to have them ready in the third quarter of 1916. Orders to this effect will be given as soon as the House has approved of these Estimates. The tenders are all ready to send out, and the money is taken and included in the Estimates of the year. Additional expenditure from this cause may be estimated at about half a million.

I shall be asked why two ships are sufficient this year, whereas three were required to be accelerated last year. Here is the reason: We are in a better position this year than we were last year. As the total number of our ships increases within the limits of the 60 per cent. standard—I am not going beyond that—so do the numbers available for whole world service. Although the proportion remains the same, a larger number can be spared. During the past year we have, by the unaided exertion of the British taxpayer, improved our margin available for whole world service by one ship, and that improvement will, under the existing programme within the limit of the 60 per cent. standard, be repeated in 1915. If, therefore, in that year any further delay should take place on the part of Canada, the position in the Mediterranean will, as far as we now see, be maintained by the acceleration of only one ship. There are, however, good prospects that the unfortunate deadlock which has arisen in Canada upon this Navy question will be relieved, and that in one way or another, or by one party or other, or, best of all, by the joint action of both parties, Canada will be able to take some share in her own naval defence and in the common defence of the Empire. After all, Canada is a very great and wealthy

community, with interests ever spreading more widely over the surface of the globe. She ought to make some provision for her own naval defence. If she were annexed to the United States of America she would no doubt contribute taxation to the upkeep of the United States Navy. If she were independent, she would no doubt have to make provision at least equal to that which is made by the most powerful South American States. Her destiny is in her own hands. I do not wonder that Canadians of every party feel that it is not in accordance with the dignity and status of the Dominion to depend entirely upon the exertions of the British taxpayers, many of whom are much less well off than the average Canadian.

I have left the most important part of my remarks to the end, and though I have spoken at considerable length it would not be right for me to curtail the observations which I had hoped to address to the House. I now turn to the Pacific, and the aspects of the naval policy connected with the great Dominions there. The safety of Australia and New Zealand is secured by the naval power, and the alliance, which is based on the naval power, of Great Britain. No European State would, or could, invade or conquer New Zealand or Australia unless the British Navy had been destroyed. The same naval power of Great Britain in European waters also protects New Zealand and Australia from any present danger from Japan. While Japan is allied to Great Britain, and while Great Britain possesses a sufficient margin of naval superiority, Japan is safe

from attack by sea from the great fleets of Europe. In no other way in the years that lie immediately before us can Japan protect herself from danger of European interference. It would appear that the reasons which have led Japan to contract and renew the alliance will grow stronger with time. The growth of European interests in China and the general development of European navies on a scale greater than Japan can afford to imitate will lead her increasingly to rely on that sure protection which British naval supremacy can so easily afford. The obligations of Great Britain to Japan under the alliance are not limited to preventing an armada being dispatched from European waters to alter suddenly the balance of naval strength in the China Sea. We are bound to maintain in these waters a force superior to any other European Power, and consequently any danger to Japan arising from a gradual increase of European squadrons in the Far East is also provided against.

The Naval Agreement of 1909 with the Dominions had as its central principle the idea that we should keep in the Pacific and Indian Oceans double the force of the Australian Fleet unit. We are doing more than that. We are not doing it in the same unit. We are keeping the new battle cruisers at home, where alone they will meet their equals, and we have placed on the China station and on the Indian stations the two battleships *Swiftsure* and *Triumph*, and other armoured cruisers, which are quite sufficient for the work they will have to do, and which are not only an equivalent, but are an improvement

upon the mere duplication of the Australian Fleet unit. I mention that, because suggestions have been made that we have not given full effect to the 1909 Agreement. I maintain that, exercising the discretion of the Admiralty as to the class and disposition of the ships, we have given, and are giving, full effect to it. The alliance with Japan has now been renewed up to 1921, with the full concurrence of the Overseas Dominions. It is not to be expected that even after that date Japan will have less need of that powerful friend at the other end of the world, which will continue to be the first naval Power.

Quite apart from the good sense and moderation for which the Japanese Government have become renowned, and quite apart from the great services mutually rendered, and the advantages derived by both Powers from the alliance, there is a strong continuing bond of interest between them on both sides. It is this bond that is the true and effective protection for the safety of Australia and New Zealand, and this bond depends entirely on the maintenance of British naval supremacy. If the British Fleet were defeated in the North Sea, all the dangers which it now wards off from the Australasian Dominions would be let loose. If the victorious European Power desired any territorial expansion or naval stations in the Pacific, there would be no forces which Australia and New Zealand could command which could effectively prevent it. If Japan chose to indulge in ambitions of empire or colonization in the Southern Pacific, she would be no loser so far as the European situation was concerned. We

should have lost at a stroke the means both of making our friendship serviceable and our hostility effective. There are no means by which, in the next ten or twelve years, Australia and New Zealand can expect to maintain themselves single-handed. If the power of Great Britain were shattered on the sea, the only course of the five millions of white men in the Pacific would be to seek the protection of the United States. From this point of view the profound wisdom of the policy hitherto adopted by New Zealand can be appreciated.

In giving a splendid ship to strengthen the British Navy at a decisive point, wherever that point may be, according to the best principles of naval strategy, the Dominion of New Zealand have provided in the most effective way alike for their own and for the common security. No greater insight into political and strategical points has ever been shown by a community hitherto unversed in military matters. The situation in the Pacific will be absolutely regulated by the decision in European waters. Two or three Australian and New Zealand Dreadnoughts, if brought into line in the decisive theatre, might turn the scale and make victory not merely certain but complete. The same two or three Dreadnoughts in Australian waters would be useless the day after the defeat of the British Navy in home waters. Their existence would only serve to prolong the agony without altering the course of events. Their effectiveness would have been destroyed by events which had taken place on the other side of the globe, just as surely as if they had been

sunk in the battle. The Admiralty are bound to uphold and proclaim broad principles of unity in command, and in strategic conceptions, and of concentration in the decisive theatre, and for the decisive event. That is our duty, and we are bound to give that advice in a military and strategic sense. The Dominions are perfectly free. The matter rests entirely in their hands, and the Admiralty's responsibility ceases when the facts have been placed plainly before Ministers, and those to whom they are responsible. It is recognized, however, that time will be required before the principles of naval strategy are applied to their fullest extent in the Dominions, and that in the interval arrangements must be made to develop as far as possible their local naval establishments. The Dominions want to have their own ships under their own control, cruising in their own waters and based on their own ports. They want to have something they can see, and touch, and take pride in, with feelings of ownership and control. Those feelings, although unrecognized by military truth, are natural. They are real facts which will govern events.

It is easily understood that the difficulties of enlisting the active co-operation of the Dominions in naval defence by means of ships they rarely see, and which are absorbed in the great fleets of Britain at the other end of the world, are at present insuperable. The Admiralty have, therefore, co-operated loyally and to the best of their ability in the development of the Australian fleet unit. We regard the effort which the Australian Commonwealth is making as heroic, and we will leave

nothing undone to make it a complete success. A thoroughly sound arrangement has been made between the Admiralty and the Government relating to the use of the Commonwealth fleet in war. We realize the importance of creating a naval sentiment in the Dominions, and of creating the reserves of personnel which are so valuable, and the local naval establishments which are essential to the full mobility and employment of the Imperial Fleet. It is with the object of combining sound military principles with local aspirations that the design of the Imperial squadron has been conceived. The principle in policy of the Imperial squadron may be compared to a number of farmers each of whom has the ordinary instruments of agriculture on his farm, but who combine together to buy a steam plough and steam thresher, of which each, in turn, according to his needs, can have the use. There should be developed severally in Canadian, Australasian, and South African waters a naval establishment with docks, defences, and repairing plant, which would enable the Imperial squadron or any division of the British Fleet which might be detached to operate in each theatre for a prolonged period.

Side by side with this there should be developed in each of these three theatres, so far as may be necessary, and allowing for local conditions, the local defence flotillas, both destroyers and submarines, for the purpose of both defending their bases and establishments and of operating in conjunction with the Imperial squadron when it arrives. Great ships move easily and swiftly about the world, but small craft are, by their

nature, localized, and can only traverse the ocean with difficulty and effort. Thirdly, the Dominions should locally maintain the light cruisers necessary, not for fighting battle fleets, but for commerce protection in their own waters, and these cruisers would also combine with the Imperial squadron or detachment of the British Fleet, when it arrives, to make the Fleet complete in all respects. In this way a true distinction will be made between the services which are essentially local, and those which are necessarily of general Imperial character. The Dominions will be afforded that individual local development which is necessary to arouse and maintain a keen naval interest, and to procure from them the sacrifices necessary for the maintenance or development of that naval power, while at the same time, by sending any capital ships they may have or acquire to the Imperial Squadron, they will create a really strong and effective naval force—not one or two ships isolated on particular stations—which will be able to move rapidly and freely about the world, bringing aid in sufficient strength wherever it may be needed in time of war. That is the right policy, which it is my duty to proclaim on an occasion like this, and towards which we believe that future developments will gradually and naturally tend.

11. RIGHT HON. SIR WILFRID LAURIER'S SPEECH ON CANADA'S PARTICIPATION IN THE WAR WITH GERMANY

HOUSE OF COMMONS OF CANADA,
AUGUST 19, 1914

MR. SPEAKER, the observations which I shall have to offer to the House are few and brief. In fact, apart from the usual compliments and congratulations to the mover and the seconder of the Address, which, I am glad to say, I have more than usual pleasure in extending to them, I have but one declaration to make.

The gravity of the occasion which has called us together makes it incumbent upon us even to disregard the formalities and conventionalities which in ordinary times the rules of the House, written and unwritten, enjoin as a wise safeguard against precipitate action, but which, on such an occasion as this, impede us in dealing with the momentous question before us. This session has been called for the purpose of giving the authority of Parliament and the sanction of law to such measures as have already been taken by the Government, and any further measures that may be needed, to ensure the defence of Canada and to give what aid may be in our power to the Mother Country in the stupendous struggle which now

confronts us. Speaking for those who sit around me, speaking for the wide constituencies which we represent in this House, I hasten to say that to all these measures we are prepared to give immediate assent. If in what has been done or in what remains to be done there may be anything which in our judgement should not be done or should be differently done, we raise no question, we take no exception, we offer no criticism, and we shall offer no criticism so long as there is danger at the front. It is our duty, more pressing upon us than all other duties, at once, on this first day of this extraordinary session of the Canadian Parliament, to let Great Britain know, and to let the friends and foes of Great Britain know, that there is in Canada but one mind and one heart. and that all Canadians stand behind the Mother Country, conscious and proud that she has engaged in this war, not from any selfish motive, for any purpose of aggrandizement, but to maintain untarnished the honour of her name, to fulfil her obligations to her allies, to maintain her treaty obligations, and to save civilization from the unbridled lust of conquest and power.

We are British subjects, and to-day we are face to face with the consequences which are involved in that proud fact. Long we have enjoyed the benefits of our British citizenship; to-day it is our duty to accept its responsibilities and its sacrifices. We have long said that when Great Britain is at war we are at war; to-day we realize that Great Britain is at war and that Canada is at war also. Our territory is liable to attack and to invasion. So far as invasion is concerned,

I do not see that there is any cause for apprehension, for it seems to me obvious that neither Austria nor Germany, our foes in this war, can command any force able to make an attack so far from their base. But no one pretends that our maritime cities on the Pacific and the Atlantic are free from the possibility of assault by an audacious corsair, who, descending suddenly upon our shores, might subject us to indignity and insult, and decamp with his booty before punishment could reach him. This is not an unfounded dread of danger; this is no mere illusion; it is a real and indeed a proximate danger, since it is a matter of notoriety that both on the Pacific and on the Atlantic there are German cruisers whose mission is to inflict all the injury they can upon our commerce, and even to make a descent upon our cities should they find our harbours unguarded. We are aware that the Government has already taken measures, and very appropriately, to guard against this danger. We know that one of our battleships on the Pacific has been seeking the enemy to protect our commerce and our cities, and if she has not yet engaged the enemy it is because the enemy has eluded her pursuit.

We have had another and more striking evidence that when Great Britain is at war we are at war, in this—that our commerce has been interrupted, and perhaps the expression would not be too strong if I were to say that it has been to some extent dislocated. From the day war was declared—nay, from the day the possibility of war was first mooted—our shipping to

Great Britain and to Europe has been interrupted. Ships were lying at the docks fully loaded and ready to put to sea, but unable to do so because of the fact that when England is at war Canadian property on the high seas is liable to capture. Our ships therefore had to remain in port so long as precautions had not been taken to clear the way and to ensure their safe passage across the ocean. What measures have been taken in regard to that we have not yet been told, but I have no doubt that we shall have that information in due time.

The correspondence brought down yesterday, however, has informed us that the Canadian Government has already taken steps to send a contingent of twenty thousand men or thereabouts to take their place in the firing line. Upon this occasion I owe it to the House and to myself to speak with absolute frankness and candour. This is a subject which has often been an occasion of debate in this House. I have always said, and I repeat it on this occasion, that there is but one mind and one heart in Canada. At other times we may have had different views as to the methods by which we are to serve our country and our Empire. More than once I have declared that if England were ever in danger—nay, not only in danger, but if she were ever engaged in such a contest as would put her strength to the test—then it would be the duty of Canada to assist the motherland to the utmost of Canada's ability. England to-day is not engaged in an ordinary contest. The war in which she is engaged will in all probability—nay, in absolute certainty—

stagger the world with its magnitude and its horror. But that war is for as noble a cause as ever impelled a nation to risk her all upon the arbitrament of the sword. That question is no longer at issue; the judgement of the world has already pronounced upon it. I speak not only of those nations which are engaged in this war, but of the neutral nations. The testimony of the ablest men of these nations, without dissenting voice, is that to-day the allied nations are fighting for freedom against oppression, for democracy against autocracy, for civilization against reversion to that state of barbarism in which the supreme law is the law of might.

It is an additional source of pride to us that England did not seek this war. It is a matter of history—one of the noblest pages of the history of England—that she never drew the sword until every means had been exhausted to secure and to keep an honourable peace. For a time it was hoped that Sir Edward Grey, who on more than one occasion has saved Europe from such a calamity, would again avert the awful scourge of war. Sir, it will go down on a still nobler page of history that England could have averted this war if she had been willing to forgo the position which she has maintained for many centuries as the head of European civilization;—if she had been willing to desert her allies, to sacrifice her obligations; to allow the German Emperor to trample upon heroic Belgium, to infringe upon the rights of isolated France, and to put down his booted heel upon continental Europe. At that price England would have secured peace; but

her answer to the German Emperor was: Your proposals are infamous. And, rather than accept them, England has entered into this war: and there is not to-day all over the universe a British subject, there is not outside the British Empire a single man, whose admiration for England is not greater by reason of this firm and noble attitude.

So to-day England is at war. Her fleets are maintaining the freedom of the ocean. Her armies have already crossed the channel towards plains made famous more than once by British valour, this time to maintain the independence of Belgium by taking a place in the fighting line beside the small and heroic Belgian army, and to render assistance to France, whose forces are concentrated in an effort to repel an invader and to maintain and to save intact that which to a proud nation makes life worth living.

I am well aware that the small contingent of some 20,000 men which we are going to send will have to show double courage and double steadiness if they are to give any account of themselves among the millions of men who are now converging towards the frontier of France, where the battle of giants is to be decided. But, sir, it is the opinion of the British Government, as disclosed by the correspondence which was brought down to us yesterday, that the assistance of our troops, humble as it may be, will be appreciated, either for its material value or for the greater moral help which will be rendered. It will be seen by the world that Canada, a daughter of old England, intends to stand by her in this great

conflict. When the call comes our answer goes at once, and it goes in the classical language of the British answer to the call to duty: 'Ready, aye, ready.'

If my words can be heard beyond the walls of this House in the province from which I come, among the men whose blood flows in my own veins, I should like them to remember that in taking their place to-day in the ranks of the Canadian army to fight for the cause of the allied nations, a double honour rests upon them. The very cause for which they are called upon to fight is to them doubly sacred.

In this country we are not all of the same origin; we are not all of British or of French descent. I was struck by the words of the hon. member for South Oxford (Mr. Donald Sutherland) in reference to our fellow citizens of German origin. They are certainly amongst our best citizens. This has been acknowledged on more than one occasion. They are proud of the land of their adoption, which to many of them is the land of their birth, and they have shown more than once their devotion to British institutions. But, sir, they would not be men if they had not in their hearts a deep feeling of affection for the land of their ancestors, and nobody would blame them for that. There is nothing, perhaps, so painful as the situation in which mind and heart are driven in opposite directions. But let me tell my fellow-countrymen of German origin that we have no quarrel with the German people. We respect and admire as much as they do the proud race from which they have their descent; we

acknowledge all that the world owes to the German people for their contribution to the happiness of mankind by their progress in literature, in art, and in science. But perhaps our German fellow-citizens will permit me to say that in the struggle for constitutional freedom, which has been universal in Europe during the last century, the German people have not made the same advance as have some of the other nations of Europe. I am sure that they will agree with me that if the institutions of the land of their ancestors were as free as the institutions of the land of their adoption, this cruel war would never have taken place. Nothing can be truer than the words which are reported to have been uttered by a German soldier made a prisoner in Belgium, that this war is not a war of the German people; and if there is a silver lining to this darkest cloud which now overhangs Europe it is that, as a result and consequence of this war, the German people will take the determination to put an end for ever to this personal imperialism, and to make it impossible evermore for one man to throw millions of the human race into all the horrors of modern warfare.

We cannot forget that the issue of battle is always uncertain, as has been proven already in the present contest. In invading Belgium, some two weeks ago, the German Emperor invoked the memory of his ancestors and called upon the blessing of God. The German Emperor might have remembered that there is a treaty guaranteeing the independence, the integrity, the neutrality of Belgium, and that this treaty was signed in the

last century by the most illustrious of his ancestors, the Emperor William I of Germany. He might have remembered also that there is this precept in the divine book: 'Remove not the ancient landmarks which thy fathers have set up.' But the German Emperor threw his legions against this landmark in the fullness of his lust of power, with the full expectation that the very weight of his army would crush every opposition and would secure their passage through Belgium. We did not expect, he could not believe, that the Belgians, few in numbers and peaceful in disposition and in occupation, would rise in his way and bar his progress; or, if he harboured such a thought for one moment, his next thought was that if he met such opposition he could brush it aside by a wave of his imperial hand. Sir, he could have remembered that in the sixteenth century the ancestors of the Belgians rose against the despotism of Philip II of Spain, and, through years of blood and fire and miseries and sufferings indescribable, they maintained an unequal contest against Spain —Spain, as powerful in Europe at that time as the German Empire is to-day. Sir, if there are men who forget the teachings of their fathers, the Belgians are not of that class; they have proved equal to the teachings of their fathers; they have never surrendered; the blood of the fathers still runs in the veins of the sons; and again to-day, through blood and fire and miseries and sufferings indescribable they hold at bay the armies of the proud Kaiser.

I repeat, sir, that the issue of battle is always uncertain. There may be disappointments, there

may be reverses, but we enter into this fight with full hope as to the ultimate result:

> For freedom's battle once begun,
> Bequeathed from bleeding sire to son,
> Tho' often lost, is ever won.

Sir, upon this occasion we invoke the blessing of God—not the God of battles, but the God of justice and mercy; and it is with ample confidence in Providence that we appeal to the justice of our cause.

Nay, more, already England has won a signal victory, a victory more precious, perhaps, than any that can be achieved by her fleets or by her armies. Only a few weeks ago the Irish problem was pending in the scales of destiny. The possibility of civil strife in Ireland already rejoiced the eyes of Britain's enemies. But to-day the spectre of civil war has vanished from Ireland; all Irishmen are united, ready to fight for King and country. The volunteers of the north and the volunteers of the south, forgetting their past differences, stand shoulder to shoulder ready to shed their blood for the common cause. And, sir, may I not say that the hope is not vain that in that baptism of blood may be washed away, and for ever washed away, the distrust of one another which has been the curse of Ireland in ages past.

But it is not only in Ireland that you find this union of hearts. In the two other united kingdoms the voice of faction has been silenced. Even those who on principle do not believe in war admit that this was a just war and that it had to be fought. That union of hearts which

exists in the United Kingdom exists also in Canada, in Australia, in New Zealand. Yea, even in South Africa—South Africa, rent by war less than twenty years ago, but now united under the blessing of British institutions, with all, British and Dutch together, standing ready to shed their blood for the common cause. Sir, there is in this the inspiration and the hope that from this painful war the British Empire will emerge with a new bond of union, the pride of all its citizens, and a living light to all other nations.

12. RESOLUTIONS OF THE ECONOMIC CONFERENCE OF THE ALLIES HELD AT PARIS, JUNE 14–17, 1916

I

THE representatives of the Allied Governments have met at Paris under the presidency of M. Clémentel, Minister of Commerce, on June 14, 15, 16, and 17, 1916, for the purpose of fulfilling the mandate given to them by the Paris Conference of March 28, 1916, of giving practical expression to their solidarity of views and interests, and of proposing to their respective Governments the appropriate measures for realizing this solidarity.

II

They declare that, after forcing upon them the military contest in spite of all their efforts to avoid the conflict, the Empires of Central Europe are to-day preparing, in concert with their Allies, for a contest on the economic plane, which will not only survive the re-establishment of peace, but will at that moment attain its full scope and intensity.

III

They cannot therefore conceal from themselves that the agreements which are being prepared for

this purpose between their enemies have the obvious object of establishing the domination of the latter over the production and the markets of the whole world and of imposing on other countries an intolerable yoke.

In face of so grave a peril the Representatives of the Allied Governments consider that it has become their duty, on grounds of necessary and legitimate defence, to adopt and realize from now onward all the measures requisite on the one hand to secure for themselves and for the whole of the markets of neutral countries full economic independence and respect for sound commercial practice, and on the other hand to facilitate the organization on a permanent basis of their economic alliance.

For this purpose the Representatives of the Allied Governments have decided to submit for the approval of those Governments the following resolutions:

A

MEASURES FOR THE WAR PERIOD

I

The laws and regulations prohibiting trading with the enemy shall be brought into accord.

For this purpose:

A.—The Allies will prohibit their own subjects and citizens and all persons residing in their territories from carrying on any trade with:

1. The inhabitants of enemy countries whatever their nationality.

2. Enemy subjects wherever resident.
3. Persons, firms, and companies whose business is controlled wholly or partially by enemy subjects or is subject to enemy influence and whose names are included in a special list.

B.—They will prohibit the importation into their territories of all goods originating in or coming from enemy countries.

C.—They will devise means of establishing a system enabling contracts entered into with enemy subjects and injurious to national interests to be cancelled unconditionally.

II

Business undertakings owned or operated by enemy subjects in the territories of the Allies will all be sequestrated or placed under control; measures will be taken for the purpose of winding up some of these undertakings and of realizing their assets, the proceeds of such realization remaining sequestrated or under control.

III

In addition to the export prohibitions which are necessitated by the internal situation of each of the Allied countries, the Allies will complete the measures already taken for the restriction of enemy supplies, both in the mother countries and in the Dominions, Colonies, and Protectorates:

1. By unifying the lists of contraband and of export prohibition, and particularly by

prohibiting the export of all commodities declared absolute or conditional contraband;

2. By making the grant of licences for export to neutral countries from which export to enemy territories might take place conditional upon the existence in such countries of control organizations approved by the Allies; or, in the absence of such organizations, upon special guarantees such as the limitation of the quantities exported, supervision by Allied consular officers, &c.

B

TRANSITORY MEASURES FOR THE PERIOD OF COMMERCIAL, INDUSTRIAL, AGRICULTURAL, AND MARITIME RECONSTRUCTION OF THE ALLIED COUNTRIES

I

The Allies declare their common determination to ensure the re-establishment of the countries suffering from acts of destruction, spoliation, and unjust requisition, and decide to join in devising means to secure the restoration to those countries, as a prior claim, of their raw materials, industrial and agricultural plant, stock and mercantile fleet, or to assist them to re-equip themselves in these respects.

II

Whereas the war has put an end to all the treaties of commerce between the Allies and the

Enemy Powers, and whereas it is of essential importance that, during the period of economic reconstruction which will follow the cessation of hostilities, the liberty of none of the Allies should be hampered by any claim put forward by the Enemy Powers to most-favoured-nation treatment, the Allies agree that the benefit of this treatment shall not be granted to those Powers during a number of years to be fixed by mutual agreement among themselves.

During this number of years the Allies undertake to assure to each other so far as possible compensatory outlets for trade in case consequences detrimental to their commerce result from the application of the undertaking referred to in the preceding paragraph.

III

The Allies declare themselves agreed to conserve for the Allied countries, before all others, their natural resources during the whole period of commercial, industrial, agricultural, and maritime reconstruction, and for this purpose they undertake to establish special arrangements to facilitate the interchange of these resources.

IV

In order to defend their commerce, their industry, their agriculture, and their navigation against economic aggression resulting from dumping or any other mode of unfair competition, the Allies decide to fix by agreement a period of time during which the commerce of the Enemy Powers

shall be submitted to special treatment and the goods originating in their countries shall be subjected either to prohibitions or to a special régime of an effective character.

The Allies will determine by agreement through diplomatic channels the special conditions to be imposed during the above-mentioned period on the ships of the Enemy Powers.

V

The Allies will devise the measures to be taken jointly or severally for preventing enemy subjects from exercising, in their territories, certain industries or professions which concern national defence or economic independence.

C

Permanent Measures of Mutual Assistance and Collaboration among the Allies

I

The Allies decide to take the necessary steps without delay to render themselves independent of the enemy countries in so far as regards the raw materials and manufactured articles essential to the normal development of their economic activities.

These steps should be directed to assuring the independence of the Allies not only so far as concerns their sources of supply, but also as regards their financial, commercial, and maritime organization.

The Allies will adopt the methods which seem to them most suitable for the carrying out of this resolution, according to the nature of the commodities and having regard to the principles which govern their economic policy.

They may, for example, have recourse either to enterprises subsidised, directed, or controlled by the Governments themselves, or to the grant of financial assistance for the encouragement of scientific and technical research and the development of national industries and resources; to customs duties or prohibitions of a temporary or permanent character; or to a combination of these different methods.

Whatever may be the methods adopted, the object aimed at by the Allies is to increase production within their territories as a whole to a sufficient extent to enable them to maintain and develop their economic position and independence in relation to enemy countries.

II

In order to permit the interchange of their products, the Allies undertake to adopt measures for facilitating their mutual trade relations both by the establishment of direct and rapid land and sea transport services at low rates, and by the extension and improvement of postal, telegraphic, and other communications.

III

The Allies undertake to convene a meeting of technical delegates to draw up measures for the

assimilation, so far as may be possible, of their laws governing patents, indications of origin, and trade marks.

In regard to patents, trade marks, and literary and artistic copyright which have come into existence during the war in enemy countries, the Allies will adopt, so far as possible, an identical procedure, to be applied as soon as hostilities cease.

This procedure will be elaborated by the technical delegates of the Allies.

D

Whereas for the purposes of their common defence against the enemy the Allied Powers have agreed to adopt a common economic policy, on the lines laid down in the Resolutions which have been passed, and whereas it is recognized that the effectiveness of this policy depends absolutely upon these Resolutions being put into operation forthwith, the Representatives of the Allied Governments undertake to recommend their respective Governments to take without delay all the measures, whether temporary or permanent, requisite for giving full and complete effect to this policy forthwith, and to communicate to each other the decisions arrived at to attain that object.

13. THE IMPERIAL WAR CABINET AND THE IMPERIAL WAR CONFERENCE

Speeches at the Imperial Conference, 1917

Sir R. Borden: I should like to make a slight amendment in the terms of the Resolution by substituting for the word 'thereafter' at the end of the first paragraph the words 'as soon as possible after the cessation of hostilities.' It would then read in this way: 'The Imperial War Conference are of opinion that the readjustment of the constitutional relations of the component parts of the Empire is too important and intricate a subject to be dealt with during the war, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities. They deem it their duty, however, to place on record their view that any such readjustment, while thoroughly preserving all existing powers of self-government and complete control of domestic affairs, should be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth, should recognize their right to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous

consultation in all important matters of common Imperial concern and for such necessary concerted action founded on consultation as the several Governments may determine.'

This subject is one upon which I might speak at great length. Many proposals with regard to the subject have been discussed in the United Kingdom and in all the Dominions of the Empire for many years past in all possible phases. There can be no doubt as to its importance. The growth of the Dominions in wealth and population has been very remarkable during the past fifty years, especially during the last twenty-five years. Their future growth we hope—and, more than that, we believe—will be even more marked. Foreign policy and foreign relations, with which is intimately connected the question of the common defence of the Empire, have been under the immediate control of the Government of the United Kingdom, responsible to the Parliament of the United Kingdom. It would appear from the views of constitutional writers that this condition during the later phases of the growth of the Oversea Dominions has proceeded on a theory of trusteeship which, whatever may be said of it in the past, is certain to prove not only entirely inadequate to the needs of the Empire but incompatible with the aspirations of the people of the Dominions in the future. I have spoken of the growth of the Dominions; it is by no means improbable that children now living will see their population surpass that of the United Kingdom. It is quite within the range of possibility that a single Dominion might grow to the extent which

I have mentioned. Therefore it seems to me beyond question that the theory of trusteeship to which I have alluded cannot be continued indefinitely in the future.

In approaching the subject one is impressed especially with this consideration, that the greatest intellects of the Empire in the past have miscalculated the conditions that would develop in the Dominions, and have failed to foresee the relations of the Empire under the policy of developing full powers of self-government, which was supposed to have the tendency of weakening, if not severing, the ties which unite the Dominions to the Mother Country. The policy of complete control in domestic affairs and complete autonomy in all local affairs, instead of weakening the ties which unite the Empire, has very greatly strengthened them. It was said by a statesman of the highest capacity after that policy had been embarked upon (that is, the policy of granting to the Dominions complete autonomy) that it was an absolute mistake, that it could only lead to the weakening and severance of relations, and that it would have been a wise policy to preserve in the United Kingdom control of the natural resources of the Dominions, and control over their fiscal policy; that this would have tended to unite the Empire; and regret was expressed that some such policy had not been maintained. All of us in the Dominions, and I think the people of the British Isles, realize now that any such policy would have had most unfortunate and, more than that, disastrous results. The policy which was supposed to weaken the Empire has

really strengthened it, and I look forward to a development in the future along the line of an increasingly equal status between the Dominions and the Mother Country. It seems to me that the attainment of full citizenship, which involves a voice in foreign relations, will proceed along the line to which I have alluded. The nations of the Empire are really bound together by the tie of a common allegiance, by like institutions and ideals of democracy, and by like purposes. Such ties will bring the nations of the Empire together more closely upon the line which I have mentioned. I say this with a full understanding that it is unwise, having regard to the lessons of the past, for any of us to predict absolutely the developments of the future. But, nevertheless, the line of development which has been noticeable during the past twenty or twenty-five years seems to point unmistakably to that conclusion. Indeed, the action of the Dominions in this war has made the spirit of nationhood splendidly manifest. The fact that one million men in the Dominions have taken up arms for the defence of the Empire's existence and the maintenance of its future influence is so significant a lesson that one would be unwise not to have it constantly in mind. I believe that the Dominions fully realize the ideal of an Imperial Commonwealth of United Nations, and one should not forget the importance of the Crown as a tie between the Dominions and the Mother Country. His Majesty King George V is especially associated with the Oversea Dominions, because he is the first Sovereign who, before he ascended the throne, availed himself of the oppor-

tunity to visit all parts of the Empire and to make himself acquainted with the ideals and aspirations of their people. And the Queen was recognized throughout the Dominions of the Empire as distinctively a British princess before her marriage to the King.

Now the subject of the future relations of the Empire is not only an important but a very complex one. I would not make any conjectures beyond what I have said as to the ultimate solution. It is manifest, I think, that under the present conditions it would be unwise for this Conference to attempt to enter upon that subject. I hope that the delegation which will come to the next Conference from the Dominion which I have the honour to represent will be representative of all political parties. A subject of the vast importance which is involved in the consideration of future inter-Imperial relations would seem to demand that condition if it is to be approached in a proper spirit, because we all agree, I am sure, that so great a question ought not to be made, either here or in the Dominions, a question of party strife or party controversy if it can possibly be prevented.

There has been a very remarkable advance even since we arrived in the British Islands; it is a development which has greatly impressed me, and it seems to be due to the force of great events rather than to any premeditation or design. The fact that an Imperial War Cabinet as well as a British War Cabinet are sitting in London to-day is in itself of great significance. There may be possibly some guidance in that step for the future

relations which will give to the Overseas Dominions their proper voice in the great matters which I have mentioned. However, it would be unwise to attempt to forecast. The Resolution which I have proposed does not attempt to do so: it merely proposes that a special Imperial Conference shall be summoned as soon as possible after the War; and it does at the same time place on record the view of this Conference that any readjustment of relations must, in the first place, preserve all the existing powers of self-government and complete control of domestic affairs, that it must be based on a complete recognition of the Dominions as autonomous nations of an Imperial Commonwealth, and must fully recognize their right to a voice in foreign policy and in foreign relations. The willing acceptance of that principle by the Mother Country is an immense stride in advance.

I have had the advantage of discussing the terms of the Resolution to some extent with my colleagues round this board, and I have made them all acquainted with the principle which is embodied in the Resolution. I hope that it may commend itself to their judgement. I hope further that the Conference to be summoned will approach its deliberations and frame its conclusions on the lessons of the past, so that the future structure of the Empire may be erected on the sure and firm foundations of freedom and co-operation, autonomy and unity.

MR. MASSEY: I will second that formally, if it is necessary to second it, and in doing so I will say that I agree thoroughly with almost every

opinion that Sir Robert Borden has expressed in moving the Resolution which is now before the Conference, and I agree with him particularly in the opinion which is really expressed in the Motion itself, that at a time like this, when the statesmen of the Empire are engaged in carrying on our share of the most serious war which has ever occupied our attention, and when the subject of the War is occupying nearly the whole of the attention of most of the thinking people of the British Empire, it is impossible to take in hand such an important question as the 'Reorganization of the Empire,' and, as expressed in the Motion, 'the readjustment of the constitutional relations of its component parts.' That will have to stand over, so far as this Conference is concerned, until the War comes to an end, and until a more representative Conference can be got together than the present one. Personally, I should like to see a much larger Conference convened for the special purpose which Sir Robert Borden has in view, and I should like to see it representative not only of the Governments of the different Dominions and of the different parts of the Empire, but I should like to see it representative, if it is possible so to arrange it, of the different parties in the different Dominions of the Empire. If we are going to raise this question above party—and I think in its importance it is far and away beyond anything in the way of party politics—then we must give the different political parties in the Empire the opportunity of coming together at the Council Board and expressing their opinions, and, if their opinions are

thought worthy of being adopted, that opportunity should be given by the other members of the Conference which it is intended to convene. When I say the parties, I am not referring to all the parties, because there may be small parties that it might not be necessary to have represented; but I am thinking of the more important parties, such as we understand them in the different countries. I know this is not a new idea, and I know that something in this way has been suggested at previous ordinary Imperial Conferences, although, so far as I can recollect, it was not given effect to to any extent, if at all.

I thoroughly agree, too, with the point Sir Robert Borden made when he stated that in these matters we have to look forward and we have, in particular, to be guided by the lessons of the War. I hope, Mr. Long, that point will be borne in mind when the Conference meets, and especially with regard to population. I have not the very slightest doubt that Sir Robert Borden was right in saying that there are people now living who will see a larger population in the different Dominions than the population of what is called the United Kingdom to-day; I have no doubt that will be the case. I believe a very important migration will take place when the War comes to an end which in the ordinary course will have its effect upon the different Dominions; and this War itself has directed the attention of people in every part of the United Kingdom to the possibilities of the Dominions. I will not argue further on that line because, as a matter of fact, there is another Motion in the Order Paper standing in my own

name which will give a better opportunity for discussing it, but in the main I agree with the opinions expressed by Sir Robert Borden.

Then the Prime Minister of Canada also referred to the necessity for considering and maintaining—I will not go to the length of saying completing—the existing autonomy of the different parts of the Empire. In any arrangements that may be made in the future for the closer unity of the different portions of the Empire and for drawing them more closely together and keeping them together, I am quite certain it is necessary to make the ties that hold the different parts together as easily carried as it is possible to arrange. A great statesman who lived one hundred years ago or thereabouts and whose name frequently comes up in matters of this kind expressed the opinion, looking forward even from his time, that if the different parts of the Empire were to be kept together the bonds to hold them would need to be 'while stronger than steel as light as silk.' Whatever bonds may be arranged will have to be arranged in such a way that they will not chafe and not seriously inconvenience British citizens in any part of the Empire.

Sir Robert Borden referred to our fiscal arrangements. Here particularly, and I mention this now with the object of placing my opinion on record, I think it is not desirable for any Imperial organization of the future, whatever form that Imperial organization may take, to interfere with the fiscal arrangements of the different parts of the Empire any more than can possibly be helped. What I mean is that at present the younger

nations of the Empire have the right to impose their own taxation in their own way and to collect their own revenue in their own way, and those rights, particularly, should not be attempted to be interfered with, because I am certain that any such interference would lead to very serious friction and probably put this movement back for perhaps many years to come, and none of us desire to see that. Sir Robert Borden referred to the lessons of the past, and I think on an occasion like this there is not one of us who can forget what happened in connexion with the breach between England and what were then the American Colonies a great many years ago. I hope that lesson will be borne in mind and that nothing of the sort will ever happen again in the history of the British Empire; but, if it is not to happen, then a crisis such as that which led up to that very serious trouble and to the breach which followed must be avoided.

Speaking on this point, of course the question will be asked, 'How is any such organization in the future to find money for carrying on the business of the Empire?' Well, personally I do not think it is a difficult question to answer, because I am confident that for the purpose of carrying on the organization, and for Imperial purposes generally, when the different Dominions, or different parts of the Empire, as the case may be, are asked for their share of the finance, and their share of the capital required, the necessary capital will be found, and will be forthcoming; only, as I said before, each part of the Empire must find it in its own way.

In the case of war and in the case of the possibilities of war we cannot forget that the present arrangement, loose as it has been, has worked very well indeed. Each part of the Empire has found troops, some of them have found ships, in proportion to their wealth and in proportion to their population, and I believe that arrangement may be continued with advantage to the whole of the Empire, and with benefit to the whole of its citizens. I know that numberless opinions have been expressed upon what ought to be done, innumerable pamphlets have been written and innumerable speeches have been delivered, and I am bound to say that all these writings and all these speeches and all these changes of opinion which have taken place during the last dozen years, particularly since the War commenced, have done a very great deal of good, inasmuch as they have set the population of the Empire thinking, and they have impressed people who have never studied the question previously with the potentialities of the Overseas Dominions and with the necessity of taking advantage of the present opportunity to bring the different parts of the Empire more closely together than ever before, and to bind them in such a way that they will not be likely to separate for many centuries to come, and I trust that they will never separate. Suggestions have been made at different times that we should at once consider the question of an Imperial Parliament dealing purely with Imperial questions and leaving local matters, or provincial matters (according to the manner of expression), to be dealt with by provincial or local legislatures

elected for the purpose. I believe, and I have expressed this opinion previously, publicly and otherwise, that such an arrangement will develop in course of time, but I do think that it would be a mistake at the present juncture to attempt too much. This matter is far too important to attempt to bring it rapidly into operation. I believe that every step that we take as citizens of the Empire in this connexion has to be thought out very carefully before it is taken. If not, then we are likely to make mistakes, and the present generation may not see any further advance than has been made up to the present.

A very great deal has been said in favour of an Imperial Parliament, and in theory there is not a very great deal to be said against it, subject to the limitations about which I have already expressed an opinion, that is the limitations particularly with regard to preserving the autonomy of the different parts of the self-governing Dominions of the Empire. There are others who think—and I have heard this opinion expressed—that the present arrangement which gives the Dominions a representation in the Cabinet of the Empire is a good one; and it is a good one; I thoroughly agree with that. Many people think that should be sufficient for quite a long time to come and that it should be continued, and I will offer my own opinion upon that point presently. I think that even this advance is far more important than many of the people in the different parts of the Empire have up to the present realized. I think that when the Dominions were asked to send representatives from their

Legislatures, from their Governments, to the Imperial War Cabinet, it was one of the most important events that had ever taken place in the history of the British Empire, and I am confident that posterity will look upon it from that point of view, and, speaking for myself, I appreciate fully everything which has been done.

And just let me say here, in case I forget before I bring my remarks to a close, that I would like to suggest that this Imperial Conference should express an opinion to the effect, or make a recommendation to the effect, that the present arrangement should continue until the Conference, which we are all of opinion should be convened for the purpose mentioned in the Motion, has met, and until the new arrangement, whatever it may be, comes into operation. As an Imperialist I feel somewhat strongly on this point. As Imperialists we have gained a very great deal. I know that public opinion in Britain and public opinion in the Dominions is in favour of going forward rather than going back, and I express my own personal opinion when I say that it would be a retrograde step if we allowed this Conference to come to an end without expressing our appreciation of what has been done in the way of representation of the Dominions, and expressing our opinions in favour of the present representation continuing until something better has been agreed upon and has come into operation.

Then there is another school, who advance the theory that anything in the way of an Imperial Parliament will not be likely to work so well as something in the way of what is called an Imperial

Council—again, of course, representative of the different Dominions—which would not have the powers that would be possessed by the Imperial Cabinet, but which would meet annually, say, and which would deal with all matters of Imperial importance, and would in its turn make representation to the Parliaments of the different Dominions and to the Parliament of the United Kingdom itself.

My own idea is, that if we can make such arrangements as will allow the present representation of the Imperial Cabinet to continue, even when the War comes to an end, if we can also along with that have a representative Imperial Council, then, I think, a very great deal will have been done and a very long step forward will have been taken along the road on which we are so anxious to travel. The Imperial Conference, which has been in the habit of meeting every four years, and which in itself I am bound to say was a very important advance, admitted the right of the Dominions to be consulted in connexion with Imperial affairs. But something more than that is required at present, and something more than that must result from the position the Dominions have taken up during the present War.

Speaking of the present War, I may say I am not one of those who think that the Dominions came into the War simply to assist what we are all pleased and proud to call the Mother Country. I do not look at it from that point of view at all. We came into the War as Oversea Dominions of the Empire because we are part of the Empire and because the Empire to which we belong was

being attacked, and if we had not come into the War in the way that has happened and which we are all proud of and pleased with—and let me say here not one of us would go back upon it—I have no hesitation in saying that as British citizens and as citizens of no unimportant parts of the world now, and which are likely to be much more important in years to come, we should not have done our duty. We are glad to think that as a result of what has taken place, instead of, as many people imagined would be the case, that at the first shock of war the Empire would go to pieces, there is a better spirit throughout the Empire to-day than has ever obtained in past years at any time in its history; and I am glad to include in that the Empire of India, which is represented at this Conference, and which I believe will be represented at any Conferences to consider Imperial affairs that may take place in the future. Sir Robert Borden, when speaking, used a term which implies a very great deal. It is a term which I have used myself on more than one occasion, and a term with the use of which I thoroughly agree, and that is the term 'United Nations.' We are coming together, not, as used to be considered, as the United Kingdom with its dependencies. That is not the position to-day. We are coming together as United Nations of the Empire and on equal terms so far as the populations of the different parts of the Empire will allow.

I was pleased to hear the reference of Sir Robert Borden to the Monarchy. The subject of form of Government is occupying the attention, in view of recent happenings, of liberty-loving people all

over the world. There is no doubt that something in the way of more democratic and more representative forms of government is in the air; it is in the atmosphere, so to speak, and we cannot get away from it; but in case there should be any misapprehension in the minds of people who are interested in this Conference or who may think it worth while to read the proceedings or the records of this Conference in the future, I would just like to say that I, speaking as a British citizen, believe that the British Empire has to-day probably the freest and most progressive form of government that the world has ever seen. We do not propose to go back upon that in the very slightest. But, following up that point, I would just like to say that, in my opinion, the British Monarchy is the keystone of the Imperial arch. I do not need to elaborate that point, but when I express that opinion I think it speaks for itself, and I am quite certain in expressing it I have expressed an opinion with which every member of this Conference will agree.

I do not think I need to say any more on the subject except just this, that one of your great British statesmen and poets made the statement that the British Constitution had broadened down from precedent to precedent. Precedents are now following each other in rapid succession. History is being made very rapidly, and I have no doubt as time goes on and if we take advantage of the opportunities that offer—and they are offering now—we shall be able to arrange the Constitution which, as public men representing important parts of the British Empire, we are privileged to deal

with, in a way which will provide for the future possibilities and the future wants of the great Empire to which we belong.

I would like to suggest to the Conference and to Sir Robert Borden that he should include in, or consent to be added to, his motion something on the lines I have already referred to. I had drafted a motion, but, as a matter of fact, I had forgotten that this matter was coming up to-day and, therefore, I was not prepared to speak upon it, and perhaps the opinions I have expressed have been somewhat disconnected in consequence, but the one ideal I have in mind, which I am going to suggest to Sir Robert Borden and to the Conference, is that something in this way should be added: 'That until such Conference'—that is, the special Conference contemplated—'has met, and arrived at its conclusions, this Imperial War Conference recommends that the present arrangements by which representatives of the Dominions and of India occupy seats in the Imperial Cabinet shall continue.'

I second the Resolution, if it is necessary.

CHAIRMAN (MR. LONG): This Resolution is proposed by Sir Robert Borden and seconded by Mr. Massey. Does any other member of the Conference desire to say anything before the motion is put?

GENERAL SMUTS: I should like to say a few words, if I may. I need hardly point out that this is far and away the most important point on the agenda of our Conference this time. The British Empire is the most important and fascinating problem in political and constitutional government which the world has ever seen.

Whenever we come to this question of a proper constitution for this Empire we touch on the very gravest and most important issues. As a matter of fact we are the only group of nations that has ever successfully existed. People talk about a league of nations and international government, but the only successful experiment in international government that has ever been made is the British Empire, founded on principles which appeal to the highest political ideals of mankind. Founded on liberal principles, and principles of freedom and equality, it has continued to exist for a good time now, and our hope is that the basis may be so laid for the future that it may become an instrument for good, not only in the Empire but in the whole world.

The subject-matter of this Resolution, as Sir Robert Borden has stated, has been carefully considered, and although, quite properly, a definite decision on the main problem is to be postponed for future action by a more important Conference than this, yet certain principles are affirmed here in this Resolution which are very important and far-reaching. The Resolution refers in the first place to the question of the status of the self-governing Dominions. That matter has already been referred to both by Sir Robert Borden and by Mr. Massey, and I wish to say a few words in reference to the point. The Resolution says that any future settlement that is come to must 'be based upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth.' The whole question of the future status of the Dominions is therefore raised in this Resolu-

tion. So far the British Empire has developed along natural lines. The Dominions started as Colonies and as settlements of the Mother Country and of the British Isles. They started as Crown Colonies; they developed into self-governing Colonies; and now they have become the present Dominions. Other parts of the world have been added to the Empire, until to-day we have really a congeries of nations. These old Colonies and the present Dominions have in course of time increased in importance, increased in population, and in economic importance, and are to-day already playing a part in the world which seems to my mind to make it very necessary that their status should be very seriously considered, and should be improved. Too much, if I may say so, of the old ideas still clings to the new organism which is growing. I think that, although in practice there is great freedom, yet in actual theory the status of the Dominions is of a subject character. Whatever we may say, and whatever we may think, we are subject Provinces of Great Britain. That is the actual theory of the Constitution, and in many ways which I need not specify to-day that theory still permeates practice to some extent.[1] I think that is one of the most important questions —one of the most important matters—that will have to be dealt with when this question of our future constitutional relations on a better and more permanent basis comes to be considered. The status of the Dominions as equal nations of the Empire will have to be recognized to a very large extent. The Governments of the Dominions

[1] See *Imperial Unity and the Dominions*, pp. 589–592.

as equal Governments of the King in the British Commonwealth will have to be considered far more fully than that is done to-day, at any rate in the theory of the Constitution if not in practice. That is the most important principle laid down in the second part of this Resolution, that there should be 'a full recognition of the Dominions as autonomous nations.' And, to strengthen the point, the Resolution goes on to affirm that the existing powers of self-government should not be interfered with. Of course there is a good deal of feeling of natural and justifiable jealousy in the Dominions as to the rights which they have acquired and which they do not like to be tampered with, and, naturally, I think it is very wise to add this to the Resolution, that their existing powers of self-government should not be tampered with. If that is so it follows that one theory, one proposed solution of our future constitutional relations, is negatived by this Resolution. If this Resolution is passed, then one possible solution is negatived, and that is the Federal solution. The idea of a future Imperial Parliament and a future Imperial Executive is negatived by implication by the terms of this Resolution. The idea on which this Resolution is based is rather that that Empire would develop on the lines upon which it has developed hitherto, that there would be more freedom and more equality in all its constituent parts; that they will continue to legislate for themselves and continue to govern themselves; that whatever executive action has to be taken, even in common concerns, would have to be determined, as the last paragraph says, by 'the

several Governments' of the Empire, and the idea of a Federal solution is therefore negatived, and, I think, very wisely, because it seems to me that the circumstances of the Empire entirely preclude the Federal solution. Here we are, as I say, a group of nations spread over the whole world, speaking different languages, belonging to different races with entirely different economic circumstances, and to attempt to run even the common concerns of that group of nations by means of a Central Parliament and a Central Executive is, to my mind, absolutely to court disaster. The experiment has been tried in the United States and, it is said, with great success. Well, of course, the experiment in the United States has not lasted very long, and we must see whether it will continue successfully under the stress of the great experience into which America is now entering. But I am now informed by those who are very close observers of American government and American institutions that they are certain that the experiment has reached its utmost limits. In that case you have a compact country, a compact half continent, where people live together, where they all go through the same mould, and where they are all formed more or less on the same lines; whereas in this Empire you have an entirely different state of affairs. The young nations are developing on their own lines; the young nations are growing into Great Powers; and it will be impossible to attempt to govern them in future by one common Legislature and one common Executive.

Then if we are to continue as nations and to

grow as nations and govern ourselves as nations the great question arises: How are we to keep this Empire together? That is the other important point, I take it, in this Resolution—the point which recognizes that there should be effective arrangements for continuous consultation in all common concerns, especially in concerns which are mentioned there specifically, that is foreign policy; but in all common concerns that there should be effective arrangements for continuous consultation. Setting aside the Federal solution as not applicable to this Empire, which is not merely a State but a system of States, half the world in itself—setting aside that solution, the question arises how you are to keep the different parts together, and it can only be done on the basis of freedom and equality which has existed hitherto, only the machinery would have to be arranged on which that system could be worked. I think it will not pass the wit of man to devise ways of continuous consultation—not intermittent, not every four years as we have had hitherto, but continuous consultation. Sir Robert Borden has pointed out in that great speech of his at the Parliamentary dinner—one of the finest speeches I have ever listened to, and one of the wisest I have ever listened to—that a practice which has now arisen spontaneously of a double Cabinet may in the future provide the germs of a solution. I express no opinion upon that, because very intricate constitutional questions are bound up with that, and it is quite possible to arrange this system of consultation and continuous Conferences even on a different basis and yet to make

it perfectly workable and feasible as a means of keeping the different parts of the Empire together. It seems to me that some such machinery will have to be devised and that it will not be difficult to devise it once we come to sit round the table and discuss the matter carefully. In that way it will be possible, while leaving full executive action to the various more or less equal Governments of the Empire, while leaving full executive responsibility to them, to see that in all important concerns there is consultation and continuous consultation; that there is an exchange of ideas and that the system, whilst preserving freedom and equality in its parts, will work with a strong sense of unity at the centre.

I think, if this Resolution is passed, sir, we will have taken an immense step forward in the history of the Empire. If we pass no other Resolution at this Conference than this one, I am sure that we will have done a good day's work for this Empire. We are emerging out of one era and we are entering upon another where much greater problems will confront us than ever before. So far it has been possible for us each to go his own way, meeting once in so many years. In future it will be necessary for us to keep much more closely in touch with each other.

These are the principles which are affirmed in this Resolution, leaving the actual solution of our constitutional problem to be dealt with hereafter. Those are the principles which are affirmed here, and I heartily endorse them and give my adhesion to this Resolution as it stands here.

SIR EDWARD MORRIS: I should like to add my

support to this Resolution. I would like to say that, through the courtesy of Sir Robert Borden, I have had an opportunity of carefully studying the nature of the Resolution, and I think it would be wise, probably, at the present time not to go beyond this Resolution. Certainly this is not the time to discuss any changes in connection with the relations which exist between the Dominions and the Mother Country, and I think the proposal to postpone the further consideration to another Conference rather a good one.

It appears to me that the position before the war was this: All the Dominions had complete autonomy, even practically to the question of treaty-making, and if they were not consulted and had no part in the question of defence and in the question of foreign relations, it was because they did not contribute. The whole cost of running the Empire from a defence standpoint and from the foreign relations standpoint, and everything in relation to the acquisition of new territories and new States for the Empire, was accomplished out of the Imperial Exchequer. But in all other matters the Colonies, as they have been termed, the Dominions, have enjoyed the full benefits and advantages of responsible Government, and that has been year after year broadened out. The question then comes whether these scattered Dominions, these wide-flung possessions, can be brought closer together from a constitutional point of view. This Resolution does not call upon us to consider that question. We are here now taking part in the proceedings of the Imperial War Cabinet, and we have been invited

here to take part in the discussion of the terms of peace, principally, I take it, in consideration of the part which the Dominions have taken in this war. Whether it would be wise to alter this Resolution by Mr. Massey's suggestion to continue the present system would require, I think, a good deal of discussion and consideration, because, after all, whilst we are advising in relation to these serious problems in connection with the terms of peace and the carrying on of the war, we have no constitutional power to bind the Parliaments that we represent. I do not mean by that to say that the various Parliaments in the various Oversea Dominions would not gladly endorse anything that might be done here. It all comes down to the mere question of finding some machinery which in a permanent and responsible form will continue what is now being done by the War Cabinet, if that is desirable.

In the past Conferences, some of which I have had the advantage of taking part in myself, this very question came up about an Imperial Parliament and an Imperial Council, but there were always very grave difficulties in the way of establishing anything of a permanent character, and it seems to me now that this Resolution, whilst, as General Smuts has very wisely pointed out, it affirms, if necessary, the present position of the Dominions as regards their authority and autonomy and control over their own affairs, leaves it open to some future Conference to discuss the possibilities of having some machinery in the nature of consultation to deal with questions of foreign policy and the defence of the Empire.

I was very glad that Sir Robert Borden, in his opening remarks, referred to the position to-day of this country in its relation to the Monarchy, especially in view of the changes which are taking place in other countries. Some of us, who live near republican institutions and have had opportunities of studying others, I think will agree that the monarchs in this country, at least the late Queen Victoria and King Edward as well as the present monarch, have made it possible for us, whilst admiring some of the principles in republican institutions, to still continue to believe in the wisdom of monarchical institutions. One thing it gives us, at least, and that is an appeal. Every subject has an appeal to the Chief Magistrate of the land, who is not a party-politician and who is not placed in the position he holds by any party or by the funds of any party, but stands as the representative of all, and rarely in this country interferes in any matters except in the interest of the public and as between the public and the legislators. For that reason I have very much pleasure in supporting the Resolution as proposed, with the slight amendment which I understand is to be proposed later in relation to the great Government of India.

SIR SATYENDRA SINHA: Sir, I should like, while supporting this Resolution, to make what I consider to be a merely verbal alteration, because I am certain that it could not be intentionally meant to exclude India, especially after the Resolution which this Conference has already passed. I therefore propose that we should add to the Resolution, in the second paragraph, after the

words "upon a full recognition of the Dominions as autonomous nations of an Imperial Commonwealth," the words "and of India as an important portion of the same." The Resolution was drafted, of course, with special reference to the Self-governing Dominions, but, as I said, it could not have been intended to exclude India from participation in the arrangements which are recommended for the purpose of representation in foreign policy and in foreign relations. The foreign policy and the foreign relations of the Empire are to a very large extent concerned with India, and, therefore, it is only right that India should be represented in all consultations for the purpose of dealing with such foreign policy and foreign relations. As a corollary to that amendment I propose another consequential one, namely, that instead of the words, "should recognize their right to an adequate voice in foreign policy and in foreign relations," in order to make it perfectly clear, we should say, "in order to recognize the right of the Dominions and of India to an adequate voice in foreign policy," and so on. It is with some diffidence that I address the Conference and ask for this amendment to be made, but I do so principally on the assurance that it is bound to be acceptable, having regard to the attitude of the Conference already with regard to India.[1]

[1] The Conference resolved on April 27 "That the Imperial War Conference, having examined the memorandum on the position of Indians in the Self-governing Dominions presented by the Indian representatives to the Conference, accepts the principle of reciprocity of treatment between India and the Dominions and recommends the memorandum to the favourable consideration of the Governments concerned."

I do not desire to take up the time of the Conference with anything further, except to say that I wish to associate myself, on behalf of India, with the sentiments that Sir Robert Borden expressed with regard to the monarchy. India has in a peculiar degree a sense of loyalty to the person and throne of the Monarch in England, and it would, therefore, give the greatest satisfaction to my countrymen that this Conference should unequivocally express its declaration that the monarchical form of government, as it is, is the best suited to the requirements of the Empire.

INDEX

A

Act of Union between England and Scotland, i. 285
Adelaide Convention, 1897, i. 343
Admiralty memorandum on defence, of 1902, ii. 23 /–239; of 1912, 313–321; views in 1914, 343–356
Agents-General, suggestions for use as Advisory Council to Secretary of State for the Colonies, ii. 203, 204
Alien immigration, ii. 227–229
Alliance of Japan, principles affecting value of to British Empire, ii. 351–353
Amalgamation of House of Lords and Judicial Committee of Privy Council, proposed in 1900, i. 378
American Colonies, Declaration of Independence of, i. 70–75; warning of action of as precedent, 360; ii. 243, 385
Amnesty for Irish political prisoners, suggested by Canadian Parliament, ii. 195
Appeals, from Dominion Courts to Privy Council, in Canada, i. 364, 365; in Australia, 361–381; ii. 215, 216; in Union of South Africa, ii. 38
Argentina, naval expenditure of, ii. 332, 333
Articulus stantis aut cadentis Imperii, autonomy as, ii. 242; cf. 376–398
Asiatics, questions affecting, reserved to control of Union Parliament in South Africa, ii. 38, 39; immigration into Dominions, 227–229,
Asquith, Rt. Hon. H. H., Prime Minister of the United Kingdom, President of Imperial Conference of 1911, ii. 185; speech at first meeting of, 240–246; observations on Sir Joseph Ward's scheme of Imperial Federation, 249, 257, 263, 264, 268, 269, 274, 275, 276, 278, 279, 280, 285, 291, 292, 293, 294, 301–303; views in 1900 on appeal from Australia to Privy Council, i. 360, 361, 363
Atkinson, Hon. Sir Henry, Prime Minister of New Zealand, advises, after defeat at General Election, increase of members of Legislative Council, ii. 98
Atlantic fleet, change in disposition of to meet danger from Germany, ii. 325
Australia, i. 197–225; *and see* Commonwealth of Australia
Austria-Hungary, naval strength in the Mediterranean, ii. 319, 325
Autonomy, as essential basis of relations between the Dominions and the United Kingdom, ii. 109–125, 242, 297–302, 376–398; of Dominions in internal affairs, 51–139

B

Ballance, Hon. J., Prime Minister of New Zealand (1891–1893), dispute with Earl of Glasgow in 1892 as to increase of number of supporters of the Government in the Upper House, ii. 98–104
Banishment, as a penalty in South Africa, ii. 123, 124
Baronetages, suggested grant of provincial to members of Legislative Councils in Upper and Lower Canada, i. 89; negatived by Lord Dorchester, 96
Barton, Rt. Hon. Sir E., services to Australian federation, i. 342
Basutoland, Colony of, scheme for inclusion in South African Union, ii. 41
Batchelor, Hon. E. L., a repre-

sentative of Commonwealth of Australia at the Imperial Conference of 1911, ii. 263, 273
Beaconsfield, Lord, his views on retention of control over fiscal arrangements of Colonies, criticized by Sir Robert Borden, ii. 378
Bechuanaland Protectorate, scheme for inclusion in South African Union, ii. 41
Belgium, resistance to German invasion, ii. 365; question of commercial treaty with, 224, 225
Berwick, governed by royal charters until accession of James I, i. 44
Boer War, exceptional value of services of New Zealand in, i. 355, 356
Bond, Rt. Hon. Sir R., Prime Minister of Newfoundland, attitude on question of *modus vivendi* of 1907 with United States, ii. 168–181
Bonds of Empire, ii. 124, 384
Boomplaats, Sir Harry Smith's victory over the Boers at, ii. 15
Borden, Hon. Sir Frederick, representative of Canada at the Imperial Conference of 1911, ii. 284
Borden, Rt. Hon, Sir Robert, First Minister of Canada, speech on Canadian naval policy, ii. 308–337; views on Imperial relations, 376–381
Botha, Rt. Hon. General and Prime Minister of the Union of South Africa since 1909, deportation of labour leaders by his Government, ii. 109–125; criticism of Sir Joseph Ward's scheme of Imperial federation, 297–300
Boundaries of Upper and Lower Canada, i. 88, 89, 95, 96
Boundary between Canada and the United States, i. 88, 89, 95
British citizenship, a misnomer for subjecthood, ii. 110, 111
British Columbia, provision for inclusion in Canadian federation (carried into effect in 1870), i. 247; protection of from naval attack, ii. 320, 359
British Constitution, well-understood principles of executive administration, i. 246, 292, 293
British Empire, unique character of, ii. 241–244
British Indians, treatment of as regards immigration into the Dominions, Mr. Chamberlain's view, ii. 227–229; passive resistance in South Africa, 115; Sir Joseph Ward's views, 259, 260
British minority, in Quebec, views of regarding French majority in 1849, i. 181, 182
British protection, value of to Canada, ii. 333, 334
British subject, rights of in Colony are dependent on local law (correcting the view of Maseres, 19, 20), i. 41; ii. 110, 111
British War Cabinet, and Imperial War Cabinet, ii. 380, 381
Brown, Hon. George, associated with His Majesty's representative at Washington in treaty negotiations, in 1874, ii. 149
Brown-Dorion Ministry, refused a dissolution by the Governor-General of Canada, ii. 131
Bryce, Rt. Hon. James (now Viscount), views on federation, quoted by Sir Joseph Ward, ii. 283, 284
Bulwer-Lytton, Rt. Hon. Sir E., Secretary of State for the Colonies, disapproves of Sir George Grey's suggestion for Union of South Africa, ii. 27
Burke, E., misquoted by Mr. Massey, ii. 384

C

Calais, constitution granted by royal prerogative, i. 45
Calvin's case, i. 41, 46
Campbell-Bannerman, Rt. Hon. Sir Henry, Prime Minister of the United Kingdom, confers responsible government on the

Transvaal (1906) and Orange River Colonies (1907), ii. 3, 29, 241
Campbell *v.* Hall, Lord Mansfield's judgement in, 1774, i. 35–52
Canada, representative government in, i. 3–110; deadlock in and grant of responsible government, 113–193; federation of, 245–334; protection policy, ii. 51–83; control of provincial Acts, 84–91; appointment of High Commissioner of, 143–155; address from Parliament on Home Rule, 193–196; naval agreement of 1911, 304–307; naval policy, 249, 250, 289, 308–336; participation in European War, 357–367
Canals of Upper Canada, financial loss on working of, i. 151
Cape Breton (Isle Royale), annexed to Nova Scotia, 5
Cape of Good Hope, receives responsible government in 1872, ii. 28; naval contribution, 219, 235, 236; native franchise in, 34–37
Capture of private property at sea, ii. 364
Cardwell, Rt. Hon. E., Secretary of State for the Colonies, despatches as to federation of Canada, i. 264–268, 329–334
Carnarvon, Earl of, Secretary of State for the Colonies, views on federation of South Africa, ii. 27, 28
Cartier-Macdonald Ministry, in Canada in 1864, presses for federation, i. 270
Catholics, disabilities of, in Canada, i. 12–18, 32, 33; removal by Quebec Act, 57–60; endowments of Catholic Church secured, 150, 167; French language recognized for official use, 257; Jesuits' Estates Act, ii. 84–91
Causes of American rebellion, i. 70–75
Cession, power of Crown to legislate for territory attained by, i. 41–48
Chamberlain, Rt. Hon. J., Secretary of State for the Colonies (1895–1903), on federation of Australia, i. 337–381; on government of Orange Free State and Orange River Colony, ii. 9, 10; on self-government in the Transvaal and Orange River Colony, 12, 13; on sale of Newfoundland Government Railway, 105–108; speech at meeting of Colonial Conference of 1897, 208–229; authorizes banishment of burghers failing to surrender, 124
Chief Justices of Australian Colonies, views in favour of maintenance of appeal to Privy Council from Colonial Courts, i. 375, 376
China, possible difficulties with Australia, ii. 218
Churchill, Rt. Hon. W. S., Under-Secretary of State for the Colonies, speech on Transvaal and Orange River Colony Constitutions, ii. 1–24; speech as First Lord of the Admiralty on Imperial naval policy, 343–356
Civil Law, of Quebec, continued in operation by Quebec Act, i. 59, 60
Civil List, principles affecting in Colonies, i. 206–208, 224, 225; disputes in Lower Canada over, up to 1832, 124, 125
Civis Romanus sum, contrasted with British subjecthood, ii. 110, 111
Colborne, Sir T., suspends judges in Lower Canada, i. 176
Colonial Judges, proposed addition to the Judicial Committee of the Privy Council, i. 379–381; ii. 213–215
Colonial Laws Validity Act, 1865, question of application of to the Commonwealth and other Dominions, i. 355–357
Colonial Office, prior to federation only common centre of Colonies, i. 160
Colonies, excluded from operation of commercial treaty with France (1882), ii. 148
Colour, disqualification for membership of House of Assembly

In the Union of South Africa, and for voting (save in the Cape Province), based on grounds of, ii. 34–36; exclusion from Dominions on grounds of, deprecated by Mr. Chamberlain, 227–229
Commerce, interference with Dominion by war, ii. 363, 364
Commercial regulations, suggested insertion of provisions regarding in Canadian constitution of 1791, i. 93, 94; negatived by Lord Dorchester, 98
Commercial relations of United Kingdom with Canada, ii. 51–83; of Dominion with foreign Powers, 143–166, 224–227; with United Kingdom, 223, 224; of Allies *inter se*, 368–374
Commercial treaties, position of Dominions as to negotiation of, ii. 144, 148, 149, 153, 154, 156–166
Committee of Imperial Defence, constitution and functions of, ii. 334–336; invitation to Dominions to be represented on, 339–342
Committee for Trade and Plantations of Privy Council, report (1849) on Australian constitutional arrangements, i. 197–214
Common Prayer, Elizabethan legislation regarding use of, in all parish churches, i. 17
Commonwealth of Australia, constitution of, i. 337–381; Government of protests against possibility of interference with martial law in Natal, ii. 123; naval policy of, 261–265, 286, 352–356; naval agreement of 1911 with United Kingdom, 304–307
Comparison of constitution of Canada and United States, i. 292–294, 318; of Canada and Australia, 346–348; of Union of South Africa, Canada, and Australia, ii. 32, 33
Conditions, effort of Governor to impose on Ministers, ii. 126–135
Conquered Colony, laws in force in, views of Baron Maseres, i. 18–20; decision in Campbell *v.* Hall, 42–47
Conquered territory, discussion by Lord Durham of modes of government of, i. 114, 115
Constitution of United States, defects and merits of, i. 292–294, 318
Constitution, question as to right of Crown to grant raised by Baron Maseres, i. 24, 25; decided in Campbell *v.* Hall, 35–52; constitutions granted thus in Transvaal and Orange River Colony, ii. 3
Consultation with Dominions, offers of every facility for, on matters of Imperial policy, foreign affairs, and defence, ii. 335, 336, 339–342
Contingent from Canada in European War, ii. 362, 363
Contrast between position of Crown in relation to United Kingdom and the Colonies respectively, i. 174, 175; cf. ii. 135, 136
Contributions of Dominions and United Kingdom to naval defence, ii. 234, 237; suggested basis of 50% less *per capita* for the Dominions, 276
Conventions of 1881 and 1884, with Transvaal, ii. 15
Cornwallis, Lord, surrender of, at Yorktown due to loss of sea power, ii. 230
Corruption, inseparable in Newfoundland from administration of railway services by Government, ii. 103
Council of Empire, objection to, in view of Sir Julius Vogel, ii. 203, 204; suggested on advisory basis by Mr. Chamberlain, 210–213; on federal lines by Sir Joseph Ward, 247–297; criticism by Gen. Botha, 297–300; by Mr. Asquith, 301–303; discussion of at Imperial War Conference, 376–398
Court of Appeal, for Canada, recommended by Lord Durham, i. 158, 169; power to create given in federal constitution, 253, 317, 318, 365; in Aus-

tralia, 361–381; in the Union of South Africa, ii. 38
Courts of Justice, power given to Governor to erect in Quebec, i. 6; power of Crown to erect continued by Quebec Act, 65
Crewe, Earl (now Marquis) of, Secretary of State for the Colonies, speech on the South Africa Bill, July 27, 1909, ii. 25–47
Criminal Law, of England, adopted and continued in Quebec, i. 61, 62
Crown Lands, of Newfoundland, practically transferred to an individual under railway agreements, ii. 102
Crown, loyalty to, as centre and symbol of Imperial unity, i. 291, 292, 321, 323; ii. 241, 379, 380, 391, 394, 401, 403
Crown, prerogative of to legislate for a conquered Colony, i. 18–21, 42–47; constitutions conferred on Transvaal and Orange River Colonies, ii. 3; greater restrictions on action of than in case of a Governor, 134, 135
Currency, advantage of uniformity in, as a ground of federation, i. 158
Customary basis of responsible government in the United Kingdom and the Colonies, i. 142, 239, 240
Customs, conformity of, ground for federation, i. 157
Customs duties, levied under Imperial Acts used as means of making Colonial Governments independent of Parliament, i. 124, 125; control of conceded to Australia, 217, 218
Customs Union, between Cape and Orange Free State, ii. 156, 157

D

Deadlock in Canada in the period 1858–1864, i. 270–272; solution by federation and separation of Upper and Lower Canada, 277–285
Deadlock provisions, in Commonwealth constitution, ii. 349
Debts, arrangements regarding public of Canadian provinces, on federation, i. 260, 262
Decentralization, as essential feature of Imperial policy, view of Mr. Asquith, ii. 243, 244; view of General Botha, 300; of General Smuts, 392–398
Declaration of Independence of United States, i. 70–75
Declaration of London, 1909, failure to consult Dominions in regard to negotiation of, ii. 182, 183
Defence, needs of as motive for Canadian union, i. 156, 157
Defence of Empire, obligation accepted by Imperial Government, i. 333; Mr. Chamberlain's speech on, at Colonial Conference, 1897, ii. 216–221; Admiralty Memorandum of 1902, 230–239; proposals of Sir J. Ward in 1911, 250, 284–289; naval agreement of 1911, 304–307; Canadian naval policy, 1912, 308–337; Mr. Churchill's speech, March 17, 1914, 343–356
Denunciation of treaties with Belgium and Germany, in interest of preferential trade with United Kingdom, ii. 224, 225
Dependence, as essential feature of the colonial relation, Lord Durham's view, i. 152–155; General Smuts' view, ii. 396
de Villiers, Sir H. (later Lord), delegate to his Majesty's Government regarding the South Africa Bill, 1909, ii. 31
Direct taxation, limited possibility of imposition of in Dominion, ii. 80
Disallowance of colonial Acts by Imperial Government, i. 258; impossibility of limiting power to case of Acts of a strictly local character, i. 217; difficulty of exercising as regards an Australian law affecting appeal to Privy Council, 363

might be exercised in case of a measure disfranchizing natives in Cape, ii. 37; principles of, 117, 118, 121–123; of provincial Acts by Canadian Government, i. 258; ii. 84–91
Discretion of Governor, other than that of Sovereign in the United Kingdom, ii. 134, 135
Disfranchisement of natives in South Africa, ii. 34–37
Dissolution of Parliament, principles affecting grant of, ii. 126–139
Dissolution of union of two Canadas, possibility of, i. 277, 278; avoided by federation, 273, 278–285
Distribution of French and British in Canada, about 1788, i. 77, 81–83
Division of powers, in Canadian federation between central and provincial governments and parliaments, i. 251–257, 265, 266, 293, 294, 313–318, 320, 321; in Australia between Commonwealth and States, 347, 350; in Union of South Africa no powers exclusively assigned to provincial Councils, ii. 38
Division of Quebec into two provinces, proposed by Lord Sydney, i. 79, 80; objections of Lord Dorchester, 83–85; decision of his Majesty's Government, 87–89; reunion advised by Lord Durham, 145–151, 165; redivided under federation, 245, 246, 273
Dominion of Canada, federation of, i. 245–334; *see also* Canada
Dorchester, Lord, correspondence as to constitution of Canada, with Lord Sydney, i. 76–85; with Mr. Grenville, 86–105; with Mr. Dundas, 106–110
Dundas, Rt. Hon. H., despatch to Lord Dorchester, regarding the Canadian Constitution of 1791, i. 106–110
D'Urban, Sir Benjamin, Governor of the Cape of Good Hope, services to South Africa, ii. 46
Durham, Earl, views on relations of French and British in Canada, i. 113–120; on relation of executive government and the legislature, 120–133; on remedy by introduction of responsible government, 133–146; on necessity of union of Upper and Lower Canada and desirability of a larger union, 147–172; quoted by Mr. Churchill, ii. 7, 8
Dutch, fail to colonize South Africa, ii. 26; fleet sails up Medway, 233
Dutch language, official use of in the Union of South Africa, ii. 38
Dynamite outrages, in South Africa, January 1914, ii. 115

E

Earle, Hon. J., Premier of Tasmania, memorandum on position of Governor, ii. 126–133
East Florida, constitution of government of, by Letters Patent of 1763, i. 3; boundaries of, 4
Economic Conference of the Allied Powers, June, 1916, ii. 368–375
Economy of federation, alleged, i. 282, 283; ii. 31
Egypt, failure of Napoleon in due to sea power, ii. 230
Election, as mode of selecting Upper Houses in Dominions, i. 299–306
Elective Executive Council, proposal for rejected by Lord Durham, i. 36
Elective Upper House, in Canada, arguments for, i. 300–302
Elgin, Earl of, views on responsible government, i. 179–190; action approved by her Majesty's Government, 191–193
Elgin, Earl of, despatch on Newfoundland fishery disputes, ii. 167–181; services to South Africa, ii. 30
Ellison-Macartney, Rt. Hon. Sir W., Governor of Tasmania, dispute with Ministers as to dissolution of Parliament, ii. 126–139

Emigration, Lord Durham's scheme for, to Canada, i. 169–171
Emperor William II, responsibility for war in Europe, ii. 364, 365
Empire of India, importance to the United Kingdom, ii. 228; representation at Imperial War Conference of 1917, 392, 401–403
Employment of Newfoundland fishermen by citizens of United States under treaty of 1818, ii. 173, 174, 176, 177
Endowment of Transvaal and Orange River Colony by Imperial Parliament, ii. 21
Established Church, Roman Catholic in Quebec, i. 57, 150, 167; ii. 84–91
Exchange of military forces, of Dominions and United Kingdom, suggested in 1897, ii. 221–223
Excise duties, a violation of free trade, ii. 79
Executive and Legislature, Lord Durham's view of fundamental principles affecting relations of, i. 120–133
Executive Council, created for Canada, i. 89, 91, 92; in Australia, 224, 225; in New Zealand, 226–240
Executive Government of the Empire, vested in the Crown, i. 245
Expenditure of Empire on Defence and Trade, ii. 236–239; United Kingdom on defence of Canada, 333, 334
Expenditure on naval defence, statistics of, by United Kingdom and Dominions, ii. 236–239; suggested basis of, 276
External affairs, Australian powers of legislation as to certain, i. 350, 367; Canadian power of legislation to carry out treaty obligations of Canada, 253; *and see* Foreign Powers

F

Far East, British naval policy in, ii. 320, 350–353
Federal Council of Australasia, created in 1885, and abolished in 1900, i. 340, 341
Federal principles, suggested by Canadian Parliament for adoption in the United Kingdom, ii. 194, 195; by Sir Joseph Ward, 279, 280
Federation of North America, Lord Dorchester's arguments in favour of, i. 100–105; at one time supported by Lord Durham, 147–149; arrangements for (1864–1867), 245–334; of Australia, 209–214, 337–381; in South Africa suggested in 1858 and 1876–7, ii. 28, 29; rejected in 1908–1909, 32, 33
Fiscal arrangements, of Dominions, necessity of autonomy in, ii. 378, 384, 385
Fisher, Rt. Hon. A., Prime Minister of the Commonwealth of Australia, observations on Sir Joseph Ward's scheme of Imperial federation, ii. 256, 257, 261, 263, 264, 269, 271, 275, 277, 282, 285, 286, 287; on consultation of Dominions on treaty questions, 183, 185, 186, 187
Forbearance, necessity of mutual in working of political institutions, asserted by Lord John Russell, i. 178; ii. 94; by Mr. Harcourt, 124, 125
Foreign Affairs, must in Lord Durham's opinion be reserved to Imperial Government, i. 138, 139; Dominion of Canada given power to execute treaty obligations binding on Canada, 253; relations of Dominions towards foreign Powers, ii. 143–189; share in control of, as a ground for federation of Empire, 247–303; Sir R. Borden's views on Imperial control of, 308–310, 334–337; Mr. Harcourt's offer of information and consultation of Dominions on, 338–342; question of, postponed until after war, 376–400
Foreign Powers, relations of Dominions towards, ii. 143–189

Foreign Protestants, settlement of Prince Edward Island by, i. 117
Forrest, Rt. Hon. Sir John (now Lord), Premier of Western Australia, decides to accept federation, i. 354
France, concentration of naval forces in European waters, ii. 232; isolation of, 361; commercial regulations with Canada, ii. 147
Free Trade, views of Imperial and Canadian Governments as to, ii. 51–83
French Canadians, legal position of in Quebec after the cession of 1763, i. 12–30; petition to King George III, 31–34; Quebec Act passed in their interest, 56, 57; Lower Canada separated from Upper Canada in 1791, 87, 88; Lord Durham's views on necessity of reunion (effected by the Act of 1840), 113–120, 167; Lord Elgin's views on relations of French and British, 181–190; deadlock in the United Canada solved by federation and separation of Quebec, 273, 277–280; attitude towards European War, ii. 357–367
French Huguenots, in South Africa, ii. 45
French Language, official use in Canada, i. 257
French Law, as adopted in Canada, continued in civil matters, i. 59–61
French population of Canada, Lord Durham's incorrect forecast of future of, i. 149, 150
French Revolution of 1830, caused by irresponsibility of Ministry, i. 129, 130
French wines, importation of into Quebec chief source of customs duties before 1763, i. 24
Fur trade, trial of offences committed by persons engaged in, i. 101

G

Galt, Hon. Sir A., views on principles of Canadian tariff policy, ii. 58, 83
Gascony, constitution based on royal prerogative, i. 44
General Assembly of Australia, contemplated erection of, in 1849, i. 211–214
Georgia, alteration of boundaries of, in 1763, i. 5
German naval law of 1900, preamble of, ii. 318; other laws, 316–317
German origin, settlers of, in Canada, ii. 363
Germany, Zollverein as preliminary to federation, ii. 223; denunciation of commercial treaty of 1865 with, 224, 225; naval policy of, 232, 313–321, 344, 345; war with, 357–367
Gibraltar, constitution granted by royal prerogative, i. 45; as naval base, ii. 325
Gladstone, Viscount, Governor-General of the Union of South Africa (1909–1914), relation to Ministers in regard to proclamation of martial law, ii. 114–120
Glasgow, Earl of, Governor of New Zealand, dispute with Ministers as to addition of members to the Legislative Council, ii. 92–104
Gold, discovery of in Australia hastens grant of responsible government, i, 215, 216
Goold-Adams, Sir H., services as Lieutenant-Governor of the Orange River Colony, ii. 27
Government of a Colony alone represents Colony in view of his Majesty's Government, ii. 178
Governor, relations to Ministers, in the matter of dissolution of Parliament, ii. 126–139; in regard to the addition of members to the Upper House of New Zealand, 92–104; in regard to the sale of the Newfoundland Government Railway, 105–108; in regard to the disallowance of Canadian Provincial Acts, 84–91; in regard to martial law in South Africa, 109–125
Governor-General of Canada,

duties of office, i. 246, 291, 294, 295 ; refusal to disallow Jesuits' Estates Act, ii. 84–91
Granville, Earle, views on swamping of Upper Houses, ii. 94
Graves, Admiral, defeat of, at Chesapeake Bay, ii. 230
Great Trek of 1836, in South Africa, ii. 26
Grenada, constitution of government of, by Letters Patent of 1763, i. 1 ; boundaries of, 2 3 ; power of taxation and legislation in, 35–52
Grenville, Rt. Hon, W. W., correspondence with Lord Dorchester as to Canadian Constitution, i. 86–105
Grey, Earl, correspondence with Lord Elgin as to responsible government in Canada, i. 179–193 ; suggestion of a federal constitution for Australia in 1847, 339, 340
Grey, Rt. Hon. Sir E. (now Viscount), on question of mode of negotiating commercial treaties, ii. 165, 166 ; on consultation of Dominions as to Hague Conferences, 182–189 ; efforts to prevent European War recognized by Sir Wilfrid Laurier, 361
Grey, Rt. Hon. Sir George, despatch to officer administering the government of New Zealand as to responsible government, i. 238–242 ; as Governor of the Cape of Good Hope suggests federation of South Africa, but is discouraged, ii. 27 ; as Premier of New Zealand is refused a dissolution of Parliament by Lord Normanby, 131
Griffiths Rt. Hon, Sir Samuel, share in federal movement in Australia, i. 342
Guarantee, by his Majesty's Government, of £35,000,000 Transvaal loan, ii. 21
Guyenne, constitution based on royal prerogative, i. 44

H

Hague Conventions, participation of Dominion Governments in future, ii. 182–189
Halifax, as centre of import and export trade of Canada, i. 161
Harcourt, Rt. Hon, L. (now Viscount) speech on deportation of labour leaders from South Africa in 1914, ii. 109–125; despatch to Governor of Tasmania on powers of Governor, 136–139 ; offer to Dominion Governments of information and consultation on foreign policy and defence, 339–342 ; despatch transmitting to Canada Admiralty memorandum on naval defence, 313
Hereditary tenure of members of Legislative Council of Canada, negatived by Lord Dorchester, i. 96 ; impracticable in Colonies in Lord Durham's view, 167 ; rejected by Sir J. Macdonald, 299
Hicks Beach, Rt. Hon. Sir M., Secretary of State for the Colonies, despatch to Canada on appointment of a High Commissioner, ii. 143–145
High Commissioner for Canada, correspondence regarding appointment of, ii. 143–155 ; steps taken on death of Lord Strathcona (1914), 342, n. 1
Home Rule for Ireland, resolution of Canadian Parliament regarding, ii. 193–196 ; suggested by Sir Joseph Ward, 279, 280
House of Assembly, in Union of South Africa, constitution and powers, ii. 33–36
House of Commons, Canada, constitution and duration, i. 248–251, 308–313
House of Delegates, proposal in 1849 to create for federal legislature in Australia, i. 211–214
House of Lords, distinction between and Legislative Councils in Canada, i. 167, 168 ; proposal to amalgamate with Judicial Committee of the Privy Council, 378, 379 ; relation to House of Commons, 302, 303

House of Parliament, burning of at Montreal in 1849, i. 186
House of Representatives, in Commonwealth of Australia, ii. 348, 349
Hudson's Bay Company, territory excluded from operation of Proclamation of 1763, i. 9; acquisition of sovereign rights of by Canada, i. 333

I

Imperial Commonwealth of United Nations, ideal of enunciated by Sir Robert Borden, ii. 379
Imperial Council with advisory powers, ii. 203, 204, 249, 250, 388, 389
Imperial Federation, memorandum on, by Sir Julius Vogel, ii. 197–207; observation on by Mr. Chamberlain in 1897, 210–213; Sir Joseph Ward's scheme of in 1911, 247–303; Sir R. Borden's views as to in 1912, 308–310, 334–337; in 1914, 376–381; Mr. Massey's views, 381–392; General Smuts' views, 392–398
Imperial Government, in Mr. Asquith's view, cannot share ultimate responsibility for foreign policy, ii. 292, 293, 302, 303; criticism of this view by Sir Robert Borden, 308–312; abandonment by Imperial Government, 334–337, 339–342, 376–398
Imperial interests, subjects of in view of Lord Durham, viz. constitutional questions, foreign affairs, trade, and public lands, i. 138, 139
Imperial Naval Squadron, proposal to create, ii. 343–356
Imperial Parliament of Defence, suggested creation of, ii. 247–303
Imperial troops, used to repress Rand strike in 1913, ii. 115; not required to repress railway strike, 116; stationed in Canada up to 1903, 333
Imperial War Cabinet and Imperial War Conference, meeting in 1917, ii. 376–403
Indemnification of losses in rebellion in Lower Canada, rioting in Montreal over Act respecting, i. 179, 180
Indemnity Bills, principles affecting allowance of, ii. 117, 121–123
Indemnity and Peace Preservation Act, 1902, of the Transvaal, ii. 112, 118
Independence, Lord Durham's views on possibility of Colonies desiring, i. 138–143, 152, 153; Sir J. Macdonald's views, 291, 292, 322–328; Mr. Churchill's views, ii. 11; Mr. Asquith's views, 243; Sir R. Borden's views, 378, 379; cost of defence of an independent Canada, 332, 333; necessity of an independent Australasia being dependent on United States, 353
Independence of judiciary in Canada, i. 169, 254;
Independence of United States, Declaration of, i. 70–75; warning to be derived from, 360; ii. 385
India, representation on Imperial War Conference 1917, ii. 392, 401–403; *see also* Empire of India, British Indians
Indians, North American, resolutions on dealings in land reserved for in Canada provided by Proclamation of 1763, i. 8–10
Internal affairs, autonomy of the Dominions in, ii. 51–139
Inter-provincial railway from Halifax to Quebec recommended by Lord Durham, i. 160; completion of part of terms of union, 262
Ireland, legislative power of King over as a possession by conquest, i. 43, 44; unity of feeling in as result of outbreak of war in 1914, ii. 366
Irish Home Rule, resolution of Canadian Parliament regarding, ii. 193–196; suggested by Sir Joseph Ward, 279, 280
Italy, naval strength in Mediterranean, ii. 319, 326

Jamaica, refusal of supplies by Assembly in 1722, i. 47; a Colony by settlement, 47, 48; acquisition due to naval power, ii. 231
Jameson Raid, ii. 15
Japan, relations to Canada, ii. 218; to Australasia, 218, 259, 260; value of alliance with to the British Empire, 350–353
Jesuits' Estate Act, 1888, of Quebec, petition for disallowance, ii. 84–91
Johannesburg, rioting at, in 1913, ii. 114, 115
Joint High Commission, for adjustment of differences between the United Kingdom and the United States, Sir J. Macdonald serves upon, ii. 149
Judicial Committee of Privy Council, views on right of appeal from colonial Courts, i. 364, 365; admission of colonial Judges as members of, 378–381; ii. 213–215; *see also* Appeals
Jury, trial by, dislike of French Canadians for, i. 78, 83

K

Kent, Duke of, views on federation of Canada, i. 162, 163
Kimberley, Earl of, Secretary of State for the Colonies, reply to Canadian resolution in favour of Irish Home Rule, ii. 196
King Edward VII, devotion to duty of, ii. 241, 401
King George III, petition of French in Quebec to, i. 31–34
King George V, loyalty of Empire to, ii. 241, 379, 403
Kitchener, Earl of, proclamation by as to banishment of burghers failing to surrender in 1901, ii. 124; visit to Australia and New Zealand on military defence issue, 245

L

Labour, importance to of maintenance of self-government, ii. 124
Labour leaders, deportation of from South Africa, ii. 109–125
Labrador, placed under Governor of Newfoundland in 1763, i. 5
Land Boards, in Transvaal and Orange River Colony, ii, 20, 21
Land grants, Governors and Councils permitted to make, i. 7
Land tenure, English system introduced into Canada, i. 79, 94, 98, 99, 117
Language, use of French for official purposes in Canada, i. 257; use of Dutch in the Union of South Africa, ii. 38
Laurier, Rt. Hon. Sir Wilfrid, First Minister of Canada (1896–1911), observations on Sir Joseph Ward's scheme of Imperial Federation, ii. 262, 263, 264, 267, 268, 271, 273, 274, 275, 278, 288, 290; on Canada's participation in the war with Germany, 357–367; carries on commercial negotiations with French Government, without intervention of British Ambassador, ii. 165; on limits of consultation of Dominions in treaty matters, 187–189
Legislative Assembly, proposal to summon in Quebec, i. 5, 6; criticism of by Baron Maseres, 27–30; superseded by Quebec Act, 56, 57, 62–64; demand of British inhabitants for grant of, 65–69; protest of United States against refusal of, 73; Lord Dorchester's views on, 82, 83, 97, 98; granted to both Lower and Upper Canada in 1791, 107–109; to Transvaal and Orange River Colony, ii, 16, 17; to Australian Colonies, i. 197–205
Legislative Council, for Quebec, i. 62–64; proposed hereditary character of, 89–91; negatived by Lord Dorchester, 96, 97 (cf. 299); use of to maintain British supremacy, 168; in Transvaal and Orange River Colony, ii. 16, 18; in New Zealand, i. 241; ii. 92–104
Legislative power, delegated to a local Council and Assembly in Canada, etc., in 1763, i. 5, 6; grant then made irrevocable

save by Imperial legislation, 51, 52
Lieutenant-Governor of Canada, position of, i. 254, 255; power of pardon, 257, 266, 267, 320
Life Peerages, proposal to confer on Colonial Judges when made members of final Court of Appeal, ii. 380
Limitation of autonomy of Dominions, existing, ii. 396
Limitation of possibility of federating distant territories, ii. 396
Long, Rt. Hon. Walter, Secretary of State for the Colonies, Chairman of Imperial War Conference, ii. 392
Lorne, Marquis of, Governor-General of Canada, despatch to Secretary of State on power of High Commissioner of Canada, ii. 150–155; on Home Rule for Ireland, 193–195
Loyalty to Crown as symbol of Imperial unity, i. 291, 292, 321, 323; ii. 241, 379, 380, 391, 394, 401, 403
Lymburner, Mr., suggestions, on behalf of British settlers, for constitutional arrangements in Canada, i. 92, 108
Lyttelton, Rt. Hon. Alfred, views on Transvaal Constitution, ii. 5, 6; on duty of Governor to act on advice of Ministers, 111

M

Macdonald, Ramsay, M.P., motion as to deportation of labour leaders from South Africa, Feb. 12, 1914, ii. 109, 112, 121, 122
Macdonald, Rt. Hon. Sir John, First Minister of Canada (1867–1873; 1878–1891); speech on Canadian federation, i. 269–328; memorandum on High Commissionership of Canada, ii. 145–150
M'Nab, Sir A., opposition to responsible government in Canada, i. 188, 189
Magdalen Islands, American rights as to fishing off, ii. 169
Maine boundary, dispute regarding, i. 156
Majuba Hill, ii. 15
Malaya, battleship presented to his Majesty by Federated Malay States, ii. 345
Malta, naval base in Mediterranean, ii. 347, 348
Manhood Suffrage, in Transvaal and Orange River Colony, ii. 16, 36
Maritime Provinces of Canada, proposed union of, i. 274, 275
Martial law, position of Governor with regard to Ministers in the matter of proclamation of, ii. 116–120
Maseres, Baron, Attorney-General of Quebec, views on government of Quebec after annexation, i. 12–30
Massey, Rt. Hon. W. F. (now Sir W.), Prime Minister of New Zealand, views on Imperial relations, ii. 381–392
Mediterranean, British naval position in, ii. 323, 325, 326, 347–350
Melbourne Convention, 1898, i. 344
Military assistance of Canada, to United Kingdom in 1914, ii. 362
Military defence, of Canada, i. 330, 331, 333; of New Zealand, ii. 257, 258
Milner, Viscount, Governor of the Transvaal and Orange River Colony, views on fairness of Boer attitude to new governments in Transvaal and Orange River Colony, ii. 5, 6; action as to railway questions in South Africa, 32; provisions of his indemnity legislation in 1902, 112; authorizes banishment of burghers refusing to surrender, 124
Ministerial responsibility for actions of Governor, ii. 92–104, 126–135
Minorca, legislative power of Crown over, i. 45
Monarchical principle, advantages of over elective President, i. 291, 292
Money bills, rules affecting in Canada, recommendation of

Crown essential, i. 143, 169, 257, 258, 321; powers of Upper House in Canada as to, 109
Monopolies, cannot be created by royal prerogative in a Colony, i. 42
Montreal, rioting in, in 1849, i. 179, 185, 186
Moral claims, recognized by Crown in absence of legal right, ii. 87, 88
Morris, Rt. Hon. Sir Edward (now Lord), speech on Imperial War Conference, 1917, ii. 399–401
Most Favoured Nation Treaties, colonial obligations under, ii. 160, 161, 226, 227
Mulgrave, Lord, attitude towards Ministers, in 1860, ii. 138
Municipalities, efforts to create in Canada suggested by Lord Durham, i. 164, 167; in Australia, 205
Murray, Sir H. H., Governor of Newfoundland, question of relation to Ministers in connection with sale of Newfoundland Government Railway, ii. 101–104

N

Napoleon, influence of sea power on his policy, ii. 230, 231
Natal, receives responsible government in 1893, ii. 28; desires federation rather than union, 33; dispute with Imperial Government as to martial law, 122, 123; exclusion of British Indian immigrants, 227, 229; naval contribution, 236
National spirit, necessity of encouraging in Canada by union of provinces, i. 152–154
Nationality, Lord Durham's efforts to discourage French sense of, i. 145, 146, 149, 150
Naturalization, protest of United States against former policy of impeding, i. 72; principle of encouraging approved by Lord Dorchester, 98
Naval agreement, with Australia, New Zealand, and Canada, of 1909, ii. 351, 352
Naval agreement, with Canada and Australia, of 1911, ii. 304–307
Naval Aid Bill, of Canada, ii. 308–338, 348–350
Naval contributions, from Australasia and Cape Colony, ii. 219
Naval officers, lands granted to in Canada, i. 8
Naval policy, fundamental principles of in regard to Dominion co-operation, ii. 230–239, 351–356
Naval policy, of Australia, ii. 261–265, 286, 304–307, 352–356; of Canada, ii. 248, 249, 250, 289, 304–307, 308–338; of Germany, ii. 314–321, 343–345; of New Zealand, ii. 250, 251, 284–289, 353, 354; of the United Kingdom, ii. 230–239, 313–321, 343–356
Navigation Law, effect in Canada of repeal of, in 1849, ii. 68
Negotiations with foreign Powers in commercial matters affecting the Dominions, principles affecting, ii. 144, 148, 149, 153, 154, 156–166; in political matters, 182–189
New Brunswick, proposed union with Nova Scotia and Prince Edward Island, i. 274, 275; decision to federate with Canada, 245; representation in Canadian Senate, 246; in House of Commons, 249; debt assumed by Canada, 260, 262; preference for nominee Upper House, 299
New South Wales, grant of representative legislature (with a single chamber), i. 197; subdivision of into New South Wales and Victoria, 200–203; tariff question, 209; protests against transportation, 221, 222; grant of responsible government, 223–225; not represented in Federal Council of Australasia, 341; attitude to federation of Australia, 341, 344, 345; to question of appeal to Privy Council, 375
New York, constitution changed by royal prerogative, i. 46

New Zealand, grant of representative constitution to (in 1852), i. 197, 198; grant of responsible government, 226–242; relations of the Houses of Parliament, ii. 92–104; attitude to federation of Australia, i. 352, 354–356; view on appeal to Privy Council, 374; refusal of assent by Imperial Government to Indemnity Act of 1866, ii. 121; protests against interference with martial law in Natal, 123; naval policy of, 250, 284–289, 352–354; relations to Japan and United States, 352, 353

New Zealand, battleship, placed at disposal of Imperial Government by Government of New Zealand in 1912, ii. 345

Newcastle, Duke of, Secretary of State for the Colonies, criticism of Canadian fiscal policy resented by Canada, ii. 51–83

Newfoundland, boundaries, i. 5, 55; proposed union with Canada (not carried out), 245; representation in Canadian Senate, 246; in House of Commons, 249; debt to be assumed by Canada, 261; refusal of Imperial Government to sanction treaty with United States unfavourable to Canada, ii. 162; dispute with Imperial Government over United States fishery question, 167–181; criticisms of Imperial Government on sale of Government Railway, 105–108

Nikias, defeat of leads to loss of Athenian supremacy, ii. 230

Nomination, as mode of appointments to Upper Houses, i. 299–306; ii. 92–97

North-West Territory, provision for admission into Dominion of Canada, i. 247; arrangements approved, 333

Nova Scotia, boundaries, i. 5; danger of disputes with United States on fishery question, 157; proposed union with New Brunswick and Prince Edward Island. 274, 275; decision to federate with Canada, 245; representation in Canadian Senate, 249; in House of Commons, 249; debt assumed by Canada, 260; preference for nominee Upper House, 299

O

Oath, form of, to be taken by Catholics in Quebec, i. 58, 59

Officers of Army and Navy, lands granted to in Canada, i. 7, 8

Onslow, Earl of, Governor of New Zealand (1888–1892), action as to appointments of additional members to New Zealand Upper House, ii. 95, 98, 99

Ontario, province of, representation in Canadian Senate, i. 246; in House of Commons, 249; agitation in, against Jesuits' Estates Act of Quebec, ii. 84

Ontario, question of naval force on Lake, i. 331, 332

Opening of Canadian navigation to foreign ships. ii. 68

Opposition parties, necessity of representation at any Conference to reorganize Imperial relations, ii. 380, 382, 383

Orange Free State, model small republic, ii. 9. 10

Orange River Colony, Constitution of, ii. 1–24, 29; Sir H. Campbell Bannerman's responsibility for grant of self-government to, 241

Ottawa, capital of Canada, i. 258

P

Pacific, naval situation in, ii. 320, 353, 354; danger of German attack, 320, 357

Pacific Islands, power of Commonwealth Parliament to legislate as to relations with, i. 367; Australian interests in, ii. 203

Pakington, Rt. Hon. Sir John S., Secretary of State for the Colonies, despatch to Sir Charles Fitzroy regarding the Constitutions of the Australian Colonies, i. 215–225

Papineau, Mr., leader of opposition in Lower Canada, i. 176; attacks Lord Elgin, 188, 189
Pardon, prerogative of, exercise of in Canada by Lieutenant-Governors, i. 267, 321
Paris Economic Conference, resolutions of Allies at, June 1916, ii. 368–375
Parkes, Sir H., Premier of New South Wales, advocates Australian federation, i. 340, 341
Parliamentary government in England, i. 129–131
Parties not an essential condition of responsible government, ii. 10, 11
Passive resistance movement, of Indians in South Africa, November 1913, ii. 115
Patronage, impropriety of exercise of in Canada by the Imperial Government, i. 139, 140
Payment of members of Parliament, in the Commonwealth, i. 348; in the Transvaal, ii. 19
Pearce, Hon. G. F., a representative of Commonwealth of Australia at Imperial Conference of 1911, ii. 265, 266
Pensions, for officers retiring on political grounds on grant of responsible government, i. 240; ii. 19
People of a Colony, his Majesty's Government's refusal to intervene between any section of and Government, ii. 178
Perley, Hon. Sir George, Canadian Cabinet Minister, represents Canada as Resident Minister in London, ii. 342, n. 1
Petition, of English inhabitants of Quebec, for repeal of Quebec Act. i. 66–69; from French inhabitants against English law, i. 31–34
Petty character of interests of small provinces, to be remedied by federation, i. 102, 103; or by union, 153–155
Political prisoners, suggestion of Canadian Parliament of indemnity for Irish, ii. 195
Political treaties, position of Dominions in regard to negotiation of, ii. 182–187
Pope, exercise of spiritual authority of His Holiness in Quebec, i. 15, 16; ii. 86, 87
Population, of Quebec, various estimates (65,000—100,000), i. 12, 27, 33, 56, 68; of Canada in 1840, 149; of Australia in 1849, 214; probable growth of, as affecting political questions, ii. 199, 377, 383; as basis of parliamentary representation in Canada, i. 166, 248, 278, 297, 308, 310; in South Africa, ii. 17, 34
Portuguese, made no effort to colonize South Africa, ii. 26
Post Office, desirability of single control in Canada, i. 157, 251
Poutsma, Mr., deportation of from South Africa, ii. 113
Precedence, of Canadian delegates to England in connection with the British North America Act, in 1865 and 1866, ii. 153
Prerogative, right to grant constitution to a Colony by conquest or cession, i. 43–48; necessity of maintenance of, in Canada, 135
Prime Minister, offer of free access to made to Resident Minister from Dominions, ii. 341
Prince Edward Island, settlement of, i. 117; proposed union with Nova Scotia, 163; proposed union with other maritime provinces, 274, 275; decision to federate with Canada, 245; representation in Canadian Senate, 246; in Canadian House of Commons, 249; debt assumed by Canada, 260, 261; preference for elective Upper House, 299
Protective policy, of United Kingdom until 1846, ii. 68; Canadian policy, 51–83
Protectorates, in South Africa, relation to Union Government, ii. 39–44
Protestant clergy, proposed endowment of in Quebec, i. 58, 109, 110
Provincial Acts, position of Do-

minion Governments as to disallowance of, i. 258; ii. 85–91
Provincial legislatures of Canada, powers of, i. 255–257
Public lands, Lord Durham's argument in favour of Imperial control (to which effect was not given), i. 136, 168–171; control of conceded to Australian Colonies, 218–220; to New Zealand, 240
Public opinion, of Australia in favour of appeal to Privy Council, i. 376–378
Purse seines, use of in Newfoundland fishery, ii. 173, 174

Q

Quebec Act, 1774, i. 53–65; petition for repeal, 66–69; denounced in American Declaration of Independence, 73; arguments for change, 76–110
Quebec, city of, representation in Legislative Council of Lower Canada, i. 97, 108; capital of Lower Canada, 258
Quebec, Colony of, created in 1763, i. 1–11; question of law in force in, 12–30; petition of French inhabitants of, 31–34
Quebec, Province of, representation in Canadian Senate, i. 246; in House of Commons, 249; refusal of Governor-General to disallow Jesuits' Estates Act, ii. 84–91
Quebec Resolutions, October 10, 1864, regarding federation of Canada, i. 245–263
Queen Mary, loyalty of Empire to, ii. 380
Queensland, separated from New South Wales in 1859, i. 339; attitude towards federation of Australia, 343, 345; on question of appeal to Privy Council, 372, 373
Queen Victoria, asked to fix designation of Canadian federation, i. 321–323; interest in her Indian subjects, ii. 228; approval of Lord Elgin's acts in Canada, i. 192, 193; loyalty to, ii. 401
Quitrents, surrender of proceeds to Provincial Governments recommended by Lord Dorchester, i. 99

R

Railway communication, importance for development of Canada, i. 160, 161, 262
Railway contracts of 1893 and 1898 for sale and operation of Government Railway in Newfoundland, ii. 101–104
Railway difficulties, one cause of South African union, ii. 32
Railway strike, in South Africa, December 1913, ii. 115, 116
Rand, strike on in 1913, ii. 114, 115
Raw materials, policy of Canada to admit duty free, ii. 80
Rebellion in the two Canadas, causes of and remedies for, i. 113–172; Mr. Churchill's inaccurate prediction that possibility of in South Africa might be discounted, ii. 11, 12
Reciprocity Treaty of 1854 with United States of America, regarding Canadian trade, i. 333; ii. 68, 82
Reid, Rt. Hon. Sir George, Premier of New South Wales (1894–1899), discussion with Mr. Chamberlain as to appeal to Privy Council from Australian High Court, i. 364; ii. 215, 216
Reid, Sir R. G., relation to Newfoundland Government, ii. 101–103
Referendum, in Natal on question of Union, ii. 33
Reorganization of the Empire, postponed for consideration until after the war, ii. 382
Representation of Dominions on the Judicial Committee of the Privy Council, i. 379–381; ii. 213–215
Republican character of Governments in New England States before the Revolution, i. 101, 102
Reservation of Bills imposing disabilities on racial grounds, ii

19; of Bills altering the constitution of the Union of South Africa, 39; of Canadian Bills, i. 258
Resident Minister, proposal of Canada to appoint at the Court of St, James, ii. 150, 153; offer of Mr. Harcourt to welcome, 339–342
Responsible government, in Canada, Lord Durham's report, i. 113–172; Lord John Russell's despatch, 173–178; carried into effect by Lord Elgin, 179–193; in Australia, 215–225; in New Zealand, 226–242; in the Transvaal and Orange River Colony, ii. 3–24; retained in Canadian federation, i. 292, 293
Revenue, necessity of retention by Dominions of sole control over raising, emphasized by Mr. Massey, ii. 384, 385
Revolution of 1688, principles of government established by, i. 129
Restriction on right of private members to propose appropriations of money in Canada, i. 143, 169, 258
Rhodes, Cecil, services to South Africa, ii. 46
Riots at Johannesburg, in 1913, ii. 114, 115
Ripon, Marquis of, Secretary of State for the Colonies (1892–1895), despatch as to commercial negotiations for the Colonies, ii. 156–164; as to addition of members to the Legislative Council of New Zealand, ii. 101–104
Royal Proclamation of October 7, 1763, regarding the Government of Quebec, East Florida, West Florida, and Grenada, i. 1–11; legal effect of discussed in Campbell *v.* Hall, 35–52; repealed as regards Quebec, 56, 57
Rush-Bagot Convention of 1817 as to armaments on the Great Lakes of Canada, i. 331, 332
Russell, Lord John, views on responsible government, i. 173–178
Russia, possibility of conflict with Canadian interests, ii. 218

S

Sabotage, in South Africa in 1913, ii. 115
St. John's, Island of, annexed to Nova Scotia in 1763, i. 5
Sand River Convention of 1852, recognizing independence of Transvaal Boers, ii. 15
Scotland, legal relation to England, i. 285; Church of, 150
Sea-borne trade, of the Empire, ii. 234–239; of Canada, 319, 320
Sea power, principles affecting use of, ii. 230–233, 319, 321; vital importance of to the United Kingdom and the Dominions, 321, 322, 350–354; *see also* Naval Policy
Second Chambers, arguments for existence of, i. 202, 222, 223; *see also* Upper Houses
Secretary of State for Foreign Affairs, free access to by Minister Resident of Dominions, ii. 341
Secretary of State for the Colonies, normal channel of communication with a Dominion Governor or High Commissioner, ii. 143, 153, 341
Selborne, Earl of, memorandum on federation of South Africa, ii. 32
Senate, constitution and powers of, in Canada, i. 246, 268, 299, 308; rejects Bill to grant naval aid to United Kingdom, ii. 338, n. 1, 348; constitution and powers of, in Australia, i. 347–351; constitution in Union of South Africa, ii. 33
Sewell, R., Chief Justice of Quebec, views on federation of Canada, i. 162, 163
Sheffield, protests of Chamber of Commerce against Canadian policy of protection, ii. 52–57
Sinha, Sir Satyendra N., speech at Imperial War Conference, 1917, ii. 401–403
Smith, Adam, views on causes

of revolt of American Colonies, i. 155
Smith, Sir Harry, victory over Boers in 1848 at Boomplaats, ii. 15; services to South Africa, 46
Smith, W., Chief Justice of Quebec, suggestion of a federal government for British North America, i. 101–104
Smuggling, over Canadian frontier, effect of on Canadian fiscal policy, ii. 64–67
Smuts, Rt. Hon, General J. C., lays down principles of Imperial relationships, ii. 392–398
Society of Jesus, alleged disregard of law by, ii. 88
Soldiers, free grants of land to time-expired officers and men in Canada, i. 7, 8
South African Convention, 1908, ii. 32
South Australia created a colony, i. 339; grant of representative constitution to, 198, 199, 202, 203; tariff question, 209; grant of responsible government, 225; withdrawal from Federal Council of Australasia, i. 341; attitude to federation of Australia as regards appeals to Privy Council, 375
Sovereign in United Kingdom, similarity of position of Governor to, ii. 119, 135
Spain, resistance of Netherlands to despotism of, ii. 365; commercial negotiations with Canada, ii. 147
Stamp Act, policy of repeal of defended, i. 26
Stanley of Preston, Lord, Governor-General of Canada (1888–1892), refusal to disallow Jesuits' Estates Act, 1888, of Quebec, ii. 84–91
Status as British subjects of Canadians after conquest, i. 98
Steamship communication, importance for Dominions, i. 158, 159
Steyn, Mr., President of Orange Free State, ii. 12, 46
-ikes, criminal offences in Dominions, not in United Kingdom, ii. 112
Supply, refusal of in Canadian Colonies by Lower Houses, i. 131, 132
Supremacy of Imperial over Dominion legislation, question of continuation of raised by Australia i. 355–357; cf. Gen Smuts, ii. 394
Swamping, of upper nominee Houses, deprecated by Earl Granville, ii. 94; view of Lord Ripon, 101–104
Swaziland, scheme for inclusion in South African Union, ii. 41
Sydney Convention, 1891, drafts first form of Australian Constitution, i. 342
Sydney, Lord, correspondence with Lord Dorchester as to constitution of Canada, i. 76–85

T

Taché, Sir E P., Chairman of Quebec Convention, 1864, i. 263
Tariff, suggested uniform in Australia in 1847, i. 209, 210
Tariffs, retention of control of colonial recommended by Lord Durham, i. 138, 139; by Lord Beaconsfield, ii. 378; definitely abandoned, 51–83
Tasmania, dispute between Governor and Ministers as to dissolution of Parliament, ii. 126–139
Taxation, in Quebec, mode of levying, i. 24, 25; no power conceded to Council in Quebec Act, 1774, 63; discussion of objection of French Canadians to, 77, 82; provisions in Act of 1791, 110
Territorial revenues, used by Crown in Canada to render itself independent of colonial legislature, i. 124, 125
Thornton, Sir Edward, negotiates for treaty of commerce with United States, with aid of Canadian Minister, ii. 149
Tithes, for support of Protestant clergy in Canada, i. 58, 109, 110

Title of Canadian federation determined by the Queen, i. 263, 321, 322
Todd, A., views on dissolution of Parliament, ii. 131
Toleration, religious, in Canada, i. 18, 58, 59, 64
Toronto, capital of Upper Canada (Ontario), i. 258
Trade, of Empire borne by sea, ii. 234–239; of Canada, 319, 320
Trade, with Indians in North America made free by Proclamation of 1763, i. 10, 11
Transportation of convicts to Australia, cessation of, i. 221, 222
Transvaal, Constitution of, ii. 1–24, 29; Sir H. Campbell Bannerman's responsibility for grant of self-government to, 241; exclusion of coloured persons from franchise in, ii. 36
Treaty of 1818 with United States regarding Newfoundland fisheries, ii. 167–181
Treaty power, grant of to Dominions inconsistent with union with United Kingdom, i. 159; substitute for direct power, as regards commercial treaties, 156–166; as regards political treaties, 182–189
Trusteeship, of Imperial Parliament for Empire, Mr. Chamberlain's view, i. 352; doctrine of now obsolete, Sir R. Borden, ii. 377, 378
Tupper, Rt. Hon. Sir Charles, memorandum on High Commissionership of Canada, ii. 145–150, 151
Two-Power standard, modification of as standard of British naval strength, ii. 343–345

U

Uniformity of law in Canada, suggestions as to, i. 253, 281, 282, 316, 317
Union of South Africa, constitution of, ii. 25–47; deportation of labour leaders from, 109–125; dependence on British sea power, 353, 355
Union, suggested by Lord Durham for Eastern Canada as a whole, i. 161–165; preference of Sir J. Macdonald for, in lieu of federation, 280; adopted in South Africa, ii. 33
United Kingdom, ultimate responsibility of for treaty relations, ii. 188, 189; for defence, i. 332, 333; ii. 230–233, 321, 350–356
United Nations of the Empire, doctrine of, enunciated by Sir R. Borden, ii. 379; by Mr. Massey, 390
United States of America, possibility of war with Canada, i. 289, 290, ii. 218; only protection available for Canada or Australia if independent States, 332, 350, 353; commercial relations with Canada, 56, 58, 62–64, 68, 82; with Newfoundland, 162; fishery dispute with Newfoundland and Canada, 167–181; *see also* Constitution
Unity of the Empire, ii. 193–403
Universal Suffrage, not adopted in Canadian Constitution of 1867, i. 298, 308; in S. Africa, ii. 16, 36
Upper and Lower Houses, arrangements to obviate deadlocks, in Canada, i. 267, 299–308; in Australia, 349; in Transvaal and Orange River Colonies, ii. 18, 19; in New Zealand, nominations to Upper House, 92–104; disputes as to money Bills in Canada, i. 109; Lord Durham's views on relations, 167, 168
Upper Canada and Lower Canada, creation as separate Colonies, proposed in 1788 by Imperial Government, i. 78–80; Lord Dorchester's objections, 83–85; determined upon, 86–88, 96–98, 106–108; reunion urged by Lord Durham, 147–172; resulting deadlock, 273, 277–285

V

Vancouver, arrangements for inclusion in Canadian federation

(effected by union with British Columbia), i. 247
Van Diemen's Land (now Tasmania), created a Colony in 1825; i. 339; Constitution of, 198, 199, 202, 203; tariff question, 209; protests against transportation system, 221, 222; responsible government approved, 225
Vereeniging, terms of peace in South Africa arranged at, May 31, 1902, ii. 4
Victoria, separated from New South Wales and accorded a representative, unicameral, legislature, in 1850, i. 199, 202, 203, 339; tariff question, 209; protests against transportation system, 221; responsible government conceded, 226
Vogel, Hon. Sir Julius, Treasurer of New Zealand, memorandum on federation of the British Empire, ii. 197–207

W

War contribution of £30,000,000 due from Transvaal, remitted by his Majesty's Government, ii. 21
War, possibility of in connection with Dominion interests, ii. 216–219, 350–356; Dominions liable to be involved in war through action of United Kingdom, i. 289, 290, 325, 326; ii. 357–367; effect of on Dominion commerce, 360
Ward, Rt. Hon. Sir Joseph, Prime Minister of New Zealand, proposal of Imperial federation at Imperial Conference of 1911, ii. 247–297
Washington, Treaty of, in 1871, ii. 147
Weakness of United States in 1790, i. 102; of Canada in 1864, 289, 290
Wearg, Sir Clement, opinion as to power to legislate by the prerogative for Jamaica, i. 47
West Florida, constitution of Government of, by Letters Patent of 1763, i. 3; boundaries defined, 4
West Indies, trade with Canada, ii. 79
Western Australia, question of Constitution of, i. 198; created a colony, 339; attitude towards Australian federation, 345, 352–354; on question of appeal to Privy Council, 374
Western Canada, close commercial relations with United States, ii. 75
Whittaker, Sir Frederick, proposals for reform of Legislative Council of New Zealand, ii. 97
Wrixon, Hon. Sir Henry, representative of Victoria at the Ottawa Conference, 1894, views on negotiation of treaties for Colonies, ii. 157–159
Wynyard, A. H., Administrator of New Zealand, report on adoption of responsible government in that Colony, i. 226–237

Y

Yorke, Sir Philip, opinion as to power to legislate by prerogative for Jamaica, i. 47
Yorke, W., Attorney-General, suggestions as to government of Quebec, i. 21, 23
Young, Mr., Premier of Nova Scotia, accepts office subject to a condition, ii. 138

Z

Zollverein, of Germany as precursor of federation, possible precedent for British Empire, ii. 223