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A SHORT HISTORY OF BRITISH COLONIAL POLICY

A SHORT HISTORY OF BRITISH COLONIAL POLICY

BY

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"THE WORLD'S HISTORY IS THE WORLD'S JUDGMENT"

SIXTH EDITION

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PREFACE

IN these latter days when the plague of book-making has taken its place, along with influenza, among the blessings of an advanced civilization, the appearance of any volume, not vouched by an author of eminence, requires a word of apology. Perhaps, however, the standpoint of the present work affords it some justification. There are, of course, various books dealing with various phases of Colonial Policy, or with such policy for some particular period, but there is no book which deals with the subject systematically on historical lines, while in the regular histories the subject of policy naturally takes a subordinate and incidental position. The point of view of the book explains its method. Where a narrative of events is concerned, it is the duty of the author to weigh his authorities, and from them to evolve his own story; but, where we are dealing with the history of opinions, it is desirable, as far as possible, to allow the authorities to speak for themselves. This must be my excuse for a plentiful employment of quotations: there appearing little advantage in the method which makes the text a bald summary and throws the living interest of a book into its footnotes.

In dealing with the history of Colonial Policy, there is one preliminary objection which must be met. "Colonial Policy," it is said, "why—there is no such thing! Great Britain has

merely blundered into the best places of the earth and means to keep them." If by "policy" be meant a premeditated advance to a definite goal, the criticism must be allowed. Nevertheless, behind the dim gaze and circumscribed horizon of each individual generation, we recognise forces at work fitting events, apparently fortuitous, into the scheme of a mighty system. The thoughtful student of the past finds himself somewhat in the position of Æneas, when, enlightened by his goddess mother, he recognised the deliberate work of the very gods in what at first had seemed the mere sport of fire and chaos.

The following pages were in the press[1] before the arrival of the Colonial Premiers in England, and it has been therefore impossible to deal with the lessons of this *annus mirabilis* of Imperial history. This is the less to be regretted, as there can be nothing to add to what has been so well said by various persons of authority. In the face, however, of recent utterances of Sir Wilfrid Laurier and others on the subject of Imperial Federation, it may be well to add a word of explanation of the views maintained in the text. I have not denied—and no one, I think, can deny—that, if the Colonies come to demand Imperial Federation, Imperial Federation there will have to be. Undoubtedly they have a formal and technical grievance in the subordinate position of their Executives and Legislatures with regard to Imperial questions, and, if they come to consider that grievance a real one, some remedy will have to be applied. Further, it is impossible to suppose that the present system can go on indefinitely when the respective proportions of population

[1] In fairness it should be remembered that my introductory chapter was written more than a year ago.

and wealth in the Mother country and the Colonies have become materially altered. All that I have ventured to maintain is that Imperial Federation, if it means a Federal Imperial Parliament, will have its own difficulties, its own occasions for misunderstanding and friction, and that it may after all turn out that the future has in store some more satisfactory solution of the problem to be solved.[1] Moreover the Colonial Premiers themselves unanimously, with the exception of the New Zealand and Tasmanian representatives, have agreed "that the present political relations between the United Kingdom and the self-governing Colonies are generally satisfactory under the existing condition of things."[2]

In spite of all that has been recently written on the South African question, I am not without hopes that the portion of this book relating to it may be of some slight use. The subject has been generally approached either from the point of view of the experienced observer on the spot or of the partisan of some particular policy; my aim has been to bring out from the Parliamentary Papers how largely the present is the heritage of the past. *Pace* Mr H. M. Stanley, it does not follow that because we are convinced that Great Britain must remain paramount in South Africa, we need therefore refuse any sympathy to Dutch grievances, which are largely due to the mistakes and hesitations of English statesmen in the past.

In a volume which deals with a long period of time and many scattered events, there are doubtless mistakes and inaccuracies. For such I would pray pardon in anticipation.

[1] Mr Chamberlain's suggestion of "a great Council" for purposes of consultation must be noted. (*Parl. Pap.*, 1897.)

[2] *Parl. Pap.*, 1897.

With all its faults the book represents much reading and some thought. In writing what is, to some extent, a history of opinion, it has been impossible altogether to suppress my own individual opinions. I trust, however, that I have not seemed to attach importance to them. In dealing with the later periods, I remembered Sir Walter Raleigh's remark on the fate which awaits the treatment of contemporary history; but obscurity may claim its compensations, and at least I am not conscious of having written under the bias of personal or party prejudice.

HUGH E. EGERTON.

Sept. 1897.

NOTE TO THE SECOND EDITION

A FEW necessary corrections have been made; but otherwise it has been thought well to preserve the text of the first Edition of this book. The bibliography, however, has been recast and improved, and a more satisfactory index has been added.

NOTE TO THE FOURTH EDITION

THE text remains as in the last Edition, but a few additions have been made to the Bibliography.

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A LIST OF DATES BEARING UPON COLONIAL POLICY

	A.D.
First expedition of Cabot	1497
Second Patent to Cabot	1498
Formal possession taken of Newfoundland by Sir H. Gilbert	1583
Formal possession taken of Virginia	1584
First Charter of Virginia Company	1606
Second „ „ „	1609
Bermudas settled	1609-1612
Settlement in New England of *Mayflower* Pilgrims	1620
Grant of Nova Scotia to Sir W. Alexander	1623
Barbados settled	1624-1625
Revocation of Charter of Virginia Company	1624
Charter of Massachusetts Bay Company	1629
English capture of Quebec	1629
Treaty of St Germain en-Laye	1632
Grant of Maryland to Lord Baltimore	1632
Committee of Privy Council for administering Colonies	1634
Parliamentary Commissioners for administering Colonies	1643
Navigation Ordinance	1651
Conquest of Jamaica	1655
Navigation Act	1660
Council for Foreign Plantations	1661
Charter to Connecticut	1662
„ Rhodes' Island	1663
Charters of Carolina to Lord Shaftesbury and others	1663 and 1665
Conquest of New Amsterdam (New York)	1664
Treaty of Breda (restoration of Acadia to France)	1667
Charter of Hudson's Bay Company	1670
Abolition of Council for Trade and Plantations	1674
Committee of Privy Council for Trade and Plantations	1675
Charter to Penn of Pennsylvania	1681
Revocation of Charter of Massachusetts	1683
Conquest of Port Royal by Phipps	1690
New Charter of Massachusetts	1691

	A.D.
Board of Trade	1696
Peace of Ryswick (restoration of Acadia)	1697
Conquest of Acadia by Nicholson	1710
Abortive Canada Expedition of Hill	1711
Treaty of Utrecht (Acadia (Nova Scotia) becomes a British Possession)	1713
Foundation of Georgia	1732
Outbreak of War between England and Spain	1739
War of the Austrian Succession	1740
Capture of Louisbourg by New England Colonists	1745
Peace of Aix-la-Chapelle (restoration of Cape Breton to France)	1748
Albany Congress	1754
Disaster at Monongahela River	1755
Fall of Louisbourg	1758
„ Quebec	1759
„ Montreal	1760
Treaty of Paris	1763
Stamp Act	1765
Duties upon Tea, etc.	1767
Appointment of new Secretary of State for American Affairs	1768
American Congress	1774
Quebec Act.	1774
Declaration of Independence	1776
Surrender of Burgoyne	1777
„ Cornwallis	1781
Battle of the Saints	1782
Abolition of American Secretaryship and of Board of Trade	1782
Treaty of Versailles	1783
Committee of Privy Council for Trade and Plantations	1784
Foundation of New South Wales	1788
Canada Act.	1791
First Conquest of Cape of Good Hope	1795
Formal junction of War and Colonial Departments	1801
Abolition of Slave Trade	1807
Beginnings of Constitutional Government in Australia	1823 and 1828
Van Diemen's Land separated from New South Wales	1825
Foundation of Western Australia	1829
Land Regulations and Appointment of Emigration Commissioners	1831
Emancipation of Slaves	1833
Foundation of South Australia	1836
Exodus of Dutch Farmers.	1836
Land and Emigration Commissioners	1840
Annexation of New Zealand	1840
Canada Reunion Act	1840

	A.D.
Representative Government instituted and developed in New South Wales	1842 and 1850
Victoria separated from New South Wales	1850
Annexation of Natal	1843
Free Trade	1846
Assumption of Orange River Sovereignty	1848
Repeal of Navigation Acts	1849
Sand River Convention	1852
New Zealand Constitution Act	1852
Cape Colony Constitution	1854
Abandonment of Orange River Sovereignty	1854
New Secretaryship of State for the Colonies	1854
Australian Constitution Acts (Responsible Government instituted)	1855
Merchant Shipping Act	1855
Foundation of British Columbia	1858
Queensland separated from New South Wales	1859
British North America Act	1867
Cessation of Transportation to Australia	1867
Responsible Government in Cape Colony	1872
Annexation of Transvaal	1877
Pretoria Convention	1881
London Convention	1884
London Colonial Conference	1887
Charter to Royal Niger Company	1886
„ British East Africa Company	1888
„ British South Africa Company	1889
Grant of Responsible Government to Western Australia	1890
Grant of Responsible Government to Natal	1893
Ottawa Colonial Conference	1894
Jameson Raid	1896
Second London Colonial Conference	1897
South African War	1899-1902
Annexation of Orange Free State and Transvaal	1900
Australian Commonwealth Act	1900
Third London Colonial Conference	1902
Anglo-French Agreement	1904
Responsible Government granted to Transvaal and Orange River Colony	1906
Fourth London Colonial Conference	1907

INTRODUCTORY

IN the following pages an attempt is made to give an account of British Colonial policy. The scope of the book is limited by its title: it is not sought to compete with the many works of authority, which narrate the history of the separate Colonies, nor do even the events, which were the outcome of British policy, concern us, except indirectly, and so far as they illustrate that policy. Viewed from this standpoint, the subject seems to fall into certain main natural divisions which we may term the period of beginnings, the period of trade ascendency, the period of systematic colonization and of the granting of responsible government, the period of the zenith and decline of *laissez-aller* principles, and the period of Greater Britain.

(1.) Period of beginnings.

We have first the period of beginnings. A new strange thing is coming into being, viz:—Colonization as worked out by the Anglo-Saxon race, and the Mother State is puzzled how to deal with it. The problem is how, in days before steam and telegraph, to maintain the authority of the Crown in countries, separate by thousands of miles of sea. In this stage, the first naïve impulse is to give to the individual grantee full power to manage his own settlement in his own way, so long as he maintains, as far as possible, the English laws. As, however, the idea of colonization by Englishmen, as opposed to settlement by conquest of barbarians, becomes more apparent, the crudity of the early view is recognised. For the moment, as in the Charter to the Virginia Company of 1606, the theory is held that legislative authority may remain in the Crown, executive functions being delegated to a local Governor; and we may note in passing what a powerful instrument of despotism well-managed Colonies might have been in the constitutional struggle of the seventeenth century

had the Stuart Kings understood statesmanship. Within
1609. less than three years, however, this attempt is found hopeless, and the theory is adopted of the Trading Company, the government of the Colony to be lodged in the hands of a Governor, appointed by a Council in England, with whom should also rest the modelling of the constitution and enactment of laws. Side by side with this, however, we find complaints of the practice of conferring powers of government on Trading Companies, and assertions of the need of governing the Colonies on a common plan. The grant of Maryland to Lord Baltimore, on the other hand, appears to be a return, with some modifications, to the cruder point of view of the days of Elizabeth. Altogether we have a sense of uncertainty, of feeling the way amidst strange surroundings, and the period may best be described as one of beginnings.

(2.) Period of trade ascendency.

At last, however, the inner meaning of colonization, its final cause, dawns on the historical horizon. The Navigation Act, or rather Ordinance, of 1651, it is true, only gave effective embodiment to a traditional policy; but the English merchant soon followed in the footsteps of the English shipowner and shipbuilder, and from 1660 downwards the theory for more than a hundred years holds the field that the *raison d'être* of Colonies is to benefit the commerce of the Mother country. No doubt, in the application of this theory, honest efforts were made to compensate the Colonies by bounties on the export of raw products, for the trade restrictions, by which they were bound, and the attitude of England towards her Dependencies was much more friendly than was that of any other European power, yet the theory relegated the Colonies to a position of permanent subordination in the economic evolution of the Empire. Upon the whole, the broad theory of English policy towards the Colonies may be summed up in the words addressed to Penn[1] by a leading English statesman — "Take care you injure not the revenue and other matters ought to be

[1] Penn to Logan, 1703, *Logan Correspondence*.

left to your own satisfaction." It is true, that running counter to this main current, we find under Charles II. and James II. a narrow stream of Royal interference. The family failing of the Stuart dynasty was to reward their favourites by putting their hands in their neighbours' pockets, and the American Colonies were too tempting a sheep not to be shorn. But, serious as such action might have been in its consequences, the revolution of 1688 came too soon for those consequences to happen, and henceforth the formula, as I have stated it, holds the field. The great wars of the earlier half of the eighteenth century were trade wars: Ireland, the Colonies, War and Peace, were but pawns in the game, which was to win Great Britain commercial supremacy. From the economic point of view of the eighteenth century the policy may have been a wise one, but, as worked out, it involved the consequence that the interests of the Colonies were to be always sacrificed to those of the Mother country. So accustomed, however, had the Colonies become to this theory, and perhaps so easy were the opportunities for evasion, that probably things might have gone on for long in the same manner, had not a crisis been precipitated by causes, with which we shall deal later on.

When all allowance has been made for the special causes of the American revolution, it must still be admitted that the spirit which they evoked had been engendered by the galling yoke of the Mercantile System. Monopoly brought forth its fruit, and that fruit was the disruption of the British Empire. Even when she had lost her American Colonies, England did not at first alter her commercial policy. At the same time, it was in practice carefully safeguarded, so that the interests of the Colonies should not suffer prejudice. Generally, on colonial questions, the note of the period is one of extreme timidity. To smother popular aspirations with kindness, and gladly to pay the piper, so that the Colonies might not ask to choose the tune, was for a time the policy of English statesmen.

(3.) The period of systematic colonization.

Gradually, however, it begins to be recognised that a wholly new way of regarding the Empire is coming into being. Turgot had long ago said that Colonies were like fruit which,

when ripe, fell off, and the experience of the American War of Independence appeared to prove, in a singular manner, the truth of these words. The old Colonial policy had been based on the theory of monopoly, but the new doctrine of free trade was sapping that theory at its roots. If the principal good of Colonies was to afford a monopoly of trade for the Mother country, and if such monopolies were at once theoretically unsound and practically led to revolution, the consequence seemed to follow that Colonies were not really of use to the Mother country. We seem to be approaching the triumph of *laissez-aller* views. In fact, however, the English have never been a strictly logical people, and, in any case, new ways of regarding the Colonies presented themselves which were sufficient for the day. In this interval, between the virtual abandonment of the Mercantile theory and the extensive growth of *laissez-aller* views, a period short in time, but of great importance, intervened, wherein a genuine attempt was at least partially made, to develop colonization on some sort of scientific principles. To some extent, at least, the theories generally associated with the name of Gibbon Wakefield, made converts of English statesmen, so that for the time the unwonted spectacle was seen of English practice following, though in a very halting and doubtful fashion, instead of anticipating, theory. In the nature of things, however, such interference on the part of the Mother country was only possible in earlier stages of development, and, as the Colonies grew to manhood and aspired to self-government, the period of systematic colonization naturally came to a close.

(3.) ard of the granting of responsible government.

There remained, however, the important and worthy task of returning to the original lines of British Colonial policy, and of securing to the Colonies complete self-government in purely local concerns. Reasons will be found in the sequel for denying that this movement was in any way connected with a policy of dismemberment: but when this final work was for the most part practically accomplished, the question could no longer be averted, What, then, is the real good to the Mother country of maintaining Colonies?

(4.) The period of the zenith and decline of *laissez-aller* principles.

The Liberalism, which predominated during the political life of the sixties, was very far from declaring on the housetops that our Colonies must separate. There was, however, a very general feeling that such separation was merely a question of time; that, when it occurred, no great harm would ensue, and that, meanwhile, all that could be done was to ensure that the euthanasia of the Empire should be as mild and dignified as possible. The theories of *laissez-aller* never, however, commended themselves to the English people, and from 1870 onwards we note a tendency amongst public men to repudiate the logical conclusions of their own words and actions. Moreover, a new chief actor had been entering upon the scene; the democracy was taking its place beside the middle classes and the governing families in the working out of English history. What would be its attitude towards the Empire? In other words, What would be its Colonial policy?

(5.) Period of Greater Britain.

It must be remembered that those Colonies had expanded into great democratic communities, and in many ways appealed more to the democracy than they could to the fastidious taste of the Whig oligarchy. Again, new facts had to be considered. The latter half of the nineteenth century has seen an immense recrudescence of militarism amongst the Continental powers of Europe. Nearly fifty years after the great Exhibition, which was to open out an era of peace, Europe presents the amazing spectacle of an armed camp. Face to face with this unexpected phenomenon, England has either to yield her place among the nations—and whatever the nature of the "economic man," prestige will always be dear to nations no less than to individuals—or else adapt herself in new ways to the new circumstances. But a world-empire, sea-girt, and resting on the command of the sea, is a spectacle at least as imposing as the nations-in-arms of the Continent; and this seems the ideal which England at last is realising. Other causes have been also at work to act upon our Colonial policy. Our chief concern, said Cobden, with foreign nations is to trade with them, but the chief concern of foreign nations appears to be *not* to trade with us. By dint of protective duties upon

imports from abroad, and by bounties on home exports, the aim of every country appears to be to surround its trade with a ring fence. It may well be that such a policy is really suicidal, and that free trade has been none the less a benefit to England, because the sanguine hopes held out by its first prophets of its general acceptance have not been at all fulfilled; but it is natural that, in the state of things we see around us, men should look more and more to the Colonies as the producers of our raw materials, and the customers for our manufactures, and hanker after some kind of *zollverein* among the scattered portions of the Empire, however difficult it may be to enact such in express terms. Moreover, human nature remaining what it is, there is nothing which causes men to put so high a value on their own possessions as the observing that they are being coveted by their neighbours. The scramble for colonies among the Continental nations has had the good effect at least of determining the English not to be left behind in the race for empire. To these practical considerations others of a more theoretic nature have been added. A distinguished Cambridge Professor threw a powerful search-light on the development of British empire, and brought home to thousands of readers, who had never before thought of it, the sense that, after all, our Colonies are only England beyond the seas—a greater England, but England all the same. A brilliant American writer and naval expert first clearly made manifest the connection of England's Colonial and Imperial greatness with the command of the sea, and carried home to the conviction of Englishmen the truth that, without that command of the sea, our scattered empire is only a source of weakness. The Press has also played a great part in the new movement. For example, consider the influence of the weekly article in the *Times*[1] on the Colonies, and compare the spirit which animates it with the indifferent and half-contemptuous tone on colonial matters of the *Times* of forty years ago. In this state of things, and when both political parties have, with a few exceptions, more notable for ability than weight,

[1] Unfortunately discontinued.

nailed to the mast the flag of British naval and colonial supremacy, we have travelled far from the period of *laissez-aller*. It is difficult to give a name to the new policy. The word "Imperial" has too military a suggestion. Perhaps the words "Greater Britain" best describe the new point of view. A world-empire, the separate parts of which are being more and more closely linked by the discoveries of science, enjoying in each separate part absolute independence, connected, not by coercion or paper bulwarks, but by common origin and sympathies, by a common loyalty and patriotism, and by common efforts after common purposes, such, amidst much to alarm and to disturb, is the apparent outcome of history, the Colonial policy with which Great Britain will enter upon the untrodden paths of a new century.

Definition of British Colony.

It is necessary, before dealing with British Colonial policy, to explain what is meant by a British Colony. The Colony, as we understand it, is, it must be remembered, a new thing in history. The Greek Colony was, as its name (*ἀποικία*)[1] half implies, politically an independent community. It has been admirably described by Archbishop Whately.[2] "An ancient Greek Colony was like what gardeners call a *layer*, a portion of the parent tree with stem, twigs and leaves embedded in fresh soil, till it had taken root and then severed." Its ties with the Mother country were merely those of religion and race. Such ties, however, counted for much with the Greeks of the best period. The reason of this kind of colonization is not far to seek. It lay in the inability of the Hellenic mind to conceive of a Greek state as anything except a city or polis. The passage in the "Politics,"[3] in which Aristotle enforces the necessity of its not being too large for a herald's voice to encompass, will be familiar to many. It would seem, however, as though, under the impulse of blood relationship, the independent Greek communities were very nearly forming powers resembling in many ways the British Empire of to-day. Unfortunately, the Athenian democracy grasped at a *tyrannis*,[4] and the shock thus given to the conscience of

[1] "from home."
[2] Note to Bacon's Essay "on Plantations."
[3] Book VII. ch. iv.
[4] *τυραννίδα ἔχετε τὴν ἀρχήν*, Thuc. III. ch. xxxvii.

Greece caused, as we may read in Thucydides, such moral and material disintegration as could only lead to the general doom of the Hellenic States as direct factors in political history.

The Roman Colonies were more complex in character, but, in their earliest and latest forms, they were methods of securing the peace of districts by settling in them old soldiers with certain rights to land. The nearest modern equivalent to a Roman *colonia* is afforded by Cromwell's military settlements in Ireland.[1]

In modern times the Spanish Colonies were, in fact, dependencies, conquered by the forces of the Crown, and where a limited number of Spaniards found a new home. The Dutch Colonies, on the other hand, were trade factories, established on lines of which the British East India Company's forts are the best known example. British Colonies differ from all these. Sir George Cornewall Lewis, in his *Government of Dependencies*,[2] defines a colony as "a body of persons belonging to one country and political community, who, having abandoned that country and community, form a new and separate society, independent or dependent, in some district which is wholly or nearly uninhabited, or from which they expel the ancient inhabitants." If the aim of language be to make clear practical distinctions, the remark may be ventured that the above definition stands at once condemned. The Latin *colonia*, in all its phases, I think, connoted some kind of political dependence, and no advantage is gained by including the quite distinct connotation of the Greek ἀποικία. According to Lewis' definition, the United States are a British Colony and Natal is not. Moreover, at the present day, we should not speak of colonists as "*abandoning*" the Mother country. For practical purposes, a colony may be defined as a community, politically dependent in some shape or form, the majority, or the dominant portion, of whose members belong by birth or origin to the Mother country, such persons having no intention to return to the Mother

[1] Military settlements upon the same lines were attempted in Cape Colony and New Zealand, but were not upon the whole attended with much success.

[2] p. 168, 1891 edition, with introduction and notes by C. P. Lucas.

country, or to seek a permanent home elsewhere than in the Colony. This definition excludes the United States. According to common-sense notions, were Australia to separate, she would cease to be a British Colony. It excludes India and most tropical settlements, because, in such, there is nearly always among Englishmen the *animus revertendi*. It excludes, for the same reason, Gibraltar and Malta, and the purely military Colonies or dependencies. It includes Colonies like Natal, where there is a bonâ-fide permanently resident English community, whatever be the number of natives who surround them. It includes Cape Colony, where the original Dutch settlers and the English, who have emigrated thither during the last seventy years, are on the whole becoming fused into a common national type. It includes the West Indies, because, in spite of the climate, Englishmen have for generations found in them a permanent home. We might say that a Colony is a dependency administered by the Colonial Office; but the reason why the affairs of Ceylon belong to a different department from those of India are historical and not logical. In the same way, English statutes, until the Interpretation Act of 1889, carefully guarded themselves against defining a colony, except for the purposes of the particular statute, and the most generic definition included even India, which is clearly inadmissible for present purposes. Under the Act of 1889,[1] the expression 'colony' means any part of the Queen's dominions, exclusive of the British Isles and of British India. Looking at the question practically, if we remember that, side by side with the question of Colonial expansion, there is always the question of Imperial power, with which we are here only indirectly concerned, it will be enough if we fix our attention for the most part on the great self-governing Colonies, past and present, in America, Australia, and South Africa, and on the West Indies, although the importance of these last is not as great at the present day as it was in former times.

[1] Tarring, *Laws relating to the Colonies*. Second edition, 1893.

BOOK I

THE PERIOD OF BEGINNINGS

1497-1650

οὐ γαρ ἐπὶ τῷ δοῦλοι ἀλλ' ἐπὶ τῷ ὁμοίοι τοῖς λειπομένοις εἶναι ἐκπέμπονται.

CHAPTER I

EARLY ATTEMPTS AT COLONIZATION

THE definition of a colony being thus settled, at what date are we to fix the beginning of our Colonial system? In a sense we may say that it dates from the grant by Henry VII. to the Cabots in 1498 of the lands discovered in the previous year.[1] But no attempt was made to establish effective occupation, and we must wait for more than a hundred years for the first successful English Colony. Nevertheless the importance of the Newfoundland fisheries as a nursery for seamen (attested as it is by an Act of Parliament of Edward VI.), which were the main practical result of Cabot's efforts, helped very much in the direction of colonization. The Newfoundland trade was by far the greatest English enterprise in America in the middle of the seventeenth century. There were said to be employed[2] in it "270 sail of ships," and "twenty thousand seamen." Raleigh's words may be cited,[3] "If thos should be lost, it would be the greatest blow that was ever geven to Ingland."

First steps towards Colonization.

Sir Clements Markham has shown that the Cabot voyages did not mark an epoch. "Voyages of discovery preceded them, and they also followed them in quick succession. Their importance lay in their success."[4] Nevertheless, so far as conscious effort on the part of rulers was concerned, it is not difficult to give reasons why England was late in the

[1] The first land viewed would seem to have been the northern part of Cape Breton. Those who have not the inclination or leisure to pursue the very copious Cabot literature, will find a summary of the learning on the subject in the essay in Vol. III. of Winsor's *Narrative and Critical History of America.*

[2] Petition, Dec. 23, 1670, in *Calendar of State Papers, Colonial Series,* 1669-1674, ed. by W. Noël Sainsbury.

[3] Letter to Cecil, July 20, 1594, Edwards' *Life of Raleigh,* Vol. II. p. 95.

[4] *The Royal Navy,* Vol. I. ch. xvi.

field compared to Spain and Portugal. In the first place, the movement, towards the discovery of unknown lands, was part of that general movement we term the Renaissance, and England here, as in other matters, felt the impulse of the new movement late in date. It is significant that the first discoverer for England was a foreigner, and if his son Sebastian was born in England, the Venetian Records[1] plainly show that he was no loyal Englishman. Moreover, so long as England remained Roman Catholic, the Papal Bull which claimed to divide the unknown world between Spain and Portugal must have greatly discouraged exploration. It is noteworthy, in this connection, that the letters patent to Cabot in 1498 only deal with lands above 44° N. latitude, thus by implication recognising the Spanish claim. Expeditions were indeed sent out, such as those of Rut and Hore, but the results were trifling, and on the whole the business of the reign of Henry VIII. was to begin the creation of that sea-power on the strength of which ultimately a Colonial Empire depends. Mr Oppenheim has borne striking testimony to the work of Henry VIII. in this respect.[2] "For almost thirty-eight years nearly every year marked some advance in construction or administration, some plan calculated to make the navy a more effective fighting instrument. So far as numbers went he made it the most powerful navy in the world, remembering the limited radius within which it was called upon to act. . . . He discarded the one mediæval officer of the Crown and organised an administration so broadly planned that in an extended form it remains in existence to-day. . . . He trod a path that some of his predecessors had indicated but none had entered. . . . His mistakes were those of the scientific ignorance and feudal spirit of his age, his successes were of a much higher order and informed with the statesmanship of a later time." Compare the words of the shrewd Venetian observers, who speak of Henry's navy as constantly keeping "the sea clear of Flemish and

1527 and 1536.

[1] *Calendar of Ven. Papers*, Dec. 1522.

[2] *The Administration of the Royal Navy*, 1509-1660. 1896, p. 98.

Bretagne corsairs and especially the Scotch, who, being very needy, observe neither peace nor truce."[1]

With the accession of Elizabeth, however, new and more severe demands fell upon the English navy. How little the men of the day were able to read the signs of the times is shown by the acquiescence of the English people in the marriage of Mary with Philip II. of Spain, and we may note, in passing, the irony of history which made Philip the patron of the English "Mysterie and Companie of Merchants adventurers for discoverie of regions, dominions, islands, and places unknown." The Spanish marriage, however, which might have made England a mere appendage of the Spanish Empire, left traces of a very different kind. To Philip, England becoming again heretical, was the necessary object of another Holy War, although that war might be delayed for a time. Professor Seeley[2] has brought out very clearly the masterly inactivity of Elizabeth's foreign policy. Afterwards when war had become inevitable, there were not wanting counsellors who urged that an offensive war should be carried on against the Spanish possessions. It may be doubted, however, whether England was yet strong enough to maintain such a war against the Empire which in 1580 had absorbed the whole power and colonial possessions of Portugal. Elizabeth preferred generally a waiting game, although offensive operations were sometimes undertaken, as in the capture by Sir Francis Drake of San Domingo. A kind of private war was for years carried on by English vessels against the Spanish commerce. Sir Richard Hawkins[3] explains how these differed from pirates in the fact that England and Spain were at war, and that the English captains had "all license either immediately from their Prince or from others thereunto authorised."

At last, stung to the quick by heresy and privateering, Philip struck his great blow and sent forth the invincible Armada. Its fate, for the elements only completed what man had

[1] *Cal. of Ven. Papers*, 1551.
[2] *Growth of British Policy*, Vol. I.
[3] *Voyage to the South Sea in* 1593. (Hakluyt Soc.).

already begun, was the best justification for Elizabeth's policy. Of her it may be said with truth, "cunctando *con*stituit rem." Thenceforward, Spain resembled some wounded wild beast which, while still powerful to hurt, carries about with it the seeds of death. It was because of the decay of Spanish greatness that England was allowed to develop in peace its colonial settlements. The maritime greatness of Spain had always been an exotic. Her sailors were either Germans, Flemings, or strangers, "for the Spaniards," says Hawkins, "are but indifferently practised in this art. . . . The mariners are but as slaves to the rest to moil and toil day and night." It was not by such methods as these that the command of the sea was to be held.

Englishmen, however, did not wait till the power of Spain was on the wane before attempting the work of colonization. Already in 1580 the English Government is found boldly asserting in answer to Spain, that "prescription without possession availed nothing." And more than one practical attempt had been, before this, made to give effect to this
Circ. 1563. claim. The dubious Florida[1] scheme of the worthless Stukeley need not detain us, but in 1565 we find the first traces of Sir Humphrey Gilbert's colonization schemes.[2] Amongst the projects of a trading company established in that year to discover a North-West passage to Cathay is the colonization of intermediate lands. A pamphlet afterwards written by him,[3] "A discourse to prove a passage by the North-West to Cataya and the East Indies," advocated colonization as a means of "settling there such needy people of our own which now trouble the Commonwealth." He is also found under the glamour of that El Dorado, which bewitched even the shrewd Raleigh. The pamphlet is said to have given directions to

[1] Stukeley, though a dissolute adventurer, appears to have been a popular favourite. In "The City Gallant," Vol. XI. of Dodley's *Old English Plays*, 4th ed., a character is spoken of as

> "a Stukeley or a Sherley for his spirit,
> bounty, and royalty to men at arms."

Stukeley was killed at the battle of Alcazar in Barbary in 1578.

[2] See Doyle's *English in America. Virginia, and Maryland.*

[3] Hakluyt, Vol. III.

Frobisher's vague aspirations, which issued in three[1] expeditions in 1576, 1577, and 1578 to the Northern seas. We may note that Frobisher thought that he had found precious metals. The licence obtained by Frobisher to take criminals from the jails, with whom to garrison the land that he might discover, throws an ominous light on the failure of early schemes for colonization. A petition in 1574 of divers west country gentlemen to the Queen to allow of an enterprise for the discovery of certain rich and unknown lands "fatally and it seemeth by Providence reserved for England," whatever its immediate effect, received a practical answer in the patent granted to Sir Humphrey Gilbert in 1578.[2] He was empowered to discover heathen lands, not enjoyed by any Christian Prince, and to hold and enjoy the same with all commodities, jurisdictions, and royalties both by sea and land. He was thus restricted by no geographical limitations. The usual one-fifth of gold and silver was reserved for the Crown. No one might settle, without his leave, within two hundred leagues of the place in which, during the next six years, he should make his settlement. Full powers were given of making laws or ordinances, "as near as conveniently might be to the laws of the realm and not opposed to the Christian religion as professed by the Church of England." March 22.

It may be well here to point out the necessity of these letters patent, which we shall find continually recurring. According to the common law, British subjects cannot take possession in their own right of a foreign country, but, whatever they acquire, they acquire for the Crown. (The idea that the natives might have independent right to the soil was late in dawning.) Hence the necessity of a previous grant; that that grant must come from the Crown follows from the rule that the sovereign is ultimate owner of all land. Importance of written Grants.

So far, the matter is plain enough, but a grave constitutional question might have arisen with respect to the claim of the Constitutional Question.

[1] "Much experience in ice navigation was gained during the last of these expeditions," Sir Clements Markham in the *Royal Navy*, ch. xvi.

[2] Sainsbury, *Cal. of State Papers* (Col. Ser.), June 11.

Crown to settle the form of Government. Colonies, becoming the dominion of the King, are necessarily subject to the legislative power of Parliament, and the Englishman, who settles in a colony founded by settlement, remains, at common law, as free and possesses the same privileges as Englishmen at home. As a question of constitutional law, it would seem then that Parliament had always the power to interfere with the rules for the management of Colonies. Thus we find in 1584 a Bill in confirmation of Raleigh's patent passed through the House of Commons. It does not appear to have gone through the House of Lords: the queen perhaps considering it an invasion of the prerogative. It must be remembered, however, that at the time with which we are dealing, the respective positions of Parliament and of the Privy Council, as both having issued from the "Magnum Concilium" of the feudal kings, were far from settled, and a wholly different view of the constitution from the one which has prevailed could be plausibly maintained. Moreover, the Parliaments of the Stuarts had more practical questions, which absorbed their energies. We may note, however, that among the Bills to be offered to the next Parliament in 1614 was an Act for the better planting of Virginia and supply thereof, and that it was declared in the House of Commons that the patent was against law, and the hope was expressed that the patent may be damned and an Act of Parliament passed for the government of the Colony by a Company. When,[1] afterwards, James sent down a message to the House of Commons not to concern itself with the affairs of the Virginia Company, because they were being settled by the Privy Council, his action was assented to with a general silence, "but not without soft muttering that any other business might in the same way be taken out of the hands of Parliament." And again, in 1621, the New England Company was the subject of debates in the House of Commons,[2] and Parliament never waived the point that these grants might, at any rate, be within its jurisdiction, as monopolies.

[1] 1624, Sainsbury, *Cal. of S. P.*, 1574-1660, May 6th, Nethersole to Carleton.

[2] *Massachusetts Historical Society*, 3rd ser., Vol. VI. Description of Sir Ferdinando Gorges' pleading before H. of C.

Before passing from the subject of these patents, we may observe the strange consequences to which they sometimes led. The tract conveyed might be a kingdom, but the English law persisted in treating it as "white acre," thus we find[1] Lord Carlisle assigning the Caribbean Islands, which had been granted him, to his creditors. Note, too, the persistency with which English notions prevail. In the deed[2] by Sir H. Gilbert assigning his rights to Trustees "every one that shall be sent over by the general charge of the realm . . . shall have in lease for three lives 60 acres, besides common in summer for so much cattle as they can keep in the winter, with allowance for housebote, hedgebote, and ploughbote . . . and after every death a best beast for a heriot."

The first expedition of Gilbert was a complete failure, and in 1582[3] he associated Sir Thomas Gerrard and Sir Thomas Peckham in the privileges granted by the patent. In the same year,[4] however, we find an agreement between Sir H. Gilbert and certain merchant adventurers of Southampton for a new expedition. Every adventurer of £5 was to have a thousand acres over and above the return of his adventure. Southampton was to be the staple port of the new Colony. A list is given of about fifty adventurers, which well illustrates the general character of the new movement. Headed by Sir Francis Walsingham, it includes merchants, mercers, ironmongers, bakers, &c. The next year saw the apparent realisation of Gilbert's hopes, in the formal taking possession by him of Newfoundland in the Queen's name. The fates were, however, not yet favourable, and on the return voyage Gilbert was drowned.[5] August 5th 1583.

The torch of colonization was now handed on to Raleigh. In 1584[6] he obtained a patent similar to that of Gilbert. His first step was to send out an expedition to report upon the country. Possession was taken of part of the mainland of America, which was named by Raleigh Virginia, after the

[1] In 1609. Sainsbury *Cal.* under 1641.
[2] July 8, 1582. Sainsbury *Cal.*
[3] June 6. Sainsbury *Cal.*
[4] Nov. 2. Sainsbury *Cal.*
[5] His last words were, "We are as near to heaven by sea as by land!"
[6] March 25. Sainsbury *Cal.* Addend., 1574-1674.

Queen. We need not follow the unhappy experiences of Raleigh's first colonists. The fault of their failure was not in any way due to his neglect. Doubtless he was under the illusions of his day. He looked too much for gold as the product of the country, and he did not perhaps take care to secure the best kind of settlers. Nevertheless, if his great words have been fulfilled in a sense wider than he could have dreamed of, "I shall yet live to see it an Inglishe nation,"[1] it was largely to the impulse that his personality gave to the movement that this result has been due.

Over twenty years, however, were to pass by between Raleigh's first expedition and the permanent settlement of the English in Virginia. Several voyages were undertaken during the first years of the seventeenth century; but the real history of the Colony begins with the formation of the Virginia Company in the year 1606.

Chartered Companies.

Upon the first appearance upon our scene of the Chartered Company, an instrument which has played so great a part in the history of the Colonial policy of the seventeenth and nineteenth centuries, a few words must be given to the general question. Whatever be the arguments in favour of colonisation by companies at the present time, in the seventeenth century such companies were an absolute necessity. It has been said[2] that their "encouragement springs from the timidity or caution of Governments, companies rush in where the messenger of Governments fears to tread." But in early times companies rush in where the messenger of Government *cannot* tread. Its continual pretensions to power must not blind us to the weakness of the mediæval state; the constant repetition of legislation on the same subjects is the most convincing testimony of the impotence of such legislation. When we reflect upon the fate which has attended Factory Acts, where, as in certain states of America, they have not been enforced by paid inspectors, we discover the weak point in the Tudor and Stuart systems. In the absence of credit, in the scarcity of revenue, and in the corruption which caused the

[1] Letter to Cecil, Aug. 21, 1602, in *Life*, Vol. II. p. 252, by E. Edwards.

[2] Mr C. A. Harris in Palgrave's *Dict. of Political Econ.*, art. Colonies.

little to become quickly the less, it was out of the power of the State to carry through great undertakings such as the development of new Colonies. In theory, it is true, the mediæval state was profoundly socialistic—if to identify the state and society be to be socialistic—but in history it developed out of anarchy, and its poverty made its claims *brutum fulmen*. If, then, the expansion of England was to take place, it must have been either through individuals, or through bodies of individuals, such as Chartered Companies. Now, the moral of the fable of the bundle of sticks was at a very early date laid to heart. The special feature, I suppose, of mediæval history had been the part played by corporations; but the Trading Company is merely the application of old weapons to new needs. Especially in so risky and at best slow a work as the development of plantations, it was obviously necessary that no one person should risk his all, but that, by many risking something, the needful capital should be obtained. In the dawn of English colonization we seem to see glimpses of an idea that particular English localities should have their own Colonies. Sentimentally, the idea was a good one, and left its marks in names such as New Plymouth; but the rush of the new tendencies poured in wider channels, and the economic unity of England was becoming too real to admit of colonization on such particularist lines. Just as the "regulated" companies resembled in principle the Town Trade Corporations, and were, as Adam Smith pointed out, "a sort of enlarged monopolies of the same kind,"[1] so the Joint Stock Company marked a fresh stage in economic development. As compared either with the "regulated" company or the private co-partnership, its advantages were manifest. In a "regulated" company the directors had no particular interest in the prosperity of the general trade of the company. Indeed, the decay of the general trade might often contribute to the advantage of their own private trade; whereas the directors of a joint stock company have no interests other than those of the common undertaking. Again, the directors of the "regu-

[1] *Wealth of Nations*, Book V. chap. i.

lated" company had the management of no common capital with which to work. The casual revenue of such undertakings arose from the admission fees and from the co-operative duties imposed upon the trade of the company. In this state of things it would have been obviously impossible to undertake the work of development. But while the convenience of the joint stock company over the regulated is thus apparent, it possesses two great advantages over a private co-partnership. On the one hand, shares can be transferred without obtaining the leave of the other members of the company, while, on the other hand, liability is limited to the extent of the holding. Viewed in this light, the Chartered Company appears to have played an indispensable part in the development of the British Empire, quite apart from the question how far its employment can be defended at the present day, a question which will occupy us at the close of this volume.

CHAPTER II

VIRGINIA UNDER THE VIRGINIA COMPANY

Colonization of Virginia.

AN exhaustive account of the reasons which induced the colonization of Virginia is given in the first chapter of Mr Bruce's *Economic History of Virginia in the Seventeenth Century*. The persistency with which the same reasons are put forward in the various pamphlets and letters of the time attest the strength of the forces at work. The first and the strongest motive at work was the thirst for gold. The treasures obtained by Spain had dazzled the popular imagination, and every man seemed to hold El Dorado within his grasp. A second motive and one coupled by Lane,[1] with the discovery of a gold mine, as the sole possible means of making the country in request in England, as a desirable place for settlement, was the discovery of the North-west passage. An imperfect knowledge of geography led to the notion that there was little distance between Virginia and the Western sea. Could this hope have been realised, it is obvious of what importance Virginia would have been in the days before the thorough opening out of the Cape of Good Hope route to the Indies. The other main motives were of a less chimerical character.[2] It was expected that Virginia would supply a large number of articles which the English people could at that time only buy from foreign nations; tar, pitch, rosin, flax, cordage, masts, yards, timber, and other naval stores, besides glass and soap ashes might be furnished from a British Colony instead of from Russia and Poland. All kinds of difficulties, natural and artificial, stood in the way of the Baltic trade, but Virginia promised to furnish the products both of Northern and Southern Europe.

[1] Hakluyt's *Voyages*, Vol. III.

[2] 'Nova Britannia' in Force's *Historical Tracts*, Vol. I.

"What commodities soever," wrote Lane, "Spaine, France, Italy, or these partes doe yeeld unto us in wines of all sorts, in oyles, in flax, in rosens, in pitch, frankinsense, coorans, sugers, and such like, these partes doe abound with the growth of them all." Nor was the benefit of being furnished from a Colony only that it ensured more certain and fairer treatment; according to the received opinions of the day it was a further benefit that the precious metals would not by this means be parted with to foreign nations. Moreover, the growers of these commodities would themselves become customers for English manufactures, and the coarse cloth which was the main English manufacture would find a sure market among the colonists and even the natives of Virginia.

But if this commerce were to develop, it would be also of great benefit to English shipping. The *raison d'être* of the subsequent Navigation Acts was recognised in the original foundation of Virginia. Little need be said of the stock argument always brought forward that Colonies would afford an outlet for the surplus population of the Mother country. More important was the claim that Virginia would raise a bulwark in America against the Spanish power. It would put[1] "a byt into the anchent enymye's mouth." But, if all these claims were to be made good, there was need of time. Smith, at least, recognised the truth of Bacon's words, "that a plantation is like the planting of woods, for you must make a count to lose almost twenty years profit and expect your recompense in the end." With justice then did the author of a paper entitled[2] "Reasons for raising a Fund for the Support of a Colony at Virginia" say—that it was more to the honour of a State to have a great enterprise carried through by public concert than by private monopoly. Various arguments were given why a settlement depending on a public fund was preferable to one of a private character. "Private purses are cowlde compforters to adventurers and have been founde fatall to all enterprises hitherto undertaken by the English by reason of delaies and jeloces and unwilling-

[1] Dale to Winwood, June 1616, *Genesis of United States*, by A. Brown, Vol. II.
[2] Printed in Brown's *Genesis of the United States*, Vol. I.

nes to backe that project which succeeded not at the first attempt." The Virginia Company was a semi-public undertaking and realised in many ways the author's requirements. It is impossible to exaggerate the importance of those composing it. It has been reckoned[1] that after the second Charter in 1612, the incorporators consisted of 56 City Companies and 659 private individuals. Of these latter 21 were Peers, 96 Knights, 11 doctors, ministers, &c.; 53 captains, 28 esquires, 58 gentlemen, 110 merchants, and 282 citizens and others. At least 100 of them were at one time or another members of Parliament, and about 50 were members at the time of the granting of the Charter. Yet even the Virginia Company, started as it was on commercial lines, had not the patience to wait the necessary development, and the hostile critic might see in the excessive cultivation of tobacco, which involved the abandonment of some at least of the ideals under which the Colony had been started a failure of the *quid pro quo* which had procured for it the ægis of state recognition.

1606. Charter of Virginia Company.

[2] Under the patent of 1606 to Sir Thomas Gates and others, the whole of North America between 34° and 45° N. latitude was claimed by the King of England, and the whole of this vast territory was placed under the management of one and the same Royal Council of Virginia. Particular portions of this great tract, comprising not more than about 20,000 out of 2,000,000 square miles were allotted to two Colonies, the southern of which was apportioned to the Virginia or London Company, and the northern to a Company of adventurers to be known as the Plymouth Company. The exact situation of each Colony was not defined, but the Colonies were to have all lands stretching fifty miles in each direction from the first seat of their plantation, except towards the mainland in which direction each Colony was to extend for one hundred miles. It was provided that no settlement in either Colony should be made within one hundred miles of any settlement belong-

[1] *Genesis of United States*, ed. by A. Brown, 1890.

[2] The Charters are set out in numerous books. By far the most lucid and satisfactory account of them is in the *Genesis of U.S.*

ing to the other Colony, by which means it was intended to prevent the opportunities of collision. In addition to the paramount authority of the Royal Council of Virginia each Colony was to have its own Council resident on the spot, and consisting of thirteen members. In fact, however, the Plymouth Colony, in this form, never took shape, and need not therefore detain us. By the terms of the Charter, the patentees were allowed to impose a two and a half per cent. duty on all English non-members of the Company trading in Virginia, and a five per cent. duty on all foreigners. The proceeds of such duties were reserved for twenty-one years to the uses of the Colony, and afterwards were to go to the King. A special provision exempted personal goods of colonists, arms, furniture, &c., from any import duty for a space of seven years. Power was given to erect a mint, a provision which was not found in subsequent charters, doubtless owing to the fact that gold had not been discovered in the Colony. The resident Council was to govern and order all matters and causes "according to such laws, ordinances, and instructions as shall . . . pass under the privy seal."

This provision has been severely criticised by Mr Doyle[1]:— "The difference between James and his great predecessor is well illustrated by the manner in which each dealt with the newly settled Colonies. Elizabeth had a full share of the despotic temper of her race. But, when she tyrannized it was with a tyranny which never stooped to petty interference and meddlesome dictation. If the nonconformists of her reign had sought to establish a settlement in the New World, they would probably have fared far worse with her than their successors did with James, but the narrow and sordid illiberality which would trust men with the task of founding a Colony, but would grant them no share in its management, found no place in the policy of the great Queen, and nowhere is the character of James's Government, so strong in assertion, so weak in fact, shown more clearly than in the history of Virginia. The absolute power claimed at the outset is

[1] *English in America. Virginia*, &c., p. 148.

filched away piecemeal, without a shadow of resistance. The first constitution of Virginia made it a stronghold of despotism ; in less than twenty years it was in everything almost, save name, an independent State."

Any stick is probably good enough for a modern historian to use against a Stuart king, but it is a little difficult to find in the patent of 1606 the excuse for this strong language. We have already stated the problem—to arrange for the government of Englishmen separated by thousands of miles of sea, surrounded by wholly new circumstances. There was surely nothing very extraordinary in the idea that such people could be best governed by laws enacted at home. The patents of Elizabeth had given very wide powers to private individuals. Doubtless there was present in the minds of those who drew up those grants, the idea of appropriation by conquest rather than by settlement. The statesmen of Elizabeth would have been surprised could they have been told that their action was intended to promote democracy among the adventurers, whifflers, and criminals, who formed a large portion of the earlier settlers. A clearer recognition of facts led the advisers of James I. to attempt another solution of the question. We are able to gather James's intentions from the instructions issued in the same year as the Patent. The Royal Council of Virginia, or the most part of them, is to have "full power and authority at our pleasure, in our name and under us, to give directions to the Council for the Colonies for the good government of the people to be placed in those parts." The instructions declared that the President and Council of the said Colonies "shall and may lawfully from time to time constitute, make, and ordain such constitution, ordinances, and officers to the better order, government, and peace of the people of the respective Colonies, so always as the same ordinances and institutions do not touch any party in life or member; which constitution and ordinances shall stand and continue in full force until the same shall be otherwise altered or made void by us, &c., so always as the same alterations may be such as may stand with, and be in substance consonant with the laws of England or

the equity thereof." It is worth remarking that under these instructions trial by jury is established.

When we consider that the Council of Virginia was to deal with a far larger area than the particular Colonies then established, it seems clear that the intention was to establish a new Privy Council for colonial purposes. So far from such being a retrograde step it was an attempt to realize an idea which was in the minds of men such as Bacon. The actual outcome of events—complete popular government—was at the time in the thoughts of no one; but, putting this out of the question, the scheme of government suggested by the first Virginian Charter was as wise a solution of the problem as could at the time have been suggested. That the idea was quietly dropped within a few years without complaint, so far as we know, having been made by anyone, is enough to show that it was part of no general scheme of petty tyranny. If, as is conjectured by Mr Brown, the patent was drawn by Chief Justice Popham, the charge becomes the more untenable.

1609. Charter of Virginia Company.

Under the new patent of 1609, power was given to the Virginia Company itself, acting through a Treasurer and Council, to make, ordain, and establish all manner of orders and laws fit and necessary for and concerning the government of the said Colony and plantation, and to abrogate, revoke, or change the same. Also power was given to the governor and officers, to punish, according to orders established by the Council, so always as the said statutes, ordinances, and proceedings, as near as conveniently may be, be agreeable to the laws and statutes, government, and policy of this our realm of England. The Council to which these powers were given was to be chosen out of the Company of the adventurers by the voice of the greater part of the said Company of the said adventurers, in their assembly for that purpose, as vacancies might arise.

It should be noticed that in one respect the second Charter was less liberal in its terms than was the first. Under it there was to be no council resident in Virginia, but the Governor, under the Council in England, was to

be sole and absolute. In all other respects, however, the second was a great improvement on the first. Under it the duties to be enforced from outsiders and foreigners were increased to five and ten per cent., the colonists were to be free of all subsidies and customs in Virginia for twenty-one years, and from all taxes and impositions upon any goods, either upon importation into the Colony or exportation to England for ever, except only the five per cent. due for Customs, which being paid, they might export again without any fresh duty to foreign parts within thirteen months.

It is stated that the second and third patents were drawn up by Sir Edwin Sandys, according to the received view, the most enlightened member of the Virginia Company, so that here, at least, the most captious critic can find no ground for the theory that James I. was from the first ill-disposed towards the Colony. Being without the gift of statesmanship he doubtless did not foresee the part they might play in history, but they interested his versatile and dilettante nature. A flash of light is thrown on his manner of regarding them by a letter written in 1609[1] by Lord Southampton to Salisbury, in which he reports that the king is very earnestly asking for a flying squirrel:—"I would not have troubled you but that you know so well how he is affected for these toys." A king of this kind had objects nearer at heart than the suppression of English liberties.

By the 1609 Charter the extent of Virginia was greatly increased. Its limits now extended over an area of one million square miles, and from sea to sea. It was to reach two hundred miles north, and two hundred miles south of Cape Comfort, near the entrance of Chesapeake Bay. The intention of the founders of the Company was that its stock should be divided into shares of £12, 10s. each. Personal emigration in the service of the Company was to entitle to one share. Certain "extraordinary men," such as clergymen, doctors, etc., were to receive a certain number of shares. The money subscribed was to be spent upon the settlement,

[1] Sainsbury *Cal.*

and any surplus to be either divided or funded for seven years. During this period, all that the settlers made was to go to the Company, whilst the settlers themselves were maintained at the Company's expense. After the expiration of the seven years every shareholder was to receive a grant of land in proportion to the amount of stock held.

Vigorous efforts were now made to push forward the Colony, and five hundred emigrants were got together for the expedition of 1609. This expedition is noteworthy as having on its way first settled the Bermudas. The old ill-luck, however, still dogged the footsteps of the Colony. The newcomers are described "as unruly gallants, packed thither by their friends to escape ill-destinies." Nor was the condition of things they found on their arrival such as to atone for their own deficiencies. In 1610 the condition of affairs was so alarming that it was intended to break up the Colony. The arrival of De La Warr in the spring of that year for a time improved the aspect of affairs. The main cause of the mischief is clearly expressed in a letter written by De La Warr:[1] "Only let me truly acknowledge they are not a hundred or two of deboisht hands, dropped forth by yeare after yeare, with penury and leysure, ill-provided for before they come, and worse governed when they are heere, men of such distempered bodies and infected minds . . . that must be the carpenters and workers in this so glorious a building. But (to delude and mock the bewsiness no longer) as a necessary quantity of provision for a yeare, at least, must be carefully sent with men, so likewise must there be the same care for men of quallitie, and painestaking men of artes and practises chosen out and sent into the business." To a like effect wrote Dale, De La Warr's successor:[2]—"As I am well to witness in a parcel of three hundred men which I brought with me, of which, well may I say, not many give testimonie beside their names that they are Christians. Besides of such diseased and crazed bodies as the sea hither

[1] Council in Virginia to the Virginia Company, July 7, 1610. *Genesis of United States.*

Dale to Salisbury, Nov. 26, 1611. *Genesis of United States.*

and this clime here but a little searching them renders them so unhable fainte and desperate of recoverie, as of three hundred not three score may be called forth or imploied upon any labour or service."

To improve the fortunes of the Company at home a new Charter was obtained in 1612. By this the Bermudas or Somers Islands were added to the Company's domains. Special provisions were made relating to the business of the Company, and it was empowered to increase its funds by establishing lotteries. No less a sum than £29,000 was raised by this means. Meanwhile the state of things in the Colony slowly improved. De La Warr had brought out with him a code compiled from the martial laws enforced in the Low countries. To a modern reader it doubtless would seem merciless enough, but it must be remembered that at the time in England no less than three hundred separate offences were punishable by death, and that the material with which the Virginian Governors had to deal was very difficult. There seems good evidence to shew that the administration under De La Warr and Dale[1] was, on the whole, upright and wise. They had been themselves soldiers, and doubtless looked on the settlement too much in the light of a penal Colony. Thus, we find Dale[2] urging that for three years condemned criminals might be reprieved for Virginia to supply the pressing need of two thousand men. This severity, however, was relaxed under Dale's successor, Yeardly,[3] to whom belongs the credit of having first enfranchised the labourers who had served their three years indentures. Argall, his successor, was able to report great abundance in the Colony, and, at first, the new Governor seems to have adopted wise measures in the interests of agriculture. His private greed, however, led him to treat the colonists as so many instruments for his personal needs, and the years 1617 to 1619, during which he governed, have been described as memorable for the ill-treatment of the settlers. In 1619, however, Yeardley returned as Governor, and a new order of

1612. Charter of Virginia Company.

1616.

1617.

[1] See note on p. 220 of Vol. I. of Bruce's *Economic History of Virginia*, &c.

[2] Dale to Salisbury as ante.

[3] *Econ. Hist. of Vir.*, Vol. I. p. 221

things was set on foot by the summoning of a popular[1] Assembly, which met on the 30th of July of that year Hutchinson speaks of it as "breaking out," and Professor Seeley has repeated the expression. But, in fact, it was duly summoned by Yeardley, according to the instructions which he had received from home. The Assembly was to be composed of the Governor and his Council, together with Burgesses, elected by the freemen from each plantation, each county and hundred returning two members. The Assembly was to have power to make and ordain whatsoever laws and orders should by them be thought good and profitable.

Meanwhile the Company at home was not inactive. To check the over-production of tobacco, a new clause was inserted in all fresh grants of land, binding the holder to grow in part[2] staple commodities, *e.g.*, "corne, wine, silke, silke grasse, hempe, flax, pitch, and tar, pot-ashes and sope-ashes, iron, clap boord and other materialls, not wholly and chiefly about tobacco and sassifras." A serious effort was made to improve the class of emigrants. "The men lately sent,"[3] it is asserted in 1620, "have been most of them choise men, born and bred up to labour and industry." Among them we find forty ironworkers out of Sussex. It was intended further to introduce men skilled in hemp work from the East, vignerons from France and the Rhine, sawyers from Hamburg, olive-planters from Marseilles and Leghorn. The list[4] of adventurers published in 1620 includes about 800 names, and the capital subscribed amounts to over £35,000. Every adventurer of a share was entitled[5] to one hundred acres upon the first division and to a second hundred acres when the land of the first division had been sufficiently peopled. In addition he was entitled to a further fifty acres for every person transported thither before Midsummer 1625, and for a second fifty acres upon a second division; such

[1] The best English authority on the first Colonial Parliament is Sainsbury in *Antiquary*, Vol. IV., July 1881.

[2] Orders and Constitutions in Force's *Historical Tracts*, Vol. III.

[3] "A Declaration of the state of the Colonies," June 1620; Force's *Hist. Tracts*, Vol. III.

[4] Force, as ante.

[5] Orders and Constitutions, No. cxv.

grants not involving the payment of any rent. New adventurers were on the same footing, except that a payment of twelve pence was enforced for every fifty acres obtained by transporting persons thither. In all grants of land one-fifth of the gold and silver was reserved to the Company in addition to the one-fifth belonging to the Crown.

Virginia Company.

In spite of all this the situation was a serious one. The Virginia Company experienced the truth that, in the absence of finds of gold or of trading monopolies, companies formed merely to develop new territories do not pay. Moreover, the Company was torn by internal divisions. Unfortunately the members of the party, which, on its own showing, was most favourable to the real well-being of the Colony, were personally disliked by James I. Another cause of quarrel lay in the vexed question of tobacco. The feelings of the King towards that plant are well-known, but he had better grounds for mistrusting a Colony "built upon smoke."[1] The danger of depending upon a single product has been often illustrated in the history of settlements. It is impossible to enter into the various disputes between the Crown and the Company on this vexed question.[2] For a time the King shewed an inclination to favour Spanish tobacco, which, as the Virginian tobacco paid custom duties, was manifestly both unjust and impolitic. At other times he was endeavouring to establish a monopoly of this article. It has been seen that the original intention was that Virginia should cultivate for the English market a variety of products. Within four years, however, of the first cultivation of tobacco by Rolfe in 1612, it had become a staple crop, and no royal prejudice or instructions to Governors could prevent it from becoming more and more exclusively the product of the Colony. Moreover, the customs duties obtained from it tended to weaken the objections of the English Government. That Virginian tobacco should be taxed, was not in itself unfair, especially as its cultivation was forbidden in England, and as its introduction from foreign countries was prevented.

Tobacco.

[1] The expression was Charles's. *Cal. of S. P.* in 1626.

[2] Consult Bruce's *Econ. Hist. of Vir. in 17th Century.*

It was, however, manifestly unjust that the amount paid should depend entirely upon the quantity, and have no reference to the price at which it sold. Thus, at first, the same customs duty was paid by the inferior Virginian tobacco, as by the Spanish, which sold for a much greater sum. Afterwards, however, the duty was fixed at two shillings per pound on Spanish, one shilling on West Indian, and ninepence on Virginian tobacco. For a long time afterwards, up to 1685, the duty was sixpence on Spanish, and one penny on Virginian tobacco. After this date, it was one shilling on Spanish, and fourpence on Virginian. Although the amount of duty does not sound oppressive, it appears to have borne hardly on the Virginian planter. Thus we are told that in 1677 Virginia was paying into the English treasury a hundred thousand pounds, while at the same time the condition of the Virginian people was one of great depression. It was in vain that the Colony appealed to the English Government that measures should be taken artificially to raise the price. The policy which prevailed was that *coûte que coûte* the Royal revenue must be maintained.

Revocation of Charter of Company.

In treating of the question of tobacco, we have travelled far from our present date, the importance of the subject in our present connection being that it doubtless tended to exacerbate the relations between James and the Company. Apart from this, the terrible massacre of the colonists by the Indians in 1622, filled the cup of the Company's troubles and the time may well have seemed ripe for the intervention of the Crown. It must be remembered that the air was thick with complaints, that the Privy Council was being constantly approached by persons alleging grievances against the Company. It may be that the Company, or at least the party then dominant, had a good answer to all such claims, but the moral effect of them was none the less damaging. Contemporary letters tell[1] of the meetings of the Company as scenes of discreditable wrangling and recrimination. "Rather cock-

[1] Chamberlain to Carleton, July 1623, Birch, *Court and Times of James I.*, Vol. II.

pits than courts." "If that society be not dissolved the sooner or cast into a new mould, worse effects may follow than the whole business is worth." A duel between the leaders of the rival factions was with difficulty prevented, and it may well have seemed reasonable that the Privy Council should intervene. A grave charge has been made against James's government, that the Company was suppressed in order to satisfy the Spanish Court. That the settlement of Virginia had given great dissatisfaction to Spain is of course certain. The very valuable collection of Simanca documents first collected in Mr Brown's *Genesis of the United States*, enables us to follow in detail the intrigues and plots of Spain against the young Colony, for the first ten years of its existence. We now recognise that a ceaseless diplomatic war was carried on by Spain against the interests of the Colony. She is found screwing up her courage to make an end, once and for all, of the intruder, but for one reason or another postponing the effort. It was hoped in Spain that the death of Prince 1612. Henry would make the business grow cooler, while at another time, the Colony appears dying of itself. In 1613[1] we hear of a formal claim made to Virginia under the Papal Bull, and a hot dispute between the English ambassador and the Spanish Secretary of State.[2] And an expedition from Lisbon to destroy the Colony was on the point of starting.

The author of the pamphlet,[3] 'A perfect description of Virginia,' published in 1649, states that "it is well known that our English plantations have had little countenances, nay, that our statesmen, when time was, had store of Gondemore's gold to destroy and discountenance the plantation of Virginia; and he effected it in a great part, by dissolving the Company, wherein most of the nobility, gentry, corporate cities, and most merchants of England were interested and engaged; after the expense of some hundreds of thousands of pounds. For Gundemore did affirm to his friends that he had commission from His Master to ruin that plantation. For,

[1] Nov. 3, Sainsbury, *Cal. of S. P.*
[2] Feb. 21, Sainsbury, *Cal. Add.* 1574-1674.
[3] Force's *Hist. Tracts*, Vol. II

said he, should they thrive and go on increasing as they have done, under the government of that popular Lord of Southampton, my master's West Indies and his Mexico would shortly be visited by sea, and by land, from those planters of Virginia. And Marquis Hambleton told the Earle of Southampton that Gundemore said to King James that the Virginia Courts were but a seminarie to a seditious Parliament."

The conclusion one gathers from the papers collected by Mr Brown is that James I. showed himself a good deal more of a diplomat than of a statesman, though it was well that the strength of his real disposition was not put to the test. Happily for the world, the misfortunes of the Colony were such as to enable the Spanish power half to delude itself into the belief that it was rather the unimportance of Virginia than its own inherent incapacity, which allowed the egg to be hatched from which was to arise a cockatrice to Spain's American Empire. As, however, the charge of yielding to Spanish intrigue is taken seriously by Mr Doyle,[1] it is necessary to ask what benefit Spain got by the suppression of the Company. Gondemar was no fool, nor would he have assisted at so one-sided a bargain. To substitute the Royal supremacy for that of a Trading Company was in fact only further to commit England to a policy of expansion by Colonies. Moreover, if James was so under the influence of Spain, how came it that other charters were given to other trading Companies during this time to start new Colonies which would equally interfere with the asserted rights of Spain? In truth, this view entirely misinterprets James' whole foreign policy. That policy was, as Professor Seeley[2] has shown, at a time when dynastic relations counted for much, deliberately to marry his daughter to the most zealous of Protestant sovereigns, and his son into the House of Spain. Whatever may be thought of the wisdom of such a policy there can be no question that the motives actuating James were not those of complete subserviency to the Spanish power.

[1] *English in America. Virginia*, &c., p. 227.
[2] *Growth of Br. Policy*, Vol. II.

Historians have written too much under the bias suggested by the relations of Charles II. with the Court of Versailles.

Indeed, the motives actuating James appear plain enough. On the one hand he wished to avoid the factions, and what a contemporary terms the "popularness,"[1] of the Virginia Company. On the other hand, he may well have believed that the Colony would prosper more under the direct government of the Crown. Every care appears to have been taken not to interfere with the pecuniary rights of the members of the Company. In October 1623 an order of the Privy Council was made, resuming the Charter, and announcing a new constitution. The affairs of the Colony were to be managed by an English Council consisting of a governor and twelve assistants, itself dependent on the Privy Council, such Council being empowered to appoint a governor and twelve assistants to act in the Colony. The Virginia Company did not surrender without a struggle. It was not till July 1624 1624. that its patent was revoked in an action *quo warranto*, in which the decision was doubtless dictated by grounds of policy rather than of law. The case for the Crown was that the patent was bad on account of its unlimited character. Under the clause, permitting the transporting of as many loving subjects as were willing to go, it would be possible to denude England of all its inhabitants. It was to such reasoning that Ley, C.J.,[2] assented. On the merits of the question it is only fair to consider the solemn declaration,[3] in the form of an Act, drawn up by the colonists in 1640, in which, comparing the state of things under the rule of the Company and under that of the Crown, they say "that our present happiness is exemplified by the freedom of annual assemblies . . . by legal trials by juries in all civil and criminal causes, by His Majesty's royal encouragement, upon all occasions, to address ourselves unto him by our humble petition, which so much distinguishes our happiness from that of the former time, that private letters to friends

[1] Nethersole, July 3, 1624. Sainsbury, *Cal. of S. P.*, 1574-1660.
[2] See *Mass. Hist. So. Publications*, 4th series, Vol. IX.
[3] Force's *Hist. Tracts*, Vol. II.

were rarely admitted a passage." It has been pointed out that the chief authority for the great improvement in the last years of the company's management is the testimony of interested parties, and certainly there is no evidence whatever that, so far as the interests of the colonists were concerned, the action of the Crown was in any way a retrograde step.[1]

[1] The publication of *The Court Book of the Virginia Company*, 2 vols., ed. by Miss Kingsbury, 1906, has thrown much light on the last years of the Company; see also the 'Manchester Papers' Calendared in Report VIII., Part 2, of *Royal Commission on Historical MSS.*

CHAPTER III

THE COLONIES UNDER CHARLES I

IT must be confessed that hitherto the amount achieved by English colonization had not been much. The main fault lay probably, neither with Trading Company nor with royal treachery, but with the material out of which the Colony was formed. The theory which has wrought such misery in all times, that the new world is the fit resort for the failures of the old, had been tried and found wanting. The evidence as to the general bad character of the Virginia immigrants is from a variety of sources. Prisoners were released on condition of proceeding to the Colony. In 1618[1] we hear of the City of London "shipping thither one hundred young boys and girls who lay starving in the streets," and young women were in some cases 'pressed' to emigrate. As late as 1638 out of the hundreds who arrived every year, we are told[2] that scarcely any came but those "who are brought in as merchandise to make sale of." Sir Josiah Child's account has been often quoted[3]—"Virginia and Barbadoes were first peopled by a sort of loose vagabond people, vicious and destitute of means at home, being either unfit for labour, or such as could find none to employ themselves about, or had so misbehaved themselves by whoring, thieving, and debauchery, that none would give them work, which, merchants and masters of ships (being agents or 'spirits' as they were called), gathered up about the streets of London and other places, to be employed upon Plantations." But, more striking is the contemporary testimony of the customer of the Port of London, who writes with regard to the Proclamation of 1637[4]—"Most of those who go to Virginia have ordinarily no habitation, can bring no certificate, and are better out than within the kingdom."

Character of first Virginia settlers.

[1] Oct. 14, Sainsbury, *Cal. of S. P.*, 1574-1660.
[2] Ap. 6, *ibid.*
[3] *A New Discourse of Trade.* 1698.
[4] 1637. Sainsbury, *ibid.*

On the other hand, there is much evidence[1] to show that both the Virginia Company and the Colony afterwards were very jealous for the good character of the colonists sent out. It is very doubtful whether at least before 1650 there were any convicts transported, in whose cases there were not special mitigating circumstances. In 1663 we find the draft of a Bill in Parliament enacting that persons convicted of felony, who had benefit of clergy, and women convicted of stealing money above the value of twelvepence and under that of ten shillings, should be transported to Jamaica, Virginia, or any other English Plantation beyond the seas, there to serve for not less than five nor more than nine years. An Act of 1670, making the arson of corn stacks and the malicious killing of cattle, capital offences, allowed persons convicted the alternative of being shipped to the Plantations. But the first bill never became law, and, partly no doubt in response to the protest of the Virginia Assembly, we find, in 1682, the Commissioners of Trade and Plantations declaring that no felon should be transported to any of the English foreign settlements unless he could give security in a hundred pounds that he would not return for four years. On the whole, it would seem that the greater number of convicts who were transported to Virginia were political offenders, who naturally belonged to a higher moral and social category. Another proof that the imported servants were not as a rule of ingrained bad character is to be found in their youthfulness. Information has come down as to the age of a great number of them, and it would seem to have generally averaged about twenty, an age at which, for the most part, bad habits would not have become second nature. The probability of these figures is vouched by the fact that the younger the servant the more profitable the bargain for the planter. Of those who went out as settlers and not under indentures there was doubtless a mixture of all classes. Younger sons of good family and good character, in some cases men of means, jostled with adventurers and spendthrifts. The same causes, racial and

22 and 23 Car. 2 c. 10.

[1] Collected by Mr Bruce, *Econ. Hist. of Virginia in 17th century*. See also a later work by the same author, *Social Life of Virginia in 17th century*. Richmond, Va. 1907.

economic, which have in subsequent times caused a continuous exodus of Englishmen to North America, Australia, and South Africa were already at work, and producing the same results. It is probable that, writing under the influence of New England prejudices, the tendency of historians has been unfairly to cry down the early Virginian settlers. And it is only right, and their bounden duty, that the writers of that State should be jealous for the fair fame and character of their forefathers.

It is probable that the economic need for emigration at the beginning of the seventeenth century was less than it has been sometimes represented. The statements of preachers in sermons are not very high authority. It seems strange to speak of over-population at a time when England was just beginning her commercial history; but in any case, if there was need for emigration, much at least of the kind of emigration which went on to Virginia did not meet it. Upon the whole there was a serious risk that, if Virginia had remained the only English American Colony, sooner or later the game of persisting in it would not have been considered worth the candle. And yet, had this course been taken, in Dale's vigorous language, "The English Government with its wisdom would have leapt such a gudgeon as England had not done the like since it lost France. Be not gulled," he continued, "with the clamorous reports of bad people. Believe Caleb and Joshua. . . . I have seen the best countries of Europe; I protest unto you, before the living God—put them all together, this country will be equivalent unto them, it being inhabitant with good people."[1] The proud boast of the author of "Nova Britannia" would have come to naught, "We shall reare again such marchants shippes both tall and stout, as no forreine sayle that swimmes shall make them vaile or stoope, whereby to make this little northerne corner of the world the richest storehouse and staple for marchandize in all Europe."[2] Nor would the beautiful prayer have been fulfilled that "That merciful and tender God who is both

[1] Dale to Sir T. Smith, 1613; *Gen. of U.S.*, Vol. II.
[2] Force's *Historical Tracts*, Vol. III

easie and glad to be entreated, that it would please Him to bless and water these feeble beginnings, and that as He is wonderful in all His workes, so to nourish this graine of seed that it may spread till the people of this earth admire the greatnesse and seeke the shade and fruits thereof."[1]

New England.

Happily, however, for England and its colonial destinies a new factor was to appear on the scene, fated profoundly to modify the whole situation. In the year 1607 certain inhabitants of Scrooby, Nottingham, wearied at the annoyances to which Nonconformists in England were subject, took refuge first at Amsterdam and then at Leyden. After a ten years' residence in Holland, they decided to emigrate to

1619.

North Virginia. Two years later they obtained a patent[2] from the Virginia Company, and on September 6th, 1620, memorable date in the annals of America, the *Mayflower* set sail from Southampton with about one hundred and twenty passengers. They landed at Cape Cod, and drew up a solemn compact of government, covenanting and combining themselves together into a civil body politic, "By virtue hereof to enact, constitute, and frame such just and equal laws . . . as shall be thought most meet and convenient for the general good of the Colony."[3] In the month of December they founded the Colony of Plymouth in New England. Inasmuch, however, as their original grant had been from the Virginia Company, and they were now in the domains of the Plymouth Company, they were without legal right to their Colony. In November 1620 a charter had been granted to Ferdinando Gorges and others under the title of the council "established at Plymouth for the planting, ordering, ruling, and governing of New England in America."[4] From this new company a patent

Nov. 9, 1621.

was, in 1621, obtained for the Plymouth Colony. It was through no good-will to Nonconformists that the council for New England found themselves helping their interest. "It is not with us," wrote the leader of the *Mayflower* immigrants, "as with other men whom small things can discourage, or

[1] "A True and sincere Declaration," Dec. 14, 1609; *Gen. of U.S.*, Vol. I.
[2] The patent is not extant, nor its exact date known.
[3] Set out in Macdonald's *Select Charters illustrative of American History*, p. 33.
[4] *Ibid*, p. 23.

small discontentments cause to wish themselves at home again." At the same time the Plymouth Colony had its own difficulties. They were financed by London Gallios, who cared nothing for points of doctrine, and whose only aim was to stand well in the eyes of authority. In 1624 the partnership of the company of adventurers of Plymouth was dissolved; two-thirds of those in London withdrawing from their connection with the Colony; and three years later the Colony bought up, for the sum of £1800, all the rights of the English adventurers.

Colonial possessions at death of James.

This, then, was the state of things at the death of James I. Virginia was under the direct control of the crown, the Bermudas were under a Trading Company, which had purchased them from the Virginia Company; another Trading Company was in nominal possession of New England, while a small but active community was in virtual independence at New Plymouth. New Scotland had been granted, on paper, to Sir W. Alexander, but as yet no steps had been taken to enter into its possession. A formal grant of Newfoundland had been made in 1610 to Calvert. But in spite of Kirke's remark that the climate was good for all "except Jesuits and Schismaticks," the Colony was to remain for many years in a shadowy, not yet embodied, form of life. The prospect was not a promising one. Well might a few years later Cottington endorse on a state paper[1] "Romans, Spanish and Dutch conquer, not plant tobacco and puritanism only, like fools. If they had stayed at home they would have laboured in the Commonwealth to their own sustenance, now we must labour for them." Equally unsatisfactory had been the Colonial policy of the English Government. There had been, as has been shown above, neither consistency nor continuity, unless perhaps in the matter of religious toleration. Nor did the reign of Charles I. bring an improvement. Professor Seeley has remarked on the complete *volte face* in the foreign policy of Charles. Starting as a lion, it soon becomes as meek as a mouse. It may be added that the same levity characterised his Colonial policy. Many modern readers will

Policy of Charles I.

[1] June 20, 1638, Sainsbury, *Cal. of S. P.*

applaud the sonorous periods in which the Royal[1] Proclamation of 1625 speaks of private companies. "To whom it may be proper to trust matters of trade and commerce, but cannot be fit or safe to commit the ordering of state affairs be they never of so mean a consequence." The territories of Virginia and the Somers Islands, and also those of New England, are asserted to be part of our Royal Empire, descended upon us, and the resolution is proclaimed of having "one and uniform course of government in and through all our whole monarchy."

Brave words, but within four years we find a charter granted to the Massachusetts Bay Company, on precisely the old lines which had been so solemnly abandoned. (It is true that, in the event, the Massachusetts Bay Company did not trade, but this was not at the time foreseen.) The Charter[2] gave power to the freemen of the Company to elect annually, from their own number, a Governor, deputy Governor, and eighteen assistants; and to make laws and ordinances, not repugnant to the laws of England for the government of the new Colony. No reference was made to conformity to the Church of England, so that toleration to dissenters was thus practically given. In another respect the patent, so far as companies were concerned, involved a bold innovation. In previous charters a provision had been always contained, fixing the government of the Company in England. Such a clause was in the original draft of the Massachusetts Bay Company's Charter, but was afterwards deliberately[3] omitted. If we consider the arguments used by Downing a few years later to show why New England could never aim at independence we shall recognize the importance of this omission.[4] "The whole trade of the plantation is maintained by such undertakers as remain in

March 4, 1629.

[1] Set out in Hazard's *Historical Collection*, Vol. i. p. 203. (The summary in Sainsbury does not give the language respecting Trading Companies.)

[2] Set out in Macdonald *op. cit.* p. 37.

[3] In a paper on Arbitrary Government (1644) in app. *Life and Letters of J. Winthrop*. Vol. II. p. 441, Winthrop expressly states, "so this was intended and with much difficulty we got it abscinded."

[4] Dec. 12, 1633, Sainsbury, *Cal. of S. P.*, 1574-1660.

Old England, those that govern the whole plantation have both lands and children." But in fact the founders of Massachusetts were aiming at something different, at founding a community which should itself be independent of English connection, and yet this was the policy which the Imperial Charles found himself aiding and abetting. That the Colony was intended to promote certain definite views may be gathered from the instructions sent out to the Governor Endacott. Among them it is directed that persons who may prove "not conformable to their government" or otherwise disagreeable shall not be suffered "to remain within the limits of the grant," but be shipped to England.

Religious toleration.

Considering the case of the Massachusetts Bay Company and the subsequent grant of Maryland to Lord Baltimore, it is impossible to resist the conclusion that colonial history has been largely written under the influence of English experiences. In the stock books on the subject, the Stuart kings stand as the embodiment of bigotry and intolerance. Professor Seeley on the other hand has remarked that their Colonial Policy was one of toleration. How far it may have been so consciously, at least in the case of the two first Stuart kings is doubtful, and an exception must in any case be made of the few years during which that policy was directed by Archbishop Laud. In the patents to Sir H. Gilbert and Sir W. Raleigh, in the clause as to government, are found the words, "and not against the true Christian faith or religion now professed in the Church of England." In the Virginia Charters no mention is made of the Church of England, while, in the 1609 Charter, the Oath of Supremacy is enforced, with a view to prevent such passing, as were suspected of the Church of Rome. It is true that in the Royal Instructions of 1606 the Christian religion was to be preached amongst both colonists and savages, according to the doctrines and rites of the Church of England, and penalties were to be incurred by the withdrawing of people from this religion, but this did not involve intolerance towards Nonconformists, so long as the Nonconformists themselves did not attempt to convert other people. When

in 1620, delegates from the puritans resident at Leyden proceeded to England to obtain leave of settlement from the Virginia Company, their case was favourably presented by the Secretary of State, Sir Robert Naunton. That the King preferred that their nonconformity should be connived at, rather than expressly recognized, is not surprising; neither was the failure of the grant from the Virginia Company in any way due to religious objections. On the contrary, after the charter was granted to the Plymouth Company for New England, the Mayflower emigrants obtained (as we have seen), without difficulty, from that Company, a patent for the lands on which they had settled. With respect to the Massachusetts Bay Company, Sir Ferdinando Gorges, one of the founders of the Plymouth Company, writes that when the action of King Charles[1] "took all hope of reformation of church government from many, not affecting episcopal jurisdiction, nor the usual practice of the common prayers of the Church . . . some of the discreeter sort, to avoid what they found themselves subject unto, made use of their friends to procure from
1628. the Council of the Affairs of New England to settle a Colony within their limits." In these circumstances in the following year, no difficulty seems to have been experienced in obtaining the Royal Charter, nor (as we have noted) is any mention made of religious conformity in the document itself. In 1633, moreover, the Massachusetts Colony was arraigned before the Privy Council, one charge being that it had become wholly separate from the Church and laws of England, and yet at the termination of the proceedings the King said[2] that he would have "them severely punished who did abuse his governour and the plantation," and it was learned from members of the Privy Council, says Winthrop,[3] "that his Majesty did not intend to impose the ceremonies of the Church of England upon us; for that it was considered that it was the freedom from such things that made people come over to us; and it was credibly informed to the

[1] Gorges' "Briefe Narrative, &c.," Mass. *Hist. So.*, 3rd ser., Vol. VI.
[2] Winthrop, *Hist. of N. England*, Vol. I. p. 123. [3] Vol. I. p. 100.

Council that this country would, in time, be very beneficial to England for masts, cordage, &c., if the Sound should be debarred." The policy could not be more clearly stated,—the Colonies as a safety valve for dissent, and as instruments for English shipping and trade. An interesting comment on this general policy is afforded by the Masque[1] of *Cœlum Britannicum*, performed at Whitehall, in 1633, the King himself taking a part. Momus proposes to transport the vices to New England, "which hath purged more virulent humors from the body politicque than guacum and all the West Indian druggs have from the naturall bodies of this kingdom." In the same spirit, without any express recognition of Romanism, a charter was conferred on Lord Baltimore, a well-known Roman Catholic, for Maryland: 1632.
the practical effect of which was to allow the exercise of the Roman Catholic Religion. It is true that a clause required all churches and places of worship to be dedicated and consecrated according to the ecclesiastical laws of the Church of England. But if, as has been maintained, this was not merely intended[2] to prevent the establishment by law of the Roman Catholic Religion, the clause was probably inserted with the view of satisfying English public opinion, and no steps were taken for its enforcement. We know from the contemporary account of the Jesuit Father Andrew White[3] that the first Colony did in fact consist to a great extent of Roman Catholics. In this connection we may note a remarkable despatch of Lord Baltimore, in 1678, wherein he states that his father[4] "had absolute liberty to carry over any from his Majesty's dominions willing to go. But he found very few but such as for some reason or other could not live in other places, and could not conform to the laws of England relating to religion. These declared themselves willing to plant in this province, if they might have a general toleration settled by a law, by which all, of all sorts, who professed Christianity in general might be at liberty to worship God in the manner most agreeable to their conscience

[1] By T. Carew, 1634.
[2] See Doyle, *Virg.*, &c., p. 374.
[3] Force's *Hist. Tracts*, vol. iv.
[4] Fortescue, *Cal. of S. P.*, 1677-1680, March 26.

without being subject to any penalties." The encouragement afforded to these two very different Colonies is of significance in considering Charles's general policy.

Policy of Charles I.

In other respects that policy was much less satisfactory. In a most important matter the Governments both of James and Charles were woefully at fault. Their dilettante patronage did not prevent the Navy from becoming miserably inefficient. It is true that, at the beginning of the reign of Charles, Buckingham attempted to deal with the malversations which, like a dry rot, were eating away the strength of the fleet. But there was not money sufficient to put the Navy into a proper state, and the subsequent proceeds from ship money, though they effected something, were not enough to secure an efficient Navy.[1]

In spite of protests by the English Minister at the Hague, and schemes for founding a City of York in New England,[2] the Dutch had been allowed to wedge themselves in between the English Colonies; their settlement of New Amsterdam having been founded in 1622. No doubt the reason why the Dutch[3] were so long tolerated lay partly in the religious and political temper of the New England colonists, which drew them towards the Dutch, although material and commercial causes were tending in the opposite direction. The home Government was too weak to act, except through the colonists, and those colonists, it must be remembered, were in part men to whom Holland had been a haven of refuge, and who had considered seriously of finding in Dutch America[4] a permanent home. In these circumstances the best course for England was to follow the advice of the shrewd English Minister at the Hague. "To put forward their plantations and crowd on, crowding the Dutch out of those places where they have occupied." This (as has been pointed out by Mr Doyle[5]) was rendered the easier by the vagueness of the

[1] See Oppenheim, *Admin. of Royal Navy.* [2] Sainsbury, *Cal. of S.P.*, 1623.
[3] It may be urged that the sea power of the Dutch insured the safety of their colonies, but it is doubtful how far their fleet would have been used for this purpose. [4] Doyle, *English in America*; *Puritan Colonies*, Vol. I. p. 58.
[5] *Ibid.*, Vol. I. p. 299.

Dutch claims. The original charter granted by the Dutch Government fixed the northern boundary as Canada. In the face of the existence of New England this was an absurdity. "But the failure of their theoretical frontier left the Dutch without a frontier at all."

The beginnings of the struggle between France and England in the New World.

To the north of New England, France and England were already rivals for the possession of what is now Canada. Port Royal was founded by Champlain in 1604, and in 1608 he founded Quebec.

A Charter of Charles renewed the grant to Sir W. Alexander[1] of New Scotland. It consisted of the present provinces of Nova Scotia, New Brunswick, and a portion of Quebec, being bounded on the East by the river St Croix and on the North by the St. Lawrence. A serious effort was made by Alexander to provide the funds for settlement, by the institution in 1625 of an Order of Knights Baronets. The payment of a thousand marks, and the furnishing six men, entitled to a grant from the Crown of ten thousand acres, along with the title. The Knights Baronets were not obliged themselves to emigrate, and by payment of two thousand marks they could avoid the provision as to furnishing men. Between 1625 and 1638 ninety-two such baronets were made, and funds were thus provided for the sending out a colony, which settled at Port Royal after its capture by Argall.

Although the original French Colony had been destroyed, on the arrival of settlers sent out by Sir W. Alexander, they found on the spot adventurers from all parts, besides many survivors of the original settlement. The year 1627 witnessed the granting of a Charter to the company of New France, which, under the presidency of Richelieu, was intended to mark a new departure in French colonial policy. The fort and settlement of Quebec, with all the territory of New France, which, by the way, comprised North America from Canada to Florida, were conferred upon the new Company. In the same year a more modest company was formed in

[1] See Slafter's *Sir W. Alexander and Amer. Colonization*, a very learned book. It must be confessed, however, that Mr Slafter takes his hero very seriously.

England, which included amongst its purposes the founding of a settlement in Canada for the purpose of trading with the natives.

The struggle for supremacy in the eighteenth century was thus being anticipated in the seventeenth.[1] In successive expeditions, the capable Kirke reduced Port Royal and the the other French settlements and finally captured Quebec. What had been won by arms was, however, yielded by
1632. diplomacy, and by the treaty of St Germain-en-laye, Canada and Nova Scotia became again French possessions, and Alexander's Colony returned to Scotland. A letter[2] from King Charles to Wake the English Ambassador in Paris, explains his motive in this surrender. He was hard pressed for money, the Queen's dower had never been paid, and to obtain this payment, he was willing to yield Port Royal and Quebec.

Carolana, etc. In 1629 a grant was made to Sir Robert Heath[3] of a new Colony to be called Carolana. The intention was that it should be largely recruited from French Hugenots, and yet we are told that it was to be a Church of England Colony.[4] In any case nothing substantial came of the scheme. It did not seem in the power of Charles I. ever to add anything to England's greatness. More successful, however, in its results, was the colonization of what were afterwards known as New Hampshire and Maine. The founders of these Colonies were Mason and the untiring Gorges. Mason, however, died before he could reap the fruits of his labours, and the Colonies planted in New Hampshire were afterwards absorbed by Massachusetts. Maine, on the other hand,
April 3. preserved for some years a separate history. In 1639 a Charter was granted by Charles, constituting Gorges Lord Proprietor. Power of legislation was given to him, to be exercised in conjunction with the freeholders of the Province: the usual provisions being inserted as to the laws of England.

[1] See *Conquest of Canada*, by H. Kirke, 2nd ed. 1908.
[2] Brymner's *Report on Canadian Archives*, 1884.
[3] Sainsbury, *Cal. Addenda*, 1574-1674, Oct. 30.
[4] Sainsbury, *Cal.*, April 20, 1630.

Gorges' political rights were subject to the control of the Commissioners for Plantations, but his territorial rights were to be independent. A monopoly of the trade of the Colony was granted him, and, in religion, conformity to the Church of England was to be enforced. A fantastic scheme of Government, wholly unsuited to colonial life, was established by Gorges.

West Indies.

The reign of Charles I. also saw an extension of English authority in the West Indies. Barbados, which had been formally claimed as early as 1605, seems to have been actually settled about 1625.[1] It formed for a long time the battle ground of rival grants, and illustrated the inconvenience of legal documents drawn up by those who were in ignorance of the geography of the places with which they dealt. The rival claims of Lord Marlborough, Lord Carlisle and Lord Montgomery need not further detain us here. St Kitts had been settled in 1623, but Nevis, Antigua, and Montserrat were colonized between 1628 and 1632. In 1630 a grant was made to the Earl of Warwick, Lord Saye and Seal, John Pym and others as the governor and company of adventurers for the plantation of the island of Providence,[2] etc., between 10° and 20° north latitude and 290° and 313° longitude. The Company only lasted for the space of eleven years, but the fulness of the records which have come down to us make it of interest in the history of colonization. Its business appears to have been managed discreetly and well, and the fact, that a company, of which John Pym was a leading member, does not seem ever to have come into collision with the Privy Council, is a further proof of that moderation on which we have previously commented.

Policy of Laud.

It must be confessed, however, that the term moderation does not apply to the years during which Laud had the control of affairs. We are not here called upon to appraise either his character or his statesmanship, all that concerns us is his Colonial policy. That policy was one of "thorough"

[1] See Lucas, *Hist. Geog. of Br. Cols.*, Vol. II., W. Indies, note at p. 169.

[2] Note that this Providence was distinct from the New Providence, one of the Bahamas.

without the force which was behind the "thorough" of Strafford. A moment's reflection will shew how helpless, before the days of standing armies, was the Home Government, if confronted with colonial disaffection. It might have been, from Laud's point of view, a matter for regret that a Colony like New England had been suffered to grow up, but to suppose, considering the distance from England and the character of the colonists, that it could again be reduced to the yoke of the Church of England, was surely the height of folly. In the beginning of 1634, we find a correspondent[1] writing to Laud that ten ships are leaving for New England with six score emigrants in each, and that about 600 more intend shortly to go. The writer remarks on the ill effects of suffering such swarms to go out of England. The ships were thereupon detained, but were eventually discharged.[2] In the April of the same year, a Special Commission was appointed, consisting of the two Archbishops, the Lord Keeper, the Lord Treasurer, and eight others, with power to make laws and ordinances for the government of the English Colonies. The power was also given to impose penalties and imprisonment for ecclesiastical offences, to remove and appoint magistrates, and finally to revoke Charters unduly obtained. Sir F. Gorges, noting the way of the wind, asks whether it be not more than time that these people should be looked into. "They would be capable," he asserts, "if a drunken governor were to be sent over, of putting him in the stocks and sending him back again."[3] Meanwhile, New England was more and more enjoying the attention of "young men of rare gifts who cannot get any lawful entry, as also professors of good means who labour to keep themselves pure and undefiled."[4] Laud recognised that the moment for action had arrived, and that measures must be taken to prevent the further increase of the obnoxious Colony. Proceedings were in 1635 taken by an action *quo warranto* in the King's Bench. Judgment was given to seize the franchises of the corporation and to take Matthew Craddock into custody for usurping the Govern-

[1] Sainsbury, *Cal. of S. P.*, Feb. 4. [2] Feb. 28th, 1634.
[3] Sainsbury, *Cal.*, Nov. 2, 1634. [4] *Cal.*, May 8, 1634.

ment. In the case, however, of certain of the defendants, judgment appears not to have been given till two years later.[1]

The charge was that the Colony had acted *extra vires* of the Charter. On strict legal grounds there seems little doubt but that the decision of the judges cancelling the charter was fully justified. Causes, however, were at work which prevented this judgment from having practical results. A proclamation forbade departure from the Kingdom, unless a license had been first obtained from the Commissioners of Plantations, accompanied by a Certificate that the intending emigrant had taken the Oaths of Allegiance and of Conformity to the Church of England. Correspondents from the Colony informed Laud that "the Massachusetts Bay Colony would seem to mean revolt and erection of a new government, but in truth they have long since decreed to spend their blood in maintaining their present way and humour."[2] A proclamation[3] was issued appointing Sir F. Gorges Governor of New England. It was at the same time intimated that conformity to the Church of England would be strictly enforced. The outbreak of the Scotch rebellion gave the Home Government other things to think of. After that a temporizing letter[4] had been returned by the Colony to an Order requiring the handing over of their Charter, the Commissioners[5] expressed themselves only anxious to assert their authority, while leaving the liberty of the Colony practically as it was. They explained that the Charter should be replaced by a fresh one, and that the Colonial Government should have all necessary powers pending the grant of the new Instrument.

Results.

It thus appears that under Charles I. little had been done for Colonial expansion. On the contrary, there was grave risk lest the important New England Colonies would be lost, so that the period of beginnings seems to end in gloom, and yet, to one who looks deeper, much already had been gained.

[1] See Hutchinson, *Mass. Papers*, p. 101.
[2] Sainsbury, *Cal.*, Nov. 29, 1638.
[3] July 23, 1637.
[4] Sept. 6, 1638.
[5] May 1639, Winthrop, vol. i.

The English colonizing faculty had been developed, and Englishmen started along a road on which there was to be no going back; a "byt" had been put into the "anchent enymyes' mouth."[1] "Colonies," it was already dimly recognised, "are the foundation of great commonwealths; it is the fruit of pride and folly to despise the day of small things."

[1] Dale to Winwood, June 1616, Brown, *Genesis of U.S.*, Vol. II. 783.

BOOK II

THE PERIOD OF TRADE ASCENDENCY

1651-1830

πᾶσα ἀποικία εὖ μεν πάσχουσα τιμᾷ τὴν μητρόπολιν, ἀδικουμένη δὲ ἀλλοτριοῦται.

That baleful spirit of Commerce that wished to govern great Nations on the Maxims of the Counter.

CHAPTER I

THE COLONIAL POLICY OF PARLIAMENT AND CROMWELL

ENOUGH has been perhaps said to show how hesitating and uncertain were the first steps of English Colonial policy. So many Colonies—we may almost say—so many different types. Virginia, New England, Maryland, all present special features, are all examples of a distinct method of treatment. But for whoever had eyes to read the signs of the times, there could be no question which type would, in the long run, prevail. As surely as the house built upon the rock is firmer than the house built upon the sand, so surely would the New England character become the predominant one in the eastern states of the future. We know how large were the powers in fact possessed by Massachusetts. It elected its own governors; it carried on its domestic affairs in complete independence of England. We even find it going to war with the French without consulting the Home Government. When Connecticut set up as a separate Colony, it did not ask the leave of England. New Hampshire, and at a later date Maine,[1] were absorbed by Massachusetts in the same independent fashion. When, in 1643, the four Colonies of Plymouth, Massachusetts, Connecticut, and Newhaven formed a confederation, as the United Colonies of New England, no leave was asked of the Mother country. It is true that, in the preamble to the Articles, "those sad distractions in England" are alluded to as to some extent necessitating the measure; but the confederation in all probability would have been formed in any case. In the same spirit, Massachusetts set up its own Mint in 1652.

Virtual independence of New England Colonies.

Nor did the New England Colonies confine themselves to the field of practice. They also maintained in theory what they claimed to be their rights. In 1646 the court of elders and assistants drew up a formal statement of their views.

[1] In 1641 and 1652.

Opinions were not quite unanimous, but the prevailing doctrine was, as given by Winthrop, that "by our charter we have absolute power of government, for thereby we have power to make laws, to erect all sorts of magistracy, to correct, punish, pardon, govern, and rule the people absolutely." Their allegiance only bound them to the laws of England while they lived in England; "for the laws of the Parliament of England reach no further, nor do the King's writs under the Great Seal go any further."[1] Their dependence upon England lay in owing allegiance and fidelity. Such allegiance was shown by "the erecting such a government as the patent prescribes, and subjecting ourselves to the laws here ordained by that government." On the whole, the practical conclusion seemed to be that England had the right to interfere in the single case of the Colony acting in violation of the provisions of its charter.

Attitude of Colonies.

Such being the temper of Massachusetts, of the leaven which was to leaven the United States, the sequel of the story may well seem inevitable: but if we turn to a Royalist Colony, to Barbados, a West Indian Island,[2] "principally inhabited by men who had retired thither only to be quiet and to be free from the noise and oppression in England," we find the same 1651. note of independence. The declaration issued by Barbados protests against the doctrine that they should "be subjected to the will and command of those that stay at home." Two 1653. years later we are told that some persons had a design to make this place "a free State and not to run any fortune with England either in peace or war." Such being the temper of men of both parties it is obvious how dangerous for the future of English Empire were the distractions of the Civil War. In the Bermudas, for a time, power was practically in the hands of the ministers, who went "to such lengths as to make a man quite out of love with the government of the clergy."[3] We are not surprised that henceforth the Bermudas inclined to the royalist side.

[1] *Journal History of Massachusetts*, Vol. II., p. 352.
[2] Clarendon, *Hist. of the Rebellion*, book xiii.
[3] Sainsbury, *Cal.*, 1574-1660. Feb. 1642.

In the American Colonies there was in New England naturally no royalist party, as the method of the colonists in dealing with those who differed on fundamentals had been to put them on a ship and send them home again. In Virginia parties were more divided. It is difficult to believe that among the Virginian settlers there were many who really sympathised with Puritanism, but undoubtedly there was a popular party, strongly represented in the house of Burgesses, who saw in the success of the parliamentary party at home a means to improve their own position. In Maryland, on the other hand, there appears to have been little independent feeling on the question, the one thought in the mind of its astute proprietor being how, whoever prevailed, he might feather his own private nest. In this state of things all seems drifting towards disruption, and yet what we find is the exact opposite, a definite Colonial policy deliberately adopted which was to prevail for more than a hundred and fifty years. It has been often noticed how many of the leaders of the Long Parliament had passed their political apprenticeship in New England. The younger Sir Henry Vane and S. Vassall were among those who could speak with practical experience on colonial affairs, but the men who were now ruling England, whatever their faults, were not the men to cower before difficulties. Already in 1643, Lord Warwick had been appointed Governor-in-Chief of all Plantations, as well as Lord High Admiral. Commissioners for the Plantations were, at the same time, appointed, among whom we find the names of Lord Pembroke, Lord Saye and Seal, Sir Henry Vane, John Pym, Oliver Cromwell, and S. Vassall. After the execution of Charles I., one of the first measures taken was to apprise the Colonies of the change of Government. When Barbados, Antigua, Virginia, and Somers Islands, appeared to be still Royalist, an Ordinance of Parliament was at once passed, prohibiting trade with them. In the next year a Fleet was despatched against Barbados, and Commissioners sent to settle the affairs of Virginia. With regard to Barbados, the terms offered by Sir G. Ayscue, the Parliamentary Admiral, were very gener-

Policy of Navigation Acts.

1643.

Nov. 24.

1650.

ous. Liberty of conscience was allowed, except to such, whose tenets were "inconsistent with a Civil government," and an undertaking was given against the imposition of taxes, customs and impositions, without the consent of the Colony. It is noteworthy that Barbados, which resisted, seems to have obtained better terms than Virginia, which at once yielded on the arrival of the Commissioners. When the Articles signed by the Commissioners were presented to Parliament, those referring to the Charter and to the granting to Virginia as great privileges as to any plantation in America, together with the article guaranteeing freedom from all taxes, customs, and impositions whatsoever, without consent of the Grand Assembly, were referred to the Committee of the Navy; and in the Report[1] of that Committee no mention is made of these questions thus referred to them. When we remember that the Colony had no less than four times solemnly asserted its exclusive right of imposing taxes the omission is noteworthy. The settlement in Maryland need not detain us, as it illustrated no question of principle. The art of statesmanship has been compared to the walking on a tight rope, and no more triumphant exhibition of such statesmanship was ever given than when the Papist son of the Stuart favourite was able to plead his fidelity to the Commonwealth as opposed to the stubborn Royalism of Virginia. Finally, the adroit schemer "without force or fraud, without one substantial sacrifice, by the bloodless arts of diplomacy,"[2] won back every position for which he had fought. Look where one will, one finds, in the dealings of Parliament, no thought of surrendering an inch of British territory. At the same time active brains are at work over the problem of the Empire. When

Feb. 16, 1652. the ready-witted Colonel Modyford, anticipating later views, makes the "immodest" suggestion that Barbados should be allowed representation in the Imperial Parliament, the suggestion is approved by the Committee for Foreign affairs.

Navigation Ordinance 1651. Meanwhile a more powerful engine for moulding the Empire into one was to be fashioned. The Navigation Acts,

[1] Force *Hist. Tracts*, Vol. II.; 'Virginia and Maryland,' note to p. 20.

[2] Doyle, *Virg. &c.*, p. 416.

as a whole, had two objects in view: the one, the encouragement of English shipping; the other, the encouragement of English manufactures. It was with the former only that the Ordinance of 1651 was concerned. It is, of course, true that this measure represented no new policy. As early as the time of Richard II., an Act "to increase the Navy, which is now greatly diminished," had made it compulsory for English subjects to export and import goods in English ships, having the majority of the crew British subjects. This Act, however, had remained a dead letter. In the reign of Edward IV. another Navigation Act was enacted, but this lapsed at the expiration of three years. A further statute forbade the importation of foreign wines in any but English, Irish, or Welsh owned ships. As was to be expected, the legislature, during the reign of Elizabeth, was much occupied with the question. Old enactments were varied or renewed, in six different sessions, while an attempt was, at the same time, made to enforce stringently the law. According to the opinion of the time, these measures bore fruit in the large increase of merchant shipping. In 1624 a Proclamation was issued, followed at a later date by orders in council, prohibiting the use of foreign bottoms for the carriage of Virginian tobacco, and in 1641 a number of English merchants urged that these rules should be embodied in an Act of Parliament. That the Ordinance of 1651 was framed in no spirit of hostility to the Colonies is clear. In 1646 the Long Parliament, with the double purpose of at once conciliating the Colonies and encouraging English shipping, had enacted, that no duty should be levied on goods intended for the Colonies, provided that they were forwarded by English ships. Under the measure of 1651, no goods were allowed to be exported to the Colonies or imported thence into England, except in English or colonial built ships, the property of English subjects, having English commanders, and a crew three-fourths of whom were English. Attention should be directed to the provision allowing the use of ships built in the Plantations. It may well have been expected that the great natural advantages of the Colonies would call into being an important ship-

5 Ric. ii. c. 13.

4 H. vii. c. 10.

1640.

building industry. That the Navigation Ordinance of the Interregnum led to the measure of 1660 is undoubted. But that, in itself, it contained the full mischief of the Mercantile system, cannot be fairly maintained. The object against which the measure was directed was the naval supremacy of Holland; and it is by its success or failure in wresting the carrying trade from the hands of the Dutch that it must be judged. The opinion of the men of the Commonwealth with regard to the Dutch may be recognized in the words of Thomas Mun, who has been generally recognized as the earliest English exponent of that Mercantile system, which for so long dominated in the fields of practice and of thought. Anticipating the views of the next generation, we find him, as early as about 1628,[1] breaking through the chains of political and religious prejudice and boldly asserting that England's true enemy was not the Spaniards or the French, but the Dutch,[2] "who undermine, hurt, and eclipse us daily in our Navigation and Trade."

The Navigation Acts have been generally condemned by modern economists, as having neither conduced to the naval nor commercial greatness of England, but this seems a difficult thesis to maintain in the face of the well-attested fact that the carrying trade of England was, before their enactment, in the hands of the Dutch, and that afterwards, though of course not at once or at one bound, England became the great carrier of Europe. The secret of the success of the Dutch in the carrying trade lay in the greater cheapness with which they were able to transport goods. This was owing to the fact that they were able to build ships at a less cost and to navigate them with a smaller crew. The Navigation Acts gave the English the opportunity to make good the lost ground. To say that because the English mercantile marine has never flourished so much as since the repeal of the Navigation Acts, therefore these Acts must have been useless, is as though one should call crutches needless, because a man who is no longer lame can walk better without them. The

[1] *England's Treasure by Forraign Trade*, pub. 1664, but written much earlier.
[2] 1895 ed., p. 111.

mischief of artificial protection is that too often it resembles not a crutch but a bandage, under which the muscles become atrophied; but the modern history of English shipping is eloquent to show that no such charge can be fairly brought against the Navigation Acts. It is, of course, true that these Acts by themselves did not win England naval supremacy, but they were only a portion of a complete policy, which included the maintenance of the State Navy on a scale of organization and efficiency such as the world had never before seen. Whatever, however, be the truth as to this, we are here only concerned with the Navigation Acts, so far as they affected the Colonies, and here, undoubtedly, in their effects they represented a retrograde policy.

Policy of Parliament towards New England.

In another and more surprising direction we find the victorious Parliamentary party embarking in a spirited Colonial policy. If there were any who might be deemed bone of their bone and flesh of their flesh, they were the settlers in that Massachusetts, the founders of which were so strongly represented in the Parliamentary party; and yet we find that party granting a charter to Rhode Island against the wishes of Massachusetts, and in effect rebuking the parent colony for "the want of good feeling between men who had so much in common." A more practical question had arisen in 1644 as to the jurisdiction of the Parliament over Massachusetts. A Bristol ship was captured in New England waters by a captain holding a commission from Warwick, and the question arose whether the Parliamentary Commission overrode the jurisdiction created by the patent. In the end the colonists yielded, but the fact that they hesitated is in itself sufficiently significant. In 1651 Massachusetts was indirectly informed "that it was the Parliament's pleasure that we should take a new patent from them, and keep our Court and issue our warrants in their name." The Colony temporised with its answer, making it just when the Dutch War broke out, hinting thereby, as the New England historian complacently suggests,[1] that there were other Protestant powers to which appeal might be made besides England. Certainly,

[1] Palfrey's *Hist. of N. England*, Vol. II. p. 401.

the reluctance to take part in the Dutch War seems significant. The Colonial authorities gave formal leave for five hundred volunteers, if so many could be found to be enrolled; but they did not throw themselves heart and soul into the cause of the Mother country.

Policy of Cromwell.

Considering all these things, we seem to find the clue to what at first appears a strange proposal of Cromwell, that Ireland should be settled by immigrants from New England. We have been so much accustomed to read of the long tale of Irish emigration to the United States, first that of the Protestant North, and then, later, that of the Celtic South, that it comes as a shock to meet a proposal for emigration in the opposite direction. But the motive influencing Cromwell may well have been this. He recognised the extreme difficulty of retaining in subjection against their will a community of the type of New England, and saw clearly the tendencies making for independence. If, in the green tree of common political and religious sympathies, the forces making for disunion were so strong, what would they become in the dry sticks of a possible Stuart restoration? Cromwell may well have thought that the only possible remedy lay in gradually splitting up these formidable colonists. It must be noted that, from the triumph of the Parliamentary party, there was a complete cessation of emigration to New England. If Jamaica, conquered from the Spanish in 1655, and if Ireland could be largely populated by New Englanders, and if New England could be in turn supplied with colonists of a wholly different character, with Irish Tories and English "malignants," the permanence of English interests might be thereby secured. We must remember that, whatever else Cromwell was, he was, above all, a great imperial ruler, perhaps the only Englishman who has ever understood in its full sense the word Empire. The leader who made England, for the first time and the last, at once the greatest naval and military power in Europe, was not the man to let go an inch of English territory; and yet consider the scandal of an English Puritan coercing Colonies, themselves the first fruits of Puritanism. The idea of Cromwell, like so much

that issued from that active brain, was to fall still-born. Nevertheless, had it succeeded, the whole history of the American continent might have run on altogether different lines.

But if in New England matters Cromwell evolved a subtle policy, the full significance of which has perhaps been generally overlooked, of his general Colonial policy there is no room for doubt. Here, though he shelters himself under "Queen Elizabeth of famous memory," he is really the successor of Raleigh.[1] Like the great Elizabethan, his quarrel with Spain is twofold. On the side of Mammon, he covets Spanish treasure. On the side of God, he is opposing Anti-Christ. He must be a shallow critic, who finds in the strange, only half intelligible, expressions in his speeches, the note of hypocrisy. All, however, that we are here concerned with is the practical outcome of that policy in the conquest of Jamaica. At the time, it is true, the expedition seemed a failure. It was repulsed from Hispaniola, which had been its object, and the capture of a bare island, with only five hundred Spanish inhabitants, appeared a very poor compensation. Nevertheless in the long run, Jamaica proved as important an acquisition as would have been San Domingo. In judging of Cromwell's work, we must always remember the few years into which the events of his autocracy were crowded. He was proclaimed Protector in 1653 and he died in September 1658. "Time and I against the world," said Cromwell's great rival, Mazarin, but to Cromwell, the gods were less generous, and the necessary time was not given.

On the subject of emigration, the ideas of Cromwell were not before his age. In the nature of things, he was much occupied with the transportation of political prisoners. Readers of Carlyle will remember the passage[2] in which he speaks of Cromwell as "very apt 'to Barbados' an unruly man; has sent, and sends us by hundreds to Barbados, so that we have made an active verb of it—'Barbados you.'"

[1] Seeley, *Growth of Br. Policy*, Vol. II.

[2] Cromwell's *Letters and Speeches*, Part IX., 1655.

In 1654 we find the draft of a bill for transporting vagrants
Aug. 14, 1656. to the Western Colonies, and two years later a circular letter was addressed to the Majors-General and Commissioners for the different counties, ordering them to apprehend lewd and dangerous persons, rogues, vagrants, and those who have no way of livelihood and refuse to work, and to treat with merchants and others for the transporting them to the English plantations. The proceeds from the duty on the export of coals were to be appropriated to the carrying on of His Highness' affairs in America.

CHAPTER II

THE ADMINISTRATION OF CLARENDON

Policy of Government of Charles II.

WE have already noticed the remark of Seeley how completely English constitutional experiences have dictated the general history of English development. The reign of Charles II. well illustrates his meaning. It is almost universally described as a time of disgrace and infamy, and yet, so far as both the administration and development of the Colonies were concerned, it compares very favourably with the times which came before and which followed. The policy it attempted to enforce may or may not have been wise, but, at any rate, we find in high quarters an enthusiasm with regard to the Colonies, and a superiority in the men who have to deal with them, which makes the period a singularly interesting one. Even after the great men, Clarendon and Shaftesbury, are no longer at work, we find the Colonial Committee of the Privy Council, still, so far as good intentions and industry are concerned, meriting approval; and, if their efforts were unavailing against the canker of jobbery and corruption which was eating at the roots of English public life, at least in colonial matters, as perhaps nowhere else, some attempt was made to withstand this jobbery and corruption. The last years of Charles, along with the short rule of James, have been well described as a reign of terror, but even as late as 1681 we find the sun of Charles' Colonial policy setting splendidly with the foundation of the great Quaker colony of Pennsylvania.

Clarendon.

The presiding genius of the first period of Charles' reign was, of course, Clarendon, and when Greater England shall care to commemorate its makers, the illustrious representative of the *Via media* will doubtless occupy a place by the side of Raleigh, Cromwell, Ashley, Pitt, Carleton, Sir George Grey, and the many distinguished Englishmen, who have carried

forward the torch of colonial development. When offered up as a victim to his enemies by the King, who resented his respectability, Clarendon, in his defence,[1] asserted that, "soon after the Restoration, he used all the endeavours he could, to bring His Majesty to have a great esteem for his Plantations, and to encourage the improvement of them, and that he was confirmed in his opinion and desire by the entries at the Custom House, by which he found what a great revenue accrued to the King from these plantations; inasmuch as the receipts from them had repaired the decrease of the Customs which the late troubles had brought upon the parts of trade."

An examination of the English Colonial policy, at the time of the Restoration, fully bears out this claim. The first business of the restored monarchy, (and what more significant tribute could have been paid to the growing importance of the trading interest?) was to re-enact the Navigation Act, while at the same time, the scope of the measure was greatly enlarged. The 1651 Ordinance, as we have already seen, was enacted in the interests of English shipping, the Act of 1660 extended its protection to English manufactures.

Navigation Act. 12 Car. ii. c. 18.

The commercial attitude of England towards her Colonies had been, at the outset, a generous one. Under the charters, immunity had been, for the most part, given from all duties, except five per cent, for long periods of years. The provision allowing the Colonies to re-export goods from England, free of any fresh duty, at any time within twelve months, acted as an encouragement to colonial trade. Moreover, the readiness with which foreigners had been encouraged to settle in the various Colonies, showed a generous solicitude for their advancement. The spirit of this policy was now, however, to be changed. The Navigation Acts forged fetters wherein the Colonies were to be bound for many a long year.

[1] There are numerous versions of this Defence, but the only one I have found, which contains the passage with respect to the Colonies, is in the *Life of Lord Clarendon*, Oxford ed. 1827, Vol. III.

These Acts, and their successors, cannot be looked on as isolated events in English economic history; in fact, they were but particular manifestations of that general European movement, which is known as the Mercantile system. The German economist, Schmoller, has maintained that mercantilism was a necessary step in the evolution of modern society.[1] "In its innermost kernel it is nothing but statemaking . . . which creates, out of the political community, an economic community, and so gives it a heightened meaning." According to this view, the essence of the system lies, not in any theory, as to the precious metals, balance of trade, or the like, but "in the replacing of a local and territorial economic policy by that of the national state." The Mercantile system has been, for the most part, in England, judged from the modern standpoint. Compared with the particularism of the Town or Territory, it opened out a wider field of commercial freedom. Be this as it may, it involved, as commonly held, the subordination of the interests of the Colony to those of the mother state. The Dutch, "so lauded by the naïf free trader of our day, on account of the low customs-duties of their early days, were from the first the sternest and most warlike of monopolists."[2] "Their obstinate pursuit of monopoly,"[3] the same writer asserts, "gave rise to England's Navigation law, and Colbert's tariff, and attracted England and France themselves towards a like policy of pursuing narrowly mercantilist objects by force of arms."

But if it is impossible with fairness to condemn the authors of the Navigation Acts in the manner of English, and especially of American writers, it is none the less true that they mark the deliberate renunciation of an ideal, the putting forward of which might have led to much. If Mercantilism meant the national state as an economic community, as opposed to the Town or Territory, which had sufficed for the economic grasp of earlier times, might not a yet wider Mercantilism have gone one step further and substituted for the national State the national Empire? The ideal, which finds expression

[1] *The Mercantile System* (Econ. classics), p. 50.
[2] *Ibid.*, p. 65. [3] *Ibid.*, p. 66.

in the German *Zollverein*, the ideal which still fascinates the Imperial Federationist, is not, as is that of the Free Trader, contrary to the ideal of Mercantilism, but rather that ideal carried one step further. The "marine Empire" afterwards advocated by Pownall,[1] wherein the "different members should stand to each other as do Yorkshire and Middlesex," might have been "*sua si bona norint*," the last word of a more advanced Mercantilism.

Since the first starting of Colonies two views with respect to their inhabitants had been struggling for the mastery. The one, sanctioned by the English common law, regarded colonists as merely Englishmen beyond the sea. In an early tract we find this view admirably put. "A state that intends to draw out a colony for the inhabiting of another country must look at the mother and the daughters with an equal and an indifferent eye, remembering that a colony is a part and member of her own body."[2] The other view, which unhappily prevailed, thought and spoke of the Colonies as "foreign Plantations," and really confused, as has well been brought out by Professor Seeley, the idea of settlement with the idea of possession. It is because the Navigation Acts marked for many generations the final triumph of this theory that they constitute a landmark in English Colonial history. In the words of Burke, "It was the system of a monopoly. . . . The Act of Navigation attended the Colonies from their infancy, grew with their growth, and strengthened with their strength; they were confirmed in obedience to it even more by usage than by law. They scarcely had remembered a time when they were not subject to such restraint."[3]

The Navigation Act of 1660[4] forbade goods to be imported into or exported from British possessions, except in ships "as doe truly and without fraud belong onely to the people of England . . . or are of the built of and belonging to" any of the said British possessions, "whereof the greater, and three-fourths at least, of the mariners are English." The

[1] *Administration of the Colonies.*

[2] The Planter's Plea—Force, *Hist. Tracts*, Vol. II.

[3] *Speech on American Taxation*, April 19, 1774.

[4] This and subsequent Acts are set out in Macdonald, *op. cit.*

penalty was to be the forfeiture of both the ship and its cargo. The eighteenth clause forbade certain "enumerated" articles—viz., sugar, tobacco, cotton-wool, indigo, ginger, fustic, or other dyeing woods, to be shipped to any country except England, or some other English plantation. The second clause prohibited foreigners from becoming merchants or factors in the Colonies. Governors were to be solemnly sworn to do their utmost to put the Act into force; and all ships loading in the colonies any of the enumerated goods were to give bonds that their destination was England or Ireland. The Act of 1660 was strengthened three years later by an enactment which made foreign-built ships to be in all cases deemed alien. In the next year another Act was passed,[1] which further obliged European goods to be first landed in England before being exported to the Colonies. Another Act, "for regulating the plantation trade," imposed upon governors the duty of making annual returns of all ships lading any commodities in the Colony, and also of all Bonds taken. In 1672 a further Act was passed, rendering goods brought from one Colony to another liable to the same custom duties which they would have paid if brought to England.

Sec. 2. Sec. 19. 14 Car. ii. c. 11, sec. 5. 15 Car. ii. c. 7, sec. 4. 22 and 23 Car. ii. c. 26. 25 Car. ii. c. 7, sec. 5.

The provisions of the Navigation Act with regard to the "enumerated" articles were of far-reaching importance. It is true that among the non-enumerated articles there remained some of the most important products of America. Grain of all sorts was always excluded from them, and hides and skins were not included until the time of George III. The fisheries —a most important industry in New England—had all the encouragement which freedom could give them, and the trade both in lumber and rum was fostered by England. It was doubtless true, as stated by Adam Smith,[2] that "if the whole surplus produce of America, in grain of all sorts, in salt provisions and in fish, had been put into the enumeration and

[1] Note language—"For the maintaining a greater kindnesse and correspondence . . . it being the usage of other nations to keep their plantation trade to themselves."

[2] *Wealth of Nations*, Book IV., ch. 7.

thereby forced into the market of Great Britain, it would have interfered too much with the produce of the industry of our own people." England was thus actuated "not so much from any regard to the interests of America as from a jealousy of this interference." Nevertheless the good results to the Colonies were the same. Still, when all allowances have been made, the rules as to the enumerated articles were the first definite statement of the theory that the Colonies only existed for the benefit of the Mother country; so that, in the words of a later writer,[1] "All advantageous projects or commercial gain in any Colony which are truly prejudicial to and inconsistent with the interests of the Mother country, must be understood to be illegal and the practise of them unwarrantable; because they contradict the end for which the Colonies had a being." Doubtless the germ of the Navigation Acts was found in previous practice. The Privy Council had in 1621 issued an order[2] declaring that all Virginian tobacco, whether intended or not for Continental consumption, should be brought to England first. In excuse of the English authorities, it must be remembered that, whatever may have been the case with regard to the New England Colonies, Virginia owed much direct aid and protection to the Mother country, and that the revenue derived from the custom dues was the only way in which she could make a return. Moreover, England not only prohibited[3] the cultivation of tobacco
July 1624. on English soil, but also excluded foreign tobacco from the English market. It must be confessed, however, that the levying of high duties on tobacco before 1630 was in direct violation of the clause of the 1609 Charter which gave exemption for twenty-one years from every form of custom duty,
1624. except the 5 per cent. duty, and that the proclamation against the importation of Spanish tobacco was subsequent in time to the order dealing with the exporting direct to
1621. foreign parts. The instructions, to Wyatt in 1639 and to

[1] Paper in Rec. Office, written in 1726 by (?) Sir W. Keith.

[2] Sainsbury *Cal.*, 1574-1660, Oct. 24, 1621.

[3] Proclamations of James I. and Charles I., Ordinance of 1651, &c. But the law was often evaded. See 22 and 23 Car. ii. c. 26.

Berkeley in 1641, directed them strictly to enforce this order.

It must not be supposed, however, that the policy of the Navigation Acts was silently acquiesced in at the time of their origin. I shall quote soon in another context the opinions of some colonial governors, but writers, *e.g.* Coke,[1] protested strongly against them. The marked ability of the petition[2] of John Bland, a leading London merchant, representing Virginia and Maryland, has often been noticed. Not less noticeable is the extreme acrimony in which its language is couched. He speaks of the authors of an Act, which, after all, represented the considered opinion of the civilisation of the day, as knowing "no more than children newly put out to prentice." One practical suggestion, however, he made of great importance. He recommended that English ships should pay in the Colonies the same customs as they would in England, or give bills payable in England, and then be allowed to go whither they pleased. The petition brings out very clearly the increase in prices caused by the operation of the Act. But this increase tended to diminish, as English shipping developed under the shield of State encouragement.

When all was said and done, however, it was one thing to pass Acts of Parliament and another to enforce them, and the State Papers are full of complaints on this subject. In the case of the New England Colonies especially, there is much evidence to show that the Act remained for the most part a dead letter. We are told that 1676.
free admission was allowed to the ships of all nations. We find the English merchants affirming that New England had 1677.
become the great mart and staple of trade. Moreover, in the reply given by Massachusetts to the Royal Commissioners, May 1665.
who went out in 1664, it is said that "they were not conscious to themselves that they greatly violated,"[3] which cannot be taken as a very strong denial. It was true that New England did not itself produce any of the enumerated

[1] *A Discourse of Trade*, 1670.
[2] Printed in *Virginia Mag. of Hist. and Biog.*, Vol. I., 1893.
[3] Palfrey, Vol. III. p. 614.

articles, but its trade largely consisted in exchanging its own products for the sugar, tobacco, &c. of the West Indies and Virginia. Moreover, with such want of thought for the case of Massachusetts had the Navigation Act been drawn, that it proved practically unworkable in that Colony: contemplating, as it did, its enforcement, by means of the oath taken by the Governor appointed by the Crown, an officer who was non-existent in the New England Colonies.

Duties on exports.

At the Restoration a further line of action appeared to be contemplated,[1] which if persisted in, must have caused great friction and trouble. The patent of 1663, constituting the office of Commissioners of Custom, empowered them to levy and collect a duty of four and a half per cent, ad valorem, on all dead produce exported from Barbados and other sugar islands, and from the Plantations in America. In the case of the Caribbean Islands, the grant of the four and a half per cent. duty was made by the inhabitants themselves, as the result of a compromise, the consideration obtained being the cancelling of the rival proprietary rights over the Islands. In this state of things, Jamaica was never liable to the four and a half per cent. duty, and when, after the treaty of Paris, the attempt was made to levy the tax, on the "ceded" islands of Dominica, St Vincent, Grenada, and Tobago, it was held[2] in *Campbell* v. *Hall* that the tax could not be enforced, on the ground, that the cession had been made, on the condition of preserving to the inhabitants all the privileges enjoyed under French rule. Moreover, no export duties were ever levied or attempted to be levied from the American Colonies, so that if the terms of the patent of 1663 indicated a distinct policy, that policy must have been immediately abandoned.[3]

Council for Foreign Plantations.

At the moment of the Restoration the old committee of the Privy Council for Plantation affairs had been restored, but, after the enactment of the Navigation Act, a new standing

[1] See Palgrave, *Dict. of Politic. Economy.*—Exports, duties on.

[2] 20 *State Trials.*

[3] It should be noted, however, that in 1671 it was proposed to increase the duty on sugar by an Act of Parliament. The measure passed the Commons but was defeated in the Lords through the exertions of Lord Willoughby.

Council or Commission for dealing with Colonial affairs was set on foot. This Commission consisted of over forty members, and a new departure was made by the introduction of merchants, as colleagues of the Privy councillors, and by a recognition, in theory, of the representative principle.[1] The royal instructions to the Commission denote the serious spirit in which the work was taken up. They are to inform themselves of the state of the Plantations, and by what commissions they are governed; to study their complaints, wants, growth, commodities, and trade, that all may be regulated upon equal ground and principle; to adopt means for rendering those dominions and England mutually helpful; to bring them into a more uniform government, and order the better distribution of justice; to enquire into the governing of the Colonies of foreign states, and apply what is good and practicable; to take a special care for the strict execution of the recent Navigation Act; to consider how the Colonies may be best supplied with servants, so as at once to prevent forcible abductions and encourage those willing to go; and to set on foot a system of transporting to the Colonies vagrants and those who remain here noxious and unprofitable. Dec. 1660.

Not the least important test of colonial administration is the selection of Governors. We have seen how, in the beginning, the Governors of the different Colonies tended to become the representatives of practically independent communities. At a later date, for many generations, the Governors were for the most part English placemen, who looked upon their Colony as a dull resting place to be tolerated until a better berth might be found at home. But, Colonial administrators.

[1] "The 17th Aug. 1660, an order in Council required the Lord Mayor to give notice to the Turkey merchants, the Merchant Adventurers, the E. India, Greenland, and Eastland Companies, and likewise to the unincorporated trades for Spain, France, Portugal, Italy, and the W. India Plantations, of the King's intentions to appoint a committee of understanding, able persons. . . . And the King willed them, out of their respective societies, to present unto him four of their most active men, of whom His Majesty might choose two of each body, and to these merchants added some other able and well-experienced persons, to be dignified also with the presence and assistance of some of His Majesty's Privy Council."—*Mis. Tracts* at Guildhall, quoted in Vol. III., p. 251 of *The writings of W. Paterson* by Saxe Bannister.

The leading authority on this subject is *British Committees, Commissions and Councils of Trade and Plantations*, 1622-1675, by C. M. Andrews. John Hopkins, Univ. Studies, Baltimore, 1908.

in the time of Charles II. we find Governors who, while they are perfectly loyal to the Home government, make the cause of the communities they govern peculiarly their own. Each studies the interests of his own Colony. When Barbados is required to furnish men for Jamaica, the Governor remarks that Europe is the right magazine for people.[1] "To plant one colony from another is to take out of the right pocket to put into the left." It was natural that the brave Lord Willoughby, who had held Barbados for the King, should return as Governor.[2] But it is more surprising to find Modyford, who had been the cause of that island's capitulation to the Commonwealth, in favour under Charles, and given the government of Jamaica. It is true that his relationship to Monk may have helped him, but the chief cause of his employment seems to have been that he was eminently fitted for the post. More striking still was the case of the younger Lord Willoughby.[3] By his correspondence he is proved to have been a boon companion of Charles, and yet, both as Governor and Admiral, he acquitted himself with great ability and discretion. We may add to these the name of Sir W. Stapleton, the very competent Governor of the Leeward Islands. His character has been drawn for us by Mr Fortescue.[4] "His troops were unpaid, he himself was the King's creditor for many years of arrears of pay, for which he pleaded so often in vain that he was obliged at last to give a modest account of his services to show that without vanity he deserved his pay 'as much as any one,' yet he never lost heart, the amount of business which he contrived to transact was enormous . . . it is refreshing to encounter at such a time so fine a type of quiet courage, resolution, resource, and devotion, as that presented by William Stapleton."

How seldom in subsequent times are Colonial Governors found criticising, with such boldness, English legislation. Hear Willoughby on the Navigation Acts[5]—"Free Trade

[1] Francis Lord Willoughby, June 27, 1664. [2] He died at sea in 1666.
[3] William Lord Willoughby went out as Governor of the Caribee Islands in 1667
[4] Preface to *Cal.*, 1677-1680. [5] Sainsbury *Cal.*, 1660-8.

is the life of all Colonies, but such is the condition of 1666.
the Caribbean Islands that they have not clothes sufficient to hide their nakedness, or food to fill their bellies. Whoever he be that advised his Majesty to restrain and tie up his Colonies in points of trade is more a merchant than a good subject, and would have his Majesty's Island but nursed up to work for him and such men." Hear, again, Sir T. Lynch—"Young colonies, like tender plants, should be 1673.
cherished and dealt easily with, it being better to put soil to their roots than to pluck too early fruit." Or, more instructive still, Sir J. Atkins writes—"Wheresoever July 1676.
you intend to plant a new colony, you must make their port a free port to all people to trade with them that will come. The King's customs would be considerably advanced . . . if customs of all sorts were paid here, according to the rates in England, and their goods allowed to be carried where they may make the best market, not making use of any but English ships." He adds the shrewd remark, "if plantations be by a society of noblemen, gentlemen, and merchants, the two first will commonly venture no more than they will throw away at dice or cards, the merchants do it in hopes of extraordinary gain, but, if returns come not in, the gentleman grows suspicious, and the merchant grows 'restie.'"

The settlement of Jamaica had been Cromwell's special Jamaica.
care, and it would have been natural if the Restoration had been hurtful to its interests. On the contrary, we find all possible means taken to advance its weal. Absolute religious toleration is to be allowed even to Quakers. The oaths of allegiance and supremacy are to be dispensed with. Foreigners are encouraged to settle, but the shrewd advice is added that they be not kept in Colonies apart, but be mixed with the King's subjects. Finally, freedom from all customs was granted for the space of twenty-one years. Nor was it merely that Jamaica was not handed back to Spain, and that its material development was carefully encouraged, the Restoration government showed itself also most liberal in the question of the Constitution. The learning of lawyers has established a distinction between

Colonies acquired by conquest and Colonies acquired by settlement, with regard to the legal position of the inhabitants, so that it would have been easier to establish absolutism in the case of Jamaica, than in the case of Virginia or Barbados. But, in fact, the most generous terms were freely granted. On the appointment of Lord Windsor as Governor, March 1662. he was directed to call assemblies, according to the custom of the other Colonies, through whom he should enact laws. Such laws were to be in force for two years and no longer, unless confirmed by the English Government. Matters worked smoothly during the governorships of Sir T. Modyford [1] and Sir T. Lynch,[2] but, during the period of Lord Vaughan, disputes arose between the colony and the mother 1678. country. Lord Carlisle was sent out to enforce a more vigorous policy. An examination, by the Committee of Trade and Plantations of the laws in force in Jamaica, led to the decision to draft a code of laws in England, to be be accepted by the Colony *en bloc.* Henceforth, the provisions of Poynings Act [3] for Ireland were to be applied to Jamaica, and a perpetual revenue was to be exacted from the assembly. The Colony resisted these demands, and even the Governor, Lord Carlisle, expressed himself publicly in favour of compromise. At first, however, the Home Government stood firm, and in 1680 we find the following significant question addressed to the Judges, "whether, by His Majesty's letter, Proclamation or Commission annexed, His Majesty had excluded himself from the power of establishing laws in Jamaica, it being a *conquered country*, and all laws settled *by authority* there, now expired?" The answer of the judges appears not to be extant, but from an opinion of the Attorney-General there is little doubt but that it would have been in favour of the Crown. However, finally more moderate views prevailed. It was decided, on the advice of North, C. J., not to persevere with the claim, and in 1681,

[1] 1664-1671. [2] 1671-4.

[3] Under the Statute (10 H. vii., c. 4), no bill could be introduced into either House in Ireland, which had not been considered and approved by the Privy Council of England, and every Bill, so considered and approved, had to be either passed without amendment or rejected.

Sir T. Lynch was re-appointed Governor with the same general powers of enacting laws with the consent and advice of the Council and Assembly. A Constitution similar to that of Barbados was conceded, which was practically to grant all that the Colony had asked for. At the same time, it was decided to insist upon the granting of a revenue for, at least, seven years.

England and France in the West Indies.

With regard to foreign relations it was recognised that the time was a critical one. France had only recently appeared as a claimant to Islands in the West Indies in its own name. The power of Spain was on the wane, and the struggle for supremacy would be between France and England. Whatever might happen in Europe in the West Indies there was no intention that England should yield the supremacy. When Willoughby proposes to occupy St. Lucia "to cool the courage of the French at Martinique," his action is approved by the Home Government. Doubtless there was another side to the shield in the West Indies as elsewhere. Governors are found complaining bitterly of the neglect of the Home authorities in Naval matters. In the correspondence of Sir W. Stapleton, the solitary "Deptford Ketch," which represented the Majesty of England, bulks very large. "What credit," he asks, "can redound to the King from a Ketch when the French receive annually a squadron of good ships?" For some years the English West Indies were practically at the mercy of the French, though the misfortunes of the French Admiral d'Estrées,[1] whose ships were wrecked on a group of rocks known as the Aves Islands, came to their aid. The most that the English could aim at was to obtain a Treaty of neutrality for the West Indies in the event of war between France and England, but an agreement to this effect was contemptuously broken by the French commanders.

Nov. 1663.

Corruption in Colonial administration

Unhappily, the cases were numerous in which practical abuses rendered good intentions of none effect. There is a significant request by Willoughby that before grants are made they may be sent to him so that he may send informa-

[1] He went to sea for the first time in 1667, being then of mature years.

tion as to their value, which illustrates the besetting sin[1] of Stuart administration. As time went on, another evil grew in volume. In 1679 the Secretary of State drew attention to abuses which had recently crept into the Plantations in respect of offices. "Formerly the powers claimed by Governors to dispose thereof were so absolute that they challenged the King's appointments under the great Seal. Now, by a rush into the other extreme, Governors had been deprived of the authority, which it was necessary for them to maintain, by disposal of offices within their government, which are now filled by His Majesty, through private solicitations of persons in no way connected with the plantations, without the knowledge of or approbation of the Governor." As Sir J. Atkins bitterly complained, he was liable to dismissal and the forfeiture of one thousand pounds for breach of duties with regard to the Navigation Acts, the execution of which lay with a Secretary, of whom he knew nothing, but who had been foisted upon him from England. It was decided by the Committee of Trade and Plantations that a proper division of offices between those in the gift of the Governors and those in the gift of the Crown should be made, but, unhappily for the subsequent history, the interests which barred the way of reform proved too powerful to allow of real improvement.

New England. These things, however, belong mostly to a later date, and as proof of the ability with which, in spite of abuses, the administration of colonial affairs was carried on, we may instance the treatment of the difficult question of New England. How could stiff-necked Massachusetts, which had scarcely acknowledged the sovereignty of the Commonwealth or of Cromwell, be brought to a more yielding temper? That the English Government was fully alive to the great merits of the New England colonists was shown in a very striking way.

Dec. 1660. In the instructions given to Sir W. Berkeley, who returned to

[1] Note the language of Burnet, *History of his Own Times*, Vol. II., 1833 ed., p. 102: "And Coventry told Lord Essex that there was once a Plantation-Cause at the Council board, and he was troubled to see the King espouse the worst side; and upon that he went to him and told him secretly that it was a vile cause which he was supporting: the King answered him, he had got good money for doing it"!

Virginia as Governor, it is said that "they cannot have a better example than their neighbours of New England, who have in few years raised that Colony to breed wealth, reputation, and security." It is, in truth, difficult for even the most devout worshipper at the New England shrine to find much to satisfy him in the story of Massachusetts at this period. In the first place, the founders of the Colony were now nearly all dead, and their successors were men moulded of coarser clay. Nor when we turn to the merits of the controversy do the claims of the Colony appeal to the sympathies of the impartial onlooker. The main points insisted on by Clarendon were that the Oath of Allegiance should be taken, that the administration of justice should be carried on in the King's name; that toleration should be allowed to the use of the Church of England Prayer Book, and finally, that the right of voting should be extended to all freeholders "not vicious in conversation and orthodox in religion." With regard to the first two claims, all that was required was that allegiance to England should be honestly recognised. One cannot, of course, take for absolute truth the prejudiced statements of the Royal Commissioners, but it is probable that the Colony did hold that they were not bound to the King "but by civility," Dec. 14, 1665. and that they did hope "by writing to tire the King, the Lord Chancellor, and Secretaries." They had so often styled themselves "this State or Commonwealth" that they had come to believe themselves one. Now, as to the equities of the case, it may well be that Massachusetts did not owe much loyalty to the House of Stuart, and if she had been strong enough to win her independence, from the point of view of justice, little need have been said. But what does come as a shock is to find on paper the expression of the most abject loyalty—Massachusetts is the Mephibosheth[1] to Charles's David—while, in fact, the same men were aiding and abetting the escape of the regicides and doing nothing of what the King required. With respect to the other demands, the Home Government were clearly in the right. A principal end of the original Charter had been liberty of conscience,

[1] Letter of Gov. Endacott, Feb. 11th, 1661.

and yet now it was, in substance, refused to members of the Church now dominant at home. It is difficult to form a judgment upon the extent of the grievance, which confined the right to vote to Church members, but there is evidence to show that there was an important and growing minority, especially in the commercial towns, who were, by this rule, shut out from any share in the government.

Such being the state of the case upon its merits, the question was how to settle matters without either yielding essential points, or exciting violent opposition. The manner in which the attempt was begun was adroit in the extreme. It will be remembered that the four confederated Colonies of New England consisted of Plymouth, Massachusetts, Connecticut and Newhaven, and that Rhode Island had remained a virtual outlaw, looked down upon by its more orthodox neighbours. Clarendon remembered the maxim *divide et impera*, if we may use the word "rule" where moderation
July 1663. was so conspicuous. Rhode Island received a Charter with complete religious toleration, the hope being expressed "that the same, by reason of distance, may be no breach of the uniformity in this kingdom." A significant clause was inserted, sanctioning appeals to the Crown "in all public
April 1662. controversies." Connecticut also received a Charter, but the business was managed with such Machiavellian skill that unhappy Newhaven found itself by the grant absorbed in Connecticut, and, after an ineffectual resistance, was obliged to yield to facts. Of the four Confederate States, two were thus merged in one, and that one, from the nature of things, jealous of Massachusetts. Nothing was done in the case of Plymouth, probably because the senior Colony had by this time ceased to be of political importance.

Preparations being thus made, the next step was to send
1664. Commissioners to America. Their real business was to find out the state of affairs in New England, and report to the Home Authorities. In a paper which has been sometimes ascribed to Clarendon, it was stated that the object to be aimed at was the reduction of New England "by means of

insinuation" rather than of "force." In their secret instructions, the Commissioners were enjoined to "frequent their churches, and be present at their devotions." A very plausible ground for sending the Commission lay in the numerous frontier questions, which existed between the various Colonies. Unfortunately the choice made of Commissioners was an unhappy one. Their selection had been left to the Duke of York, who had doubtless little sympathy with the policy of his father-in-law. Colonel R. Nicolls was, indeed, a most capable officer, but the work of reducing New Amsterdam, of which we shall speak presently, left him little leisure to attend to New England affairs. Maverick appears to have been a man of honour and ability, but he was deeply prejudiced against the rulers of Massachusetts, and it was plainly wrong to appoint as Commissioner one who had been lately petitioning against those on whom he was now to sit in judgment. Nor did the very serious language with which Clarendon warned him against any show of partiality meet the mischief.[1] Sir R. Carr and Cartwright were frivolous placemen, little calculated to overawe the Massachusetts Government. April 23, 1664.

The result of the Commission was such as, in these circumstances, might have been expected. The Commissioners were, of course, made welcome in Rhode Island and Connecticut, but in Massachusetts they practically effected nothing. They do not seem by any means to have made the most of their own case. It was one thing to maintain that, in the last resort, a right of appeal should lie to the English Courts; it was another for stray Commissioners to claim to sit as a Court of Appeal in the Colony, upon cases already decided by the Colonial courts. The Commissioners found themselves under the necessity of retiring from the country, and it was a fitting ending of such a hapless mission that the Commissioners' reports and papers should have fallen into the hands of a Dutch privateer.[2] It was impossible for England to acquiesce in this termination of affairs. A peremptory letter was addressed to the Colony announcing the King's displeasure, April 10, 1666.

[1] *Documents relating to N. York*, Vol. III.

[2] On this Commission see *Colonial Administration under Lord Clarendon* by P. L. Kaye. John Hopkins, Univ. Studies, Baltimore, 1905.

and ordering the sending of four or five accredited agents to England. A timely present, however, of masts[1] and of provisions for Barbados did much to mitigate the anger excited in England; and the fall of Clarendon, and the threatened outbreak of war with both France and Holland served to divert for some time the attention of statesmen, so that the inevitable struggle was for the present put off.

Oct. 1666. Meanwhile we find Nicolls asserting that the eyes of all the other Colonies are bent upon the strange deportment of Massachusetts, and advising that the Colony should be dealt with, not by force, but by a temporary embargo on its trade.

It is pleasant to turn from this record of ineptitude and prevarication to the business-like and capable manner in which Nicolls carried out his instructions with regard to the Dutch Colonies. By the liberal terms offered, he was able to leave the Dutch Governor isolated with a garrison

Aug. 1664. of some 150 men, and the reduction of New Amsterdam and

Oct. 1664. Delaware to England was effected with little or no loss of life. The importance of this reduction cannot be overestimated. Henceforth the English Colonies, except for a brief interval, had a continuous seaboard along the Eastern coast, and the fear of a hostile power occupying the important position of the Hudson was removed.

As a set-off to this, England under the Treaty of Breda

1667. again gave back to France Nova Scotia, which had been again conquered by Cromwell's lieutenant, Sedgwick. The cession of Acadia is further noteworthy as illustrating the vagueness in geography often displayed by statesmen. In the Order restoring it, it was expressly declared that full rights over Nova Scotia were to be maintained. But, unfortunately, Acadia included Nova Scotia, so that the English Government were reserving to themselves a shadow.[2] When,

1675 on the dissolution of the Council for Foreign Plantations, its secretary, John Locke, had to hand over to Sir R. Southwell,

[1] Pepys' *Diary*, Dec. 3, 1666, "Which is a blessing mighty unexpected, and without which, if for nothing else, we must have failed the next year."

[2] See Sainsbury, Preface to *Cal.*, 1660-8.

the new secretary of the Committee of the Privy Council, his papers, he accounts for these, but significantly adds a denial of knowledge of the maps and globes also asked for. It must be admitted, however, that Evelyn mentions[1] the Council Chamber as furnished with maps, atlases, charts, globes, etc.; and in 1678 we find Blathwayt presenting an account for "books and maps bought by him at Paris. Their Lordships seem well pleased with the collection."[2] In any case English statesmen may well have thought that it was not unwise to have a French thorn in the flesh, threatening so independent a Colony as Massachussets was still showing herself to be, and possibly the same motive may have caused that toleration of the French settlements in Newfoundland, which has been so severely condemned by later writers.

[1] *Diary*, May 26, 1671.
[2] Fortescue, *Cal.*, 1677-1680.

CHAPTER III

THE COLONIES UNDER THE LATER STUARTS

Shaftesbury. NEXT behind Clarendon in importance, if indeed at all behind, must rank a statesman of a very different type. Whatever be the clue to the illusive windings of Shaftesbury's domestic policy, his record in colonial matters is consistent and clear. Appointed from the outset a member of the Council for Trade and Plantations, he continued to be one of its most active members. In 1667 we find him proposing a new Committee for Trade, which in the following year made the important recommendation that the Customs authorities should maintain an officer in each Plantation, whose business it should be to administer the Oaths,[1] required by the Navigation Act, to the several Governors. Before his fall Shaftesbury became the President of the Council for Trade and Plantations, and it was through him that the Oct. 1673. philosopher, John Locke, was appointed its secretary.

Carolina. Shaftesbury, however, in colonial matters, is best remembered in connection with the foundation of Carolina. In 1663 a Charter was granted to Lord Clarendon, the Duke of Albemarle, Lord Craven, Lord Berkeley, Lord Ashley,[2] Sir G. Carterett, Sir J. Colleton, and Sir William Berkeley, of the territory lying to the south of Virginia.[3] By the English this tract had been known as South Virginia, and by the Spanish and French as a portion of Florida. The attempt of the French to settle there had been foiled by the cruelty of the Spaniards, and the apathy of the French Government in protecting heretics. The area granted covered the lands already given by Charles I. to Sir R. Heath, but it was

[1] Note that in 1672 we find Sir C. Wheeler, the Governor of the Leeward Islands, complaining that he suspects no other Governor has been sworn to the Act of Navigation but himself; and for aught he can see masters and merchants punished by him can trade freely to other islands. [2] Afterwards Lord Shaftesbury

[3] The Charter is set out in Macdonald *op. cit.* p. 120.

held that, no attempt having been made to occupy, the earlier grant fell to the ground. Of the eight proprietors, Ashley and Colleton were the most active. Under the Charter, as amended two years later, laws were to be 1665. enacted by the proprietors with the advice and assent of the free men, or of the greater part of them or their delegates or deputies. Such laws were to be consonant to reason, and, as far as possible, agreeable to the laws and customs of England. Power was given to confer titles of honour, but such titles were not to clash with those in use in England. Liberty from custom dues was granted for seven years, on certain exports, and the right was allowed after unloading goods to re-export them to foreign countries within one year, without paying more than the ordinary dues. The Colony was to be immediately subject to the Crown of England, and to be in complete independence of any other Colony.

The preamble to the clause relating to religious toleration runs: "Because it may happen that some of the people cannot in their private opinions conform to the public exercise of religion according to the Church of England, or take or subscribe the oaths and articles made and established in that behalf, and for that the same by reason of the remote distances of those places will, as we hope, be no breach of the unity and conformity established in this nation." And the clause itself allows liberty to the proprietors to grant such indulgences and dispensations as they think fit and reasonable. The principle of religious toleration and its grounds could not be more lucidly stated.

The Charter being obtained, the next step was to develop the Colony. The aim of the proprietors appears at first to have been to establish a variety of separate and independent Colonies, each of which should have its own Governor, its own assembly, and its own customs and laws. In the extreme north a settlement had already been made from Virginia, and over this Sir W. Berkeley was to preside. It must be allowed that for many years Carolina was very far from a success, but this was due to no want of goodwill or good management on

the part of the proprietors. On the contrary, they showed a most accommodating spirit in their efforts to assist the colonists. The failure has been ascribed to a variety of causes, to the unhealthiness of the climate, to the dispersion of the settlers over too large an area, and even to Locke's luckless Fundamental Constitutions. In fact, the truth would seem to be that the land was most suited to cultivation on a large scale, of such staple products as rice, and that therefore it did not attain full development until the Upas tree of negro slavery was in full bloom. Be this as it may, the letters of Shaftesbury on the Colony bear witness to his constant and assiduous care. No subject is too trivial to command his attention. We find him summoning home young men who had emigrated against the wishes of their relatives, writing letters of introduction for newcomers, warning the colonial authorities to keep strict secrecy as to the existence of mines, and in their letters to call gold "antimony" and silver "iron." He has always a good eye to the main chance; "we find ourselves mightily mistaken in endeavouring to get a great number of poor people there, it being substantial men and their families that must make the plantation, which will stock the country with negroes, cattle, and other necessaries, whereas others rely upon and eat us." His letters of rebuke are models of their kind. "If to take care of one, whatsoever becomes of us or the people; if to convert all things to his present private profit be the mark of able parts, Sir John[1] is without doubt a very judicious man."[2]

Closely associated with Shaftesbury in his colonial labours was his confidential secretary and physician, John Locke. It is not possible in all cases to say what was written by the one and what by the other. Most interesting is it for a generation, to which such puffs have become terribly stale, to read an advertisement, drafted by a statesman and philosopher, in the youth of colonization. "Notice is hereby given to all ingenious and industrious persons that there is a new plantation begun two years since in the mainland between Virginia and the Cape of Florida. It is a climate most

[1] Sir J. Yeaman. [2] *The Shaftesbury Papers* were published by the S. Carolina Hist. Soc., *Collections*, V., 1897.

desirable . . . they have two crops of India corn in one year . . . The privileges with which it is endowed make it yet more desirable. The principles whereof follow—

1. There is full and free liberty of conscience granted.

2. They shall choose, from among themselves, thirteen persons or some other odd number, one whereof the Lord proprietors will appoint for Governor, and half of the others for his Council, which Governor is to rule for three years and then learn to obey.

3. They shall choose from among themselves an assembly. . . . They are to have freedom of custom in England, for all wine, fruit, currants, almonds, oils, olives, and silk for seven years."

5. Every man and woman going before June 24th, 1667, was to have a hundred acres for himself, wife, and each child, and armed servant, and fifty acres for every woman, servant, and slave.

6. Every servant at the expiration of the four years' term of service was to have the same quantity of land as his master had already obtained because of him.

In spite of these attractions, settlers did not come forward, and the North Carolina colonists contented themselves, in the way of legislation, with establishing a kind of Alsatia, where the debtor might rest from duns, and in constituting a marriage law which for crude simplicity it would be hard to beat. There is a curious irony in the fact that it was with material such as this that the first practical attempt at constitution making by a philosopher, at least in modern times, was to deal. The fundamental constitutions of Locke possess an interest in the fields of jurisprudence and thought, but they left little or no trace in the life of the Carolinas, except as an occasional cause for bickering, and, when they were formally annulled by the Proprietors in 1693, the life of the Colony went on just as before. They now serve only to point the trite moral that character and circumstances count for more in the development of constitutions than the best thought out *a priori* theories of the philosophic law-giver. Nevertheless, the constitutions represent an honest

effort to steer clear between the opposite dangers of absolutism and democracy. American writers view with disdain their attitude towards democracy, but precisely the same view was held by Governor Winthrop and the founders of Massachusetts. The strange titles of "landgrave" and "cacique" have served to give an air of the ludicrous to the whole proceedings, but it was no easy matter to find new titles. Parliaments were to be held biennially. The qualification for becoming a member of the Assembly was fixed as the possession of five hundred acres of freehold land. The qualification for a vote was the possession of fifty acres. In a country, which was to derive such lustre from its lawyers, it was solemnly declared, "it shall be a base and vile thing to plead for money or reward." To prevent the multiplication of laws, all statutes, at the end of 100 years, were to become repealed by efflux of time, and the strange regulation was inserted, forbidding all manner of comment on and exposition of the Fundamental Constitution. No man could be a free man who did not acknowledge a God, and that God is publicly and solemnly to be worshipped. Any seven or more persons might constitute a Church, but they must be able to declare, besides the above two articles of belief, that it is lawful, and the duty of every man, to bear witness to the truth. No man over the age of seventeen not belonging to a church was to have the protection of the law. An express injunction forbade the speaking seditiously against the Government or Governor, or about State matters, in religious or other assemblies. It must be remembered that the Fundamental Constitutions were the work of one who was not merely a great philosopher, but who also discharged the practical business of Secretary of the Council for Trade and Plantations.[1]

Colonial administration.

During the time of Shaftesbury and Locke, it is impossible not to recognise that we are breathing a more intellectual air. The Colonial agents of the Proprietors return answers charged with quotations from Bacon's essay on Plantations. Among the Commissioners were Evelyn, who received £500 a year, and the poet Edmund Waller.[2] The Restoration, so

[1] The Fundamental Constitutions are set out in Macdonald, *op. cit.*, p. 149.

[2] Waller had been a Member of the Council from the first.

far as colonial matters were concerned, compares very favourably with the the times which were to follow. In 1671 the Council for Foreign Plantations had been reconstituted, and in the following year the Councils for Trade and Plantations were again amalgamated. We learn something of the work done from Evelyn's *Diary*. He admits us to a discussion in which the affairs of New England were hotly debated. He notes[1] "the fear of their breaking away from all dependence on this nation," and "how some of our Council were for sending them a menacing letter which those who better understood the peevish and touchy humour of that Colony were utterly against." Evelyn is also good evidence to show the seriousness with which the Council betook themselves to their duties. We hear of enquiries about improving the Plantations, by silks, galls, flax, senna, etc., and of discussions, how nutmegs and cinnamon might be obtained and brought to Jamaica, that soil and climate promising success. That the King took a genuine interest in the Colonies is proved by the meeting-place being moved to Whitehall so that "the King might come and sit amongst us and hear our debates."[2]

Bahamas. In 1646 and 1666.

In 1670 the Bahamas, which had been originally settled from the Bermudas, chiefly by persons dissatisfied with the Church of England tenets of the parent Colony, were formally granted to six of the Carolina proprietors. The name Eleutheria which had been given to one of the islands marked the spirit in which it had been settled. At the time, however, of the grant to the Carolina proprietors, the Bahamas, of which New Providence was the chief, were a kind of Noman's land, mainly infested by pirates and outlaws. And though the activity of Shaftesbury was here also busy at work, no great progress or settlement was made, and New Providence, towards the close of Charles's reign, was attacked and laid waste by the Spaniards.

1680 or 1682.

Policy of Shaftesbury.

In another branch of work Shaftesbury made himself worthily conspicuous. In 1661 the Lords of the Privy Council, who were also members of the Council for Plantations, had discussed certain proposals for registering planters

[1] Evelyn's *Diary*, May 26, 1671. [2] *Ibid*, June 26, 1671.

and servants going to the Colonies, and a Committee had been appointed to consider the best ways of encouraging and furnishing people for the plantations, and the powers to be given to Justices to dispose of felons,—condemned to death for small offences,—sturdy beggars, and other disorderly people. The Committee had also considered the question of a Registry Office, and how the stealing of women and children might be prevented. In spite, however, of the appointment of a Commission to examine persons going to the plantations, and of the establishment of a registry, the mischief of "spiriting" was very frequent, and an Act of Parliament was carried through by Ashley, whereby such "spiriting" was made a felony, punishable by death.

1670.

The strikingly modern character of Shaftesbury's intellect has been noticed in other directions. We find him anticipating a line of thought which has been worked out in Sir C. Dilke's *Problems of Greater Britain*. The Colonies may be regarded as places wherein to try legislative experiments. Someone had suggested a system of banks without money. The idea does not commend itself to the shrewd Ashley, but he adds the note, "Why not make an experiment thereof in Barbados?"

Nov. 1661.

Virginia.

With regard to affairs in Virginia, the first years of the Restoration are chiefly memorable as illustrating a danger to which Colonies were always subject under the Stuart dynasty. With the generosity of one *alieni profusus*, Charles, in the first year of his nominal reign, had granted away about one-third of the whole of Virginia to some favourites without a word as to the rights and interests of the actual occupying owners The patentees endeavoured at first to enforce their claim, but after a time the attempt was abandoned, and the grant resumed by the Crown. Untaught, however, by this, Charles proceeded to go even further, and actually signed a transfer conveying the fee simple of the whole of Virginia to Arlington and Culpepper. Happily these latter were men well versed in colonial affairs, and not likely to proceed to extremities. That, however, the Colony had to come to terms with them, involves deep disgrace on a Government in which

Feb. 1672.

such a state of things could be. It was decided to maintain an agency in London, with the view of protecting the interests of the Colony in future. Such agents were therefore sent home, and a rough draft of a charter was apparently approved, confirming the existing constitution and containing the clause that no tax should be imposed on the colonists without the consent of the Governor, Council, and Burgesses. In the midst of these negotiations the outbreak in the Colony of what is known as Bacon's rebellion prevented the matter 1676. coming to a settlement, and rendered necessary the presence of English Commissioners, to arbitrate between the vengeance of the successful Governor and the reduced colonists. The selection and proceedings of this Commission must be set down to the credit side of Charles's colonial administration. In most difficult circumstances they behaved with remarkable tact and moderation. The story [1] of their experiences is very funny reading. A charitable view of the behaviour of the old Governor will suppose him to have been hardly responsible for his actions. His deafness and irascibility rendered personal interviews impossible, and the climax was reached when the Commissioners were furnished as their coachman with the common hangman ; Lady Berkeley grinning at them from behind the window curtains. The Commissioners were compelled to make use of the warrant they brought with them, recalling Berkeley, and the old cavalier died soon after his return to England. His successor, Colonel Jeffreys, one of the Commissioners, is noteworthy as being the earliest in date of the long list of officers of the Standing Army who have been Colonial Governors.

In Virginia a continual source of annoyance between the colonists and the Home Government was the existence of the Quit rent. This was a charge of twelve pence on every fifty acres. After the resumption of the Charter of the Company, a Treasurer was, for the first time, appointed in 1637, whose business was to collect this quit rent. For many years the quit rent was not enforced till possession of the land had been kept for some years. This privilege, however, was

[1] Fortescue, *Cal.*, 1677-1680.

revoked by the instructions given to Berkeley by Charles II. Great difficulty was still found in the collection of this charge, and an Act was passed by the Colonial Legislature allowing it to be paid in tobacco instead of in coin. For many years this course appears to have been acquiesced in by the English Government, but in 1684 Lord Howard was ordered to collect the quit rent in money. After the revolution of 1688 the quit rents were generally paid in tobacco at the rate of a penny in the pound. The existence of these quit rents had led to much abuse; their proceeds being granted away to private individuals. In 1681, however, the English Government promised that henceforth they should be exclusively appropriated to the public charges of Virginia.

Maryland. In Maryland we note the persistence of ideas, opposed to the spirit of the age in colonial matters. In a Commission issued in 1666 by Lord Baltimore, he describes himself as the absolute lord and proprietor of the Province of Maryland. Not a word is said about the Crown, and, on paper, as independent a position appears to be assumed as that assumed by Massachusetts. In fact, however, though no express change was made in Lord Baltimore's life-time, the powers he claimed were becoming more and more of an anachronism, and when, in 1689, his successor was deprived of all political authority, it was merely the formal accomplishment of what had for long become inevitable.

Massachusetts. Returning to the history of Massachusetts, we recognise how unbroken was the spirit of the Colony when we note that the time chosen to assume authority over Maine was just after the notification of the Royal displeasure. The 1675-8. years which followed were occupied by the Indian War, known as the War of Philip; but no sooner was that war ended than the long-delayed struggle with England began in earnest. The history of English administration during the period of Charles is a record of the growing importance of the trading interest. We have already noticed the new Council and the Navigation Acts. In 1667 we have seen Lord Ashley proposing a new separate Committee for trade purposes. In the following year we find the new Committee

reporting that Governors have been wanting in their duty in not taking the oaths enjoined by law, and that the Navigation Acts have been evaded. The remedy they suggested is that an officer be retained by the Revenue Department in each Colony, whose business it should be to administer the oath to the several Governors. In this connection note the significant language used in 1677 by the Lords of Trade and Plantations: they "have forborne to frame any rules for New England, as they do not conform themselves to the laws, but take a liberty of trading where they think fit, so that until His Majesty comes to a better understanding touching what degree of dependency that Government will acknowledge to His Majesty, or that His Majesty's officers may be there received and settled, to administer what the laws require in respect of trade, suitable to the practices in other plantations, their Lordships have not thought fit to offer any rules for passes in that place, but conceive it fit for His Majesty's service that some speedy care be taken to come to a settlement and resolution in this matter which is of so great importance to trade."

In 1675 a proclamation was issued enforcing the Navigations Act, and an agent was afterwards despatched to New England to collect the necessary information before measures were taken to bring the Colony under the direct control of the Crown. His report,[1] though marked by strong prejudice, contained a clear and, in some respects, probably trustworthy account of the state of things in the Colony. The purport of Randolph's advice was that the same policy of *divide et impera*, which had been so successful in the case of the confederated Colonies, should be applied to the internal affairs of Massachusetts. A further suggestion was made by Randolph on his return to England—viz., that the Crown should confirm existing rights to land in Massachusetts on the payment of an easy quit rent, a proposal which struck, it will be seen, at the very roots of the Massachusetts charter. It serves to emphasize the fact how largely the dispute between Massachusetts and the

[1] Hutchinson, *Collection of Papers relating to Massachusetts.*

parent country was a trade dispute to remember that Randolph, whom the instincts of New England have always recognised as its incarnate enemy, held a revenue office, having returned to the Colony in 1678 as Collector and Surveyor of Customs. Of the wisdom of such return, before any attempt had been made to deal with the question of executive power, there were serious doubts. The Committee of Trade and Plantations had suggested to the King whether it "be not best to suspend the departure of any such officer until there be a final resolution taken." Negotiations had been carried on in England with Agents of the Colony, on whose presence the Home authorities had insisted. These agents strenuously maintained that they had no authority to act for the Colony, except with regard to certain specified
Feb. 1679. matters, and "As the Lords have been diverted by the multiplicity of affairs in Parliament and prosecution of the 'plot,'" it was "offered" that the Boston Government be ordered to send over two other agents. The old familiar demands were at the same time made, but, in the circumstances, they need not detain us here. During this time the attitude of the Colony had been one of moderation. While they still maintained the principle that the Acts of Navigation were an invasion of the rights of the Colony, inasmuch as the colonists were not themselves represented in Parliament, they were willing of their own accord to order enforcement of the Acts, and did, in fact, so do. There were two parties in the colonial Government, and the moderates prevailed so far as to secure the appointment of agents. It was difficult, however, to find men willing to accept the thankless post, and a defiant spirit
1680. can be detected in the reply finally sent. "We beg His Majesty's excuse for not sending over other Agents, and the rather for that we understand His Majesty and the Privy Council are taken up with matters of greater importance." In spite of dwelling in a "wilderness," the colonists seem to have kept very close touch with English politics.

The years 1680-83 were years of pause, during which Randolph was vainly urging on the English Government the necessity of action. His own position in Massachusetts was

a most uncomfortable one. He wrote that it might be the last news of him, as he knew not whom to trust. He hoped 1680.
"their Honours would remember him at that distance."[1] At last, however, the moment for decisive action arrived. The frenzy of the anti-Papist outbreak had been followed by its inevitable reaction, and the Crown had nothing to fear in England. In the summer of 1683 proceedings were taken against Massachusetts by a writ of *quo warranto*. Though, for some reason, this step was not proceeded with, a writ of *scire facias* was in its stead issued in the Chancery Court. The object[2] of this alteration appears to have been, either that the case might be heard by the Lord Keeper Guildford, or else that the Chancery Court was better able completely to disannul and cancel the Charter. In any case the proceedings were the merest farce. The hearing was avowedly postponed to give the Colony time to plead, and yet the case came on before that it had been possible to communicate with Massachusetts; so that judgement went by default. It must be remembered that the last years of Charles II. were really years of revolution, and it would be idle to look in them for the forms of justice.

Henceforth the once independent New England lay a blank page, on which arbitrary government could write what it pleased. It may seem surprising that no attempt was made at resistance. In fact, however, the position of Massachusetts had undergone great alteration. The development of trade had given rise to a commercial class, essentially conservative, and opposed to violent measures. Moreover, not only were the leaders of the popular party for the most part inferior men to the leaders of the past, but, for the first time in its history, the Colony was menaced by internal treason, and the presence of Dudley in the Government showed that amongst its foes were those of its own household. Added to these causes, Massachusetts was weak, owing to the vicinity of the French on the north and of the Crown Colony of New York on the south, so that it was altogether impossible for

[1] See Prince Society Publications, *Edward Randolph*, by R. N. Toppan, 5 vols., 1898-9.

[2] See note in Palfrey, *History of N. England*, Vol. III., at p. 390.

New England, even if it could have made up its own internal dissensions, to stand alone.

The next Act of Charles boded ill for Massachusetts. Kirke was appointed Governor, than whom no worse choice could have been made. The death, however, of Charles, and the need for Kirke's services elsewhere, saved New England from his presence, and for a year nothing was done to enforce the Royal Supremacy. Nor when measures were at last taken did they appear of a violent character. The government was placed in the hands of a President, Deputy President, and a Council of sixteen members; Dudley being appointed President. This arrangement, however, only lasted for some months, and towards the close of 1686 Andros landed as Governor. Liberty of conscience was to be allowed to all, but members of the Church of England were to receive special encouragement. The Governor and Council had full authority to make laws agreeable to the laws of England, such laws to be transmitted within three months to England for allowance or disapprobation; to impose taxes, and to act as a Court of Record in both criminal and civil causes. The Governor was to administer the Oath of Allegiance. The lands held by the colonists were to be granted them again, upon such terms, and under such moderate quit rents, as should be afterwards appointed. Besides Massachusetts, Connecticut, Rhode Island and Plymouth were placed under the authority of Andros. On the news reaching America of the landing in England of William of Orange, the men of Massachusetts plucked up courage to rise against their Governor, who appears to have been the mildest mannered ruler who ever played the tyrant. A counter-revolution was bloodlessly effected. The old constitution was restored in the four Colonies, and it seemed as though things might return to the old way.

Colonial administration.

During the first fourteen years of the reign of Charles, Colonial policy had been largely inspired by Clarendon and Shaftesbury, and it is natural that with the fall of the latter we should expect some change of policy. In December 1674 the Council of Trade and Plantations was abolished,

and the work in the beginning of the following year transferred to a Committee of the Privy Council. The motives actuating this step were possibly financial, or it may be it was intended to mark a less popular mode of administration. In effect, however, the change was immaterial, and trade considerations in Colonial matters continued to dominate. Indeed, as the mercantile interest grew stronger, trade questions, as we shall find, tended more and more to shape Imperial policy.

Pennsylvania.

The closing years of Charles II. were marked by the foundation of a new Colony which in some ways was the most notable of all the Colonies. The Province of New Jersey had arisen through the grant made by the Duke of York of that portion of the former Dutch possessions to Lord Berkeley and Sir G. Carteret in 1664. Its western portion was purchased with a view to the establishment of a Colony of Quakers. William Penn was concerned in this business, so that his interest in America dated from as early as 1676. Some time later the idea occurred to him of obtaining a Charter for a new Colony to be formed between the Duke of York's territory on the north and Maryland on the south. The advantages possessed by Penn were great. Although belonging to a persecuted sect, and himself in the past the victim of persecution, he was the son of a distinguished sea admiral, who had done good service to England in the first Dutch War, to which the Duke of York, both as a sailor and as an enemy of Holland, must have looked back with especial regret. The position of the King and of his brother,—the latter an avowed Roman Catholic, the former a Catholic in secret—led them to sympathise with those who were kept under by the dominant Anglican church. Moreover, the singular personal charm exercised by Penn seems to have attracted to him both Charles and James. The simplicity, which led Penn to become the dupe of others, had probably its justification in the fact that, for the time being, while holding communion with him, men not only appeared but were, for the moment, better men. In these circumstances, Penn's application was regarded favourably. The Crown

was actually indebted for money due to Penn's father, and the granting of the Charter was an easy and cheap mode of repayment. The main difficulties in the way were the respective claims, with regard to boundaries, of the Duke of York and of Lord Baltimore. The Duke of York, however, through his Agent, behaved in the most reasonable manner, and a compromise was forced upon Lord Baltimore,—a compromise which, however, left room for much future dispute. We are told that the patent was referred to C. J. North to insert clauses respecting sovereignty and the maintenance of the Navigation Acts. The Charter[1] was signed in March 1681. What is striking is the extreme vagueness of some of its provisions. Difficult questions are avoided and left in silence. Thus Penn, being a Quaker, and the Colony being intended as a Quaker Colony, the enforcement of the Oath of Allegiance would have involved hardship, but no exemption is granted in express terms. The method by which the Colony was to be held in check was the presence in London of an Attorney or Agent, who should be made responsible for the conduct of the Colonial authorities. In the most important matter of all, the Charter was strangely silent. Everyone knows that the intention of the Pennsylvania Charter was the grant of religious liberty, and yet of religious liberty the patent does not expressly say a word. The only clause concerned with religion was one inserted by the Bishop of London, which gave any twenty colonists the right to demand for themselves from England a clergyman of the Established Church. When religious toleration was allowed in Carolina, it was expressly enacted in the Charter that English statutes to the contrary should not prevail in the Colony. The absence of such express enactment in the Pennsylvania patent might have led to serious results. At a later date when an Act was passed in England entitling Quakers to give affirmation in Law Courts, it was maintained by the Governor of Pennsylvania that inasmuch as the same Act forbade Quakers to hold such an office as justice of the peace, the new law overruled the existing

[1] It is set out in Vol. I. of Proud's *Hist. of Pennsylvania*, and in Macdonald, *op. cit.*

law of Pennsylvania with reference to Quaker Magistrates. Happily the trend of thought was in the direction of liberty, so that the shortcomings of the Pennsylvania Charter have only a theoretical interest. At the same time, they may serve to modify our respect for the authors of the document. Two other provisions in the Charter are worthy of note. After following closely the provisions of earlier Charters with regard to the enactment of laws by the proprietor with the assent and advice of the freemen or of their delegates, it provided that laws enacted in the Colony should be sent to England within five years of their enactment and should then be, if necessary, declared void by the Home Government—such veto to be exercised within six months of the receipt of the statute. On the question of taxation, the terms of the Charter were far less favourable than those which had been consistently claimed by the various Colonies. No tax was to be levied on the Colonies, except "with the consent of the Proprietary or Chief Governor or Assembly, *or* by Act of Parliament in England." It is clear by the use of the word "or" in the last half of the clause, that the right of the English Parliament to impose taxes on the colonists, which had been continuously in theory resisted by the Colonies and never in practice enforced by England, was expressly maintained. It was natural that the Quaker, who had been hardly admitted to the bare subsistence of daily human life, should require time before he could develop the appetite for the luxuries of complete civic equality. Having obtained this Charter, Penn's next step was to obtain settlers by the offer of very advantageous terms, and to publish a Frame of Government. The preface of this document con- 1682.
tains a singularly valuable discussion on the theory of Government. The conclusion [1] is that any Government is free where the laws rule, and where the people are a party to those laws. "And more than this is tyranny, oligarchy, or confusion." The administration was to be carried on by means of a Governor, Provincial Council, and General Assembly. The Council was to consist of seventy-two

[1] The Frame of Gov. is set out in Hazard's *Annals of Pennsylvania*, and in Macdonald, *op. cit.*

members, to be elected for three years, one-third going out in each year. A remarkable provision anticipated the views of the founders of the American constitution. No one was to continue a member of the Council uninterruptedly for more than seven years, so that political capacity might be as widely diffused as possible. The General Assembly was to consist the first time of all the freeholders, afterwards of 200 elected members, the number to increase to a maximum of 500. A very small property qualification conferred the suffrage, and all elections and votes in the Council and Assembly were to be by ballot. Elections for certain offices, such as that of Justice of the Peace, were to be held for double the number of the number required; the Governor being entrusted with the duty of selection from among those thus elected.

In some of its provisions Penn's constitution was never put in force, but its marks are clearly traced in the development of later thought. After the promulgation of the constitution, laws were agreed upon in England of which the most important were concerned with religious liberty. A distinction was drawn between two classes. To hold any office, or to be an elector for such office, it was necessary to profess faith in Jesus Christ, and not to be "convicted of ill fame, or unsober and dishonest conversation"; at the same time it was declared that "all persons living in this province who confess and acknowledge the one Almighty and Eternal God to be the Creator, Upholder, and Ruler of the World, and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall in no ways be molested or prejudiced for their religious persuasion or practice."

The economic development of Pennsylvania does not concern us here. Upon the whole no Colony advanced with greater rapidity or ease. We are tempted to say that here, at any rate, the children of light showed themselves wiser than the children of this world, except for the fact that Penn himself sacrificed much of his own private fortune in his efforts to develop the Colony. Of course, with the founding of Colonies and the growth of population, America was a

very different place from what it had been at the first coming of the Virginian colonists or the Mayflower pilgrims. The stock word "wilderness" is still used in letters, but there seems a note of insincerity in its constant repetition. At the same time, Pennsylvania had largely to thank its own citizens for its rapid progress. It was pointed out with pride that such prosperity was achieved without the aid of staple products, as in Virginia, Maryland, and Carolina. In another respect the Colony was favoured in its beginning. Penn had been too closely connected with the Duke of York for his accession to the throne to have the note of menace which it involved for the other Colonies. A possible source of danger had been much minimised by the wise policy of Penn. No part of the Pennsylvania settlement is more worthy of admiration than the manner in which the native Indians were consistently dealt with. It is doubtful how far the tradition can be substantiated which represents Penn as having paid again to the Indians for the land he had obtained from the Crown, and there may be more of epigram than of truth in Voltaire's famous saying, that Penn's treaty with the Indians was the only treaty which was not confirmed by oath, and which was not broken. But in various ways Penn showed, for the first time in history, a clear recognition of the equality of the Indians as fellow-men. Their evidence could be taken in Courts of Justice. For the first time, we may almost say, the Gospel precepts had permeated into the social dealings and legislation of men. To turn from the New England Puritans, who left moderate persecution in England, to found a practice of far more systematic persecution in their new home, to these Quakers, who had endured far worse things than any Puritan, both in England and in America, but who were thereby only encouraged to put in complete force the law of love, is surely to contemplate a state of things which might have suggested pause to some of the historians of Massachusetts, and modified the pæans with which their pages abound.

New York.

Whereas Pennsylvania was the outcome of the wisest philanthropy, New York was in its origin the fruits of con-

quest. Nevertheless, in his behaviour towards it, James did not show himself unreasonable. In the instructions to Andros, drawn up in 1674, he is enjoined to permit "all persons of all religion soever quietly to inhabit within the precincts of your jurisdiction without giving them any disturbance whatsoever . . . provided they give no disturbance to the public peace, nor do molest or disquiet others in the free exercise of their religion." In the first constitution granted by James, legislative power lay with the Governor and Council, together with the High Sheriff, and the Justices of the Peace, in the Court of the General Assizes. Trial by Jury was secured, and no laws contrary to the laws of England could be enacted. James himself was opposed to the introduction of a popular Assembly. He writes to Andros,[1] "I think you have done well to discourage any motion of that kind." Redress of grievances could be obtained by petition at the General Assizes. At the same
Jan. 1676. time, writing some months later, he said, "However, if you continue of the same opinion, I shall be ready to consider of any proposals you may send to that purpose." Finally,
April 28. owing, it is believed, to the advice of Penn, in 1683 Colonel Dongan was instructed to call a General Assembly, consisting of representatives elected by the freeholders. It would appear that in the expression of its claims, this first New York legislature somewhat exceeded its strict legal rights. Supreme legislative power was declared to reside in the Governor and Council and people met in General Assembly. Every freeholder and free man was declared able to vote for representatives without restraint. No tax could be assessed, on any pretence whatsoever, but by the consent of the Assembly. "No seaman or sailor shall be quartered on the inhabitants against their will." "No martial law shall exist." Considering the character of James, it is not strange that the "Charter of Franchise and Privileges" was not confirmed, and that the new commission to Dongan,
May. in 1686, contained no mention of an Assembly. In fact, however, as we have already seen, the short reign of James

[1] *N. Y. Docs.*, Vol. III., Ap. 1675.

was a period of lawless revolution and calls for little notice in a general account of British policy.

Another grant of Charles II. was of a more questionable character. By a Charter, dated May 1670, the King assigned to Prince Rupert and others, "the sole trade and commerce of all those seas, straits, bays, rivers, creeks, and sounds, lying within the entrance of Hudson's Straits, with all the lands, countries, and territories upon the coast and confines" of the above seas, etc. The objectionable feature in the grant was that it gave a monopoly to the grantees in visiting, frequenting or trading in the territory which was to be known as Rupert's Land. The grant was only of such lands as were not in the territories of another Christian prince; and the French claimed a portion of the territory under the grant by Henry IV. in 1598 to the sieur De la Roche. No attempt was made to settle or explore the country: the Company contenting themselves with merely building forts to which the furs were brought. In 1685 there were five of these forts, three of which were afterwards destroyed by the French. From the first, there were complaints against the Hudson's Bay Company. It was alleged that the consideration, in return for which they received their Charter, was that they should endeavour to discover a passage to the South Sea, and should search for minerals, whereas they neither did anything themselves in either of these directions, nor allowed others to make the attempt.

Hudson's Bay Company

An event of vital importance to England marked the closing years of Charles. The Frenchman, La Salle, by reaching the sources of the Mississippi and then descending by water to the Gulf of Mexico,[1] opened out for France the great territory which became the Colony of Louisiana. Thus, in America, while England possessed the greater part of the eastern seaboard, France had the command of the two great

The French in N. America.

[1] The priority of La Salle's discovery of the mouth of the Mississippi has been disputed (see Kingsford, *Hist. of Canada*, note at end of Vol. I.); but there is no question that it was his expedition which led to the development of the French Colonies. The leading authority on La Salle is Parkman's *Discovery of the Great West.*

watersheds of the St Lawrence and the Mississippi, and the English Colonies seemed likely, in the future, to be wedged in by French possessions on all sides save that of the sea.

Policy of Stuart kings.

Much scorn has been directed on the practice of marking the divisions of history by the reigns of kings. At the same time, in the case of times during which kings governed and did not merely reign, the practice possesses practical convenience, and, even when policy is not directly moulded by the reigning king, his influence on his ministers will generally be such that the policy of the reign acquires a distinctive character. In spite of larger influences at work we have noticed characteristic differences in Colonial policy during the reigns of James I., Charles I., and Charles II. The reign of James II. was too short and too stormy to have a separate character, except as carrying to their conclusion the revolutionary tendencies of the last period of Charles.

Colonial Empire at close of reign of James II.

It may be well, therefore, before entering on a new period, with the accession of William and Mary, to take again stock of England's Colonial possessions. Only one State is now wanting of the fatal thirteen which were to found the United States of America. In the north the New England Colonies had not yet learnt to compose their private differences. Nevertheless Massachusetts,—along with Maine and New Hampshire, — Connecticut and Rhode Island have features in common, which they do not share with the rest. Next come the States first acquired by conquest—New York, New Jersey, and Delaware—but wherein England is making the successful experiment of governing foreign populations, afterwards made in the cases of Lower Canada and Cape Colony. Along with these may be classed the favoured Quaker colony, the Cinderella, of whom hard things were doubtless thought and said in New England. To the south are Maryland and Virginia, each with separate and somewhat antagonistic interests, and again further south still, lie the Carolinas, which still exist mainly in expectation. Considering the past of these Colonies, we have no reason to expect much love of the Mother country At the same time, he is a poor judge of human nature who excludes the

influence of sentiment in forecasting the conduct of his fellow-men; and more material forces are at work, which make for English interests. On the one hand, there are the jealousies and mutual antagonisms between the various Colonies. On the other hand there is the increasing need of assistance against the growing power of the French. It has been noticed that the restoration to France of Acadia may have been, in part, due to a desire to hold a hostage for the good behaviour of New England. At the same time it is but fair to say that at the moment the danger to New England from the French was much less than it subsequently became. In a letter from a bitter opponent of Massachusetts, we find the admission that they must be protected against the Indians, because, after all, they are Christians; but it was just this community of interests as civilised Christians which the French in their behaviour practically ignored. Their policy was to hound on the Indians against the English settlements. It is satisfactory to note that such conduct had the success which it deserved. In the great wars which decided the fate of England and France in America, the men of New England fought with courage and enthusiasm by the side of the soldiers of the Crown.

Newfoundland.

To the north of Acadia, England still preserved the Colony of Newfoundland. It was, however, the cause of much controversy. The merchants of the west of England were largely interested in the Newfoundland Fisheries, and were unwilling that the profits should be shared with fishermen resident in the Colony. Certain unauthorised or semi-authorised settlements had been made and the question was whether the Colony should be further consolidated by the granting of a Governor, or whether the settlers should be removed and the island left to its own devices. On the one hand the settlers were able to point to the danger of France stepping in, in case of an abandonment by England. On the other hand the powerful argument was employed that the inhabitants mainly consumed the products of New England, and would in time tread the same steps to the loss of England. It would become, said Child, no more to His Majesty

than Ireland. The influence of the west of England Adventurers was great, and their interests were damaged by the existence of settlements. In these circumstances, considering, moreover, the rigour of the climate and the infertility of the soil, it is not strange that the decision to abandon was resolved upon. So reluctant, however, were the colonists to remove that the Government did not persist in compelling them. The enforcement of the Order was delayed, and when the question was again considered, it was finally decided in 1680 that a Governor should be sent to the island, and that the "restrictions on masters to transport none but such as belonged to their ships apply in future only to the Adventurers' fishing ships, and that free liberty be given to all others to go to Newfoundland in what capacity soever."[1]

West Indies.

Turning to the West Indies, we have seen that Jamaica was maintained, receiving especial favour and care from the Crown. Barbados, that "little pearl" of the English Crown, continued to flourish in spite of the four and a half per cent. duty levied on its exports. The Leeward Islands were formed into a separate government in 1671. In spite of French naval superiority, the English in the West Indies were able to maintain the *status quo*. In 1680 the Charter of the Bermuda Company was cancelled: the Law Courts interfering to protect the settlers, whose grievances were many, against a body which had in their own words considered the Somers Islands "to be no commonwealth but a private inheritance enclosed to the use of the purchasers."[2] Upon the whole, in the period in question, we note the wanings of Spanish Power in the West Indies, and the beginning of that rivalry between England and France for pre-eminence which was to occupy the next century.

Buccaneers.

The reign of Charles II. was, moreover, noteworthy as being the time in which the buccaneers attained their greatest power. Originating out of the privateering war, carried on by the subjects of all nations against the gigantic monopoly of Spanish power, these pirates became sometimes the terror, sometimes the hope, of the British Colonies. "It is to the buccaneers," writes Long, "that we owe the possession of

[1] Fort., *Cal.*, 1677 So. [2] *Ibid.*

Jamaica at this hour," and Charles II. is insinuated to have been in partnership with them. At the same time the world was growing too civilised to recognise such methods of progress, and the power of Spain was no longer the lion in the path. Moreover, the exigencies of European diplomacy required that the buccaneers should be formally repudiated. In this state of things we find a kaleidoscope of action and of policy which is puzzling in the extreme. Thus Morgan is found at one moment the reckless buccaneer carrying through the sacking of Panama; 1671. at another he is the knighted servant of the Crown, holding the responsible post of Lieutenant-Governor of Jamaica.[1]

We may notice also the beginnings of that conflict of interest between the London merchants and the Colonial planters, which has been so marked a feature in the history of the West Indies. Thus we find Sir J. Atkins bitterly complaining[2] of the priority of information and of the influence obtained by the London merchants.

Upon the Continent of South America, England in 1673 abandoned to Holland the settlement of Surinam (which had been founded by Lord Willoughby) in return for the restoration of New York.

In another quarter, and in a more sinister manner, the reign of Charles afforded an example of Colonial development. Already, in 1618, the privilege had been conferred on Lord Warwick and others, of carrying on a traffic in slaves from the Guinea Coast; and in 1631 a Charter was obtained by an Association for the same purpose. In 1663 the Royal Africa Company obtained its Charter. Among the shareholders were the Queen Consort, the Queen Dowager, the King's sister, and the Duke of York. The latter became what would now be termed Managing Director. The Company employed in one year about forty ships: its main business being the furnishing of the plantations with negro servants. In the pursuit of this work they erected forts and factories along the coast of Africa; their head factory being

Slave trade.

[1] He was afterwards sacrificed to a change of policy in favour of Spain, and sent home as a political prisoner. For his later career, see Fort., *Cal.*, 1681-1685 and 1685-1688.

[2] Fort., *Cal.*, 1677.

Cape Coast Castle, which was the residence of the Company's agent for the whole of Africa. Owing to "the machinations of the Hollanders," the Company was not financially a success, and in 1672 a new Charter was obtained for the new Royal Africa Company. The limits of the district worked by them began near Tangiers in South Barbary and ended at the Cape of Good Hope. A monopoly was conferred of the traffic in negroes, and we find numerous complaints from the West India Colonies of the manner in which the Company carried on their work. Jamaica was the chief market for negroes, and Barbados ranked next, though the trade of Virginia had come to be considerable. The fixed price for negro slaves was fifteen pounds for Barbados, sixteen pounds for the Leeward Islands, seventeen pounds for Jamaica, and twenty-two pounds for Virginia. In one year, several thousand slaves were shipped to the Colonies. With regard to Virginia, Bancroft has contended that negro slavery was forced upon a reluctant Colony by the callous Home Government, but later American writers do not accept this view. It is true that in the interests of the Royal Africa Company, and of English trade generally, the English Government might veto a duty placed by the Colony on their introduction, but assuredly the motives at work in America were not prompted by care for the negro. The New England merchant thought it no shame to go shares in a slave-importing transaction, and if slavery was hardly known in the Northern Colonies and persisted in in the Southern, the causes at work were economic and had nothing to do with the moral sense of the time. Without slavery, it has been conclusively shown, Virginia must have become a land of small proprietors; a condition of things to which it now seems tending. It was as much the interest of the dominant class in the Colony in the seventeenth century, as it was in the nineteenth, that this should not be, and therefore it seems a little far-fetched to lay this additional charge on the broad back of English misgovernment.

In reading history no mistake is greater than to look

through the glasses of one's own age and prejudices, and it is a noteworthy fact that in the list of shareholders Sept. 1 72. of the New Royal Africa Company occurs the name of John Locke. Nevertheless, few pages in human annals are so ghastly as the story of that Slave Trade, for the monopoly of which Christian nations fought, and about which they signed solemn treaties. A light-hearted and careless people, accustomed to idleness and sunshine, were herded in the foul darkness of ill-built holds, suffering the unknown horrors of sea-sickness, fed on the vilest food, the passage sometimes lasting for months, the rate of mortality passing belief. Compared to the horrors connected with the slave trade, the actual evils of slavery were "as moonlight unto sunlight, and as water unto wine." Bad, however, as the system was, it yet had its inevitable place in the artificial conditions of tropical cultivation, and therefore the lead taken in it by England—whatever its moral deserts—did make for commercial and Colonial expansion, and cannot be ignored in a study of British Colonial policy.

Upon the whole, an attentive study of the time does not bear out popular notions upon the subject. The general opinion, which is supported by works of authority, is that our Colonies were for many generations almost wholly neglected—left to work out their own salvation in their own way. The opinions of those most competent to speak, Mr Sainsbury and Mr Fortescue, the learned editors of the Calendar of Colonial State papers, do not bear out this theory. Mistakes were of course made, and there was always the ever present risk that the advantage of the Colony should be sacrificed to the private gain of some Court favourite; but, on the whole, if we compare the wisdom which showed itself in Home politics and on Colonial questions, we shall find a marked superiority in the case of the latter. Mention has already been made of the attempt to deal with the abuse of the grant by the Crown of Patent offices. Good intentions were at least shown by the Order of the King and Council, in 1680, which forbade Governors to leave their posts, except with the written consent of the

Policy of period.

King and Council. It is true that the abuse of absenteeism still persisted, but the evil lay rather in the general temper of the times, than in the special administration of Colonial matters.

Neither do the facts warrant the general view of Charles's foreign policy, which has prevailed. It has been seen that war with Holland was an inevitable step in England's progress towards commercial supremacy. The quick-witted Ashley anticipated the verdict of history when he uttered his memorable "*Delenda est Carthago.*" Though the advance of a Dutch fleet up the Thames caught deep hold of the popular imagination, in the long run it was not England which came off second best. With regard to the alliance with France, the French historian, Martin, has pointed out:[1] "It has been often repeated that Charles sold England to Louis XIV. This is true only of internal policy . . . as to external interests he did not sell them; for the greater share of the profit in the ruin of the Dutch was to go to England." It is noteworthy in this connection that naval precedence was in effect yielded by France. But, if on these grounds Charles must be acquitted, he stands condemned for the neglect of the fleet during the last years of his reign. Inasmuch as those years witnessed a great development in French shipbuilding, the situation of England and her possessions became very serious. Happily, James II., with all his faults, was a sailor, and the few years of his reign were busily employed in repairing the fleet. Otherwise the history of Europe might have run on different lines. There was a curious irony in the fact that it was due to James himself that his subsequent restoration became impossible. We may seem to be wandering from Colonial policy, but the truth that Colonial possessions must rest upon the command of the sea, and that without that command they are only sources of weakness in the event of war, which was exemplified in the next century at the expense of France, was very nearly at this time being exemplified at the expense of England.

Colonial constitutions.

In constitutional matters the Colonies were more and more assimilating to a common type, based on that of the English

[1] Quoted by Mahan, *Influence of Sea Power upon History.*

Constitution of the time. The Governor represented the King, and his Council was a pale imitation of the House of Lords. By the side of these was an Assembly, more or less popular in character, which had rights of legislation subject to the home veto. The question of the authority of the English Parliament was not finally faced and solved. We may notice that the omnipotence of Parliament, which became later an accepted doctrine, would hardly commend itself to lawyers brought up under very different notions of the Royal prerogative. There were already indications, however, that, if a struggle came, it would be on the question of taxation. We have noted instances where the Colonies showed an uneasy sense of the need for greater precision in the statement of their rights. It was only necessary that the spirit of compromise and tact should be absent for the sparks of friction to burst into a blaze. It has been said that the Colonies were assimilating to a common type, but from that type New England still held aloof in haughty isolation. We have seen the searchings of heart which her attitude caused at home. We have seen the revolution, which ended, for the time, her liberties, and the counter-revolution, which seemed to restore them. Nevertheless, under the pressure of domestic dissensions and foreign dangers, proud Massachusetts itself was to yield to British influences, and a Royal Governor to be admitted peacefully within the sacrosanct precincts of independence.

CHAPTER IV

THE COLONIES UNDER WILLIAM III. AND ANNE

Colonies won by conquest.

IN passing to the reign of William and Mary, we are entering upon a new order of things. Hitherto the Colonies had been mainly founded by settlement; in the times which will ensue they are mainly won by conquest. It is true that in the earlier period Jamaica and New York had been the fruits of conquest, and that in the later Georgia was settled, and Nova Scotia and Canada greatly developed by means of settlement; but on the whole the difference is obvious, nor is the reason of it far to seek. We are entering upon a long period of war with uneasy intervals of peace, wherein Colonies are regarded primarily as pieces in the war game, and to be dealt with accordingly. In this state of things we shall expect to miss the diversity of experiment which attracts us in the glowing youth of English colonization; but, in fact, military exigencies influence Colonial policy far less than might have been expected.

The magic of Macaulay's *History* has done its best to cast a spell over the period; but most people will agree with Hallam that it was in itself one of the least interesting in English history. Nevertheless, it was fraught with momentous issues for England. It opened out the great struggle for pre-eminence between England and France, which was to last more than a hundred years. It has been noticed how disgracefully the Navy had been neglected during the last years of Charles II., and how James had, partially at least, restored it to efficiency. William was both by necessity and choice a soldier, and his main business in the war was to preserve the existence of the Netherlands and of Protestantism upon the Continent from the aggressions of Louis XIV. Still, during the war, the English Navy did good service. The defeat,

1690. or partial defeat of Beachy Head, was much more than re

deemed by the glorious victory of La Hougue; although the maladministration of naval matters allowed a power to French privateering which need not have been. From the standpoint of Colonial policy, the war of the League of Augsburg has importance merely as the prologue of the drama which was to follow. Its significance is thus summed up by the historian of *The Influence of Sea Power upon History*[1]: "France did not advance, but neither did she greatly recede. But this display of power was exhausting; it ate away the life of the nation, because it drew wholly upon itself, and not upon the outside world, with which it could have been kept in contact by the sea." The Peace of Ryswick, although it gave to the two sea nations substantial commercial benefits, restored to the belligerents the Colonial possessions held before the commencement of hostilities, so that Acadia, which had been conquered by Phipps, became again a French possession. 1692. 1697. 1690.

Colonial Policy under William III.

We have seen that even in the time of the Stuarts the manufacturing and trading interests, to a great extent, dictated Colonial policy; but there were special reasons why, under William, those interests should be regarded with favour. The necessities of England required a National Debt, the funds for which could only be provided through the growing importance of the commercial classes. The interests of these classes demanded that England should become a great sea power, with a great sea-borne commerce, and Colonies whose trade the home manufacturers might monopolise. In this state of things it was to be expected that the Navigation Acts should be consolidated and strengthened. Henceforth governors were more strictly pledged to a diligent enforcement of these Acts.[2] Custom House officers in the Colonies were established on a new footing,[3] and the same powers were conferred on them as were possessed by revenue officers in England.[4] To give effect to this Act, Admiralty Courts were afterwards established in the Colonies. Another Act forbade the carrying, not only to England, but also to any other plantation, of

7 and 8 W. III., c. 22.

10 W. III., c. 16, sec 19.

[1] p. 199. [2] Sec. 3. [3] Sec. 10. [4] Sec. 5.

wool or woollen manufactures, being the produce or manufacture of any of the English plantations in America. We learn from Nicholson's despatches from Virginia that more extreme measures were already advocated. He advised that the manufacture of woollens, even for colonial use, should be in every way discouraged. In the face of the strong feeling in the Colonies, such a measure, apart from its injustice, could never have been enforced. The English authorities contented themselves with disallowing Colonial statutes passed with a view to the encouragement of woollen manufactures. The Commissioners of Customs asserted that such measures weakened the dependence of the Colonies upon England, injured both English trade and navigation, enhanced the price of tobacco for the English consumer, and diminished the volume of the customs.

Board of Trade.

A change was made in 1696, from which, at the time, doubtless, great things were expected. The Committee of the Privy Council for Trade and Plantations was abolished, and their work transferred to a new Board of Trade and Plantations. This step has been represented as the work of Lord Somers. It would appear from the *Parliamentary History*[1] that it was forced on a reluctant Ministry by the majority of the House of Commons. The claim that Parliament should have the nomination of the Commissioners gave great offence to the King, being considered as an invasion of the Prerogative. Whatever may have been the intention of its founders, the new Board of Trade was not in its results an improvement. Its business was merely to collect and convey information, while executive power lay with the Privy Council or the Secretary of State. The mischief which arose from the multiplication of authorities, all dealing with Colonial matters, can hardly be exaggerated. It is true that certain of the great officials were permanent members of the Board of Trade, but there was nothing to ensure their attendance at its meetings. Already in the lifetime of Penn we find him able to treat with indifference the disapproval of the Board

[1] Vol. V. p. 977. See also Burnet's *Hist. of His Own Time*, 1833 ed., Vol. IV. p. 294.

of Trade, because of the more powerful influences befriending him. In this particular case the result was, of course, beneficial, but what could be done in one case could also be done in another. Some years later[1] we find the Board of Trade urging that they should receive notice when Colonial business was to be transacted at the Council, and that some of their members might be summoned to attend. In 1721[2] they recommended that whoever presided at the Board of Trade should be "particularly and distinctly charged with Your Majesty's immediate orders in the despatch of all matters relating to the Plantations." Their report clearly showed the manner in which the system under which proceedings might be taken either before their Board or before the Privy Council or before the Secretary of State, led to "much delay and confusion." Nothing effectual, however, appears to have been done, and the confusion which resulted from the overlapping of authorities dealing with Colonial questions was, in some measure, the cause of that motion without progress, which sums up British Colonial policy during the first half of the eighteenth century. 1729.

Colonial Policy of Bellomont and Penn.

Meanwhile, with regard to all the Colonies, the old complaints were again and again renewed. In 1696 we find Randolph complaining of the proprietary governments. Their Governors[3] are "indeed stewards only and always liable to be turned out at the pleasure of those who employ them." Lord Bellomont is found writing frequently both from Boston and New York on questions of general policy.[4] "Your lordships know the value of these plantations to England, though I am confident 'tis what is known to few besides. I am every day more and more sensible of it, and it is great pity the King is not made to have a right notice of their usefulness and advantage to the Crown." Bellomont's main recommendation was to foster a colonial industry of naval stores, so as both to be independent of the Baltic trade and to find employment for the English soldiers, whose presence he considered necessary against French and Indian attacks. He strongly

[1] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General*, 602.
[2] *N.Y. Docs.*, Vol. V., Sept. 8, 1721. [3] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General*, 601. [4] *N.Y. Docs.*, Vol. IV.

opposed the view that the Colonies should provide for their own protection. "It would be to put an opportunity in their hands for setting up for an independence of the Crown, which, it is much to be feared, all the plantations on this whole continent have too great a propensity to." Most rashly he predicted that one thousand regular troops, together with a fourth-rate man of war at Boston and a fifth-rate one at New York, would secure the Colonies in their allegiance to the Crown, "so long as the world lasts." Of greater interest were the proposals made by Penn in 1697 and 1700. He proposed[1] that a congress should be held once a year, presided over by a King's Commissioner, and consisting of two deputies from each province. Its business should be to hear and adjust all matters of complaint and difference between province and province, and to decide on the respective contributions to be made by the different Colonies for purposes of defence. In the presence, however, of the mutual jealousies of the American Colonies, greater statesmanship was needed to put such a scheme into practice than was at the service of the English Government. In his further proposals, Penn suggested the use throughout the Colonies of a single standard or coinage, the opening of a mint, the enactment of a general law with regard to runaways, that naturalisation should be rendered easy, that appeals to the Privy Council in matters of less value than £300 should no longer be allowed, and finally, that encouragement should be given to the apprehension of pirates, by informers receiving a proportion of the proceeds. The proposal as to runaways was especially necessary. It gives one a clear sense of the chaos that existed, to realise that a deserter from New York had only to go over the frontier into Connecticut and he was free.[2]

Policy of Board of Trade.

To the Board of Trade, however, another aspect of the matter appeared more serious. Writing in 1700, they say,[3] "This declining to admit appeals is a matter that you ought very carefully to watch against in all your governments. It is a humour that prevails so much in proprietaries

[1] *N. Y. Docs.*, Vol. IV. [2] Despatch from Lord Cornbury.
[3] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General*, 601.

and Charter Colonies, and the independency they thirst after is now so notorious that it has been thought fit that those considerations, together with other objections against those Colonies, should be laid before Parliament, and a Bill has thereupon been brought into the House of Lords for resuming the right of government in these Colonies to the Crown." No attempt seems to have been made at this time to proceed further in the matter, owing probably to the death of the King and the outbreak of the war of the Spanish succession, but in 1706 another Bill was decided upon, the draft of which is in the Record Office. Its purport is sufficiently shown by its preamble. "Whereas the severing of such authority and power from the Crown and placing it in the hands of subjects, hath, by experience, been found prejudicial to the Trade of this Kingdom and to the welfare of Her Majesty's other plantations in America, and to Her Majesty's revenue arising from the customs," etc. The Bill had been preceded by a solemn indictment[1] drawn up by the Board of Trade, setting out the various offences of the Charter and Proprietary Governments. They had not complied with the Navigation Acts. They had enacted laws repugnant to the laws of England, and had denied the right of appeal to the English Privy Council. They had been the refuge of pirates, and had protected deserters. They had promoted and encouraged woollen and other manufactures proper to England, instead of "applying their thoughts and endeavours to the production of such commodities as are fit to be encouraged in those parts, according to the true design and intention of those plantations." They refused supplies for war, claimed Admiralty jurisdiction and reduced the value of their coinage by clipping and other means. About the same time, governors were warned not to pass laws "of an unusual or extraordinary nature and importance, without having first received the Queen's pleasure concerning them." In this connection, we may note the section of the statute already commented on, which enacted that all Colonial laws were illegal, null and void, to

1706.

1706.

7 and 8 W. III., c. 22.

[1] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General*, 601.

all intents and purposes whatsoever, which were repugnant to laws made or "hereafter to be made" in England "so far as such laws shall relate and mention the said plantations."

New England.

Passing to the affairs of the particular Colonies, it will be remembered how the peaceful counter-revolution, which synchronised with the accession of William and Mary, held out hopes to New England that its position of virtual independence was restored. On the other hand, apart from grounds of Imperial policy, there was much to stand in the way. Mr Doyle[1] has pointed out that Blathwayt, the secretary of the Committee for Trade and Plantations, remained in his old post, and everyone knows how much the policy of an office is influenced by its permanent officials. From the point of view, neither of Whig nor Tory, but of the ordinary decencies of official life, the record of Massachusetts was about as black as record could be. It was not as though the Colony complained of grievances which could be enquired into and put right; it simply adopted towards England, now openly, and now by equivocation, an attitude of "hands off." In the petty details of trivial controversy, independence came perilously near to obstinacy, and obstinacy to sulkiness. Moreover, a new interest was at work hostile to Massachusetts. Her natural allies would have been among the sturdy independent commercial classes, who were many of them Whigs in politics, and Dissenters in religion. The English merchants, however, were seriously estranged from New England, because, the commercial interests of the two countries were (according to the generally accepted political economy of the day) hopelessly at issue. A good deal has been already said of the Navigation Acts and of the continual complaints of their evasion. The method of procedure was as follows. The merchants, interested in some particular branch of foreign trade, complained to the Committee of Trade and Plantations. They were then required to attend at a meeting of the Committee and to substantiate their charges. The Agents of the Colony in question were then heard, and

[1] *Puritan Cols.*, Vol. II

finally the Committee drew up a Report. In the absence of a proper English executive in the Colony to put the Acts in force, little improvement could be made, and the mere presence of a bold and interfering Commissioner like Randolph, without force behind him, only served to embitter political relations, while it afforded little protection to commercial interests. It must be remembered also, as we have seen, that the merchants were daily growing in importance, and the economic theories, on which they relied, were becoming more and more crystallised into a coherent system. Reference has been already made to Child's *Discourse on Trade*; the book should be closely studied by whoever would understand the mercantile point of view. The bitterness with which he speaks of New England competition is the more noteworthy, from the sincere admiration with which he regards the New England character and Commonwealth.

But even more important in the mind of a king like William than the views of the London merchants, must have been the aspect of the situation in America from the military standpoint. As early as 1678[1] "many of the Lords" of Trade and Plantations "had inferred from these dissensions the great necessity for some general governor or supreme authority over the Colonies." Doubtless, William had some knowledge of the disastrous Indian war with Philip, and knew that behind the Indians there was the growing menace of the French. In this state of things, the temptation must have been great to put the Northern Colonies under a single strong government, a change which would doubtless have made for military efficiency. Against this course, there was the fact[2] that such had been the policy of James, and it would have been both unwise and ungracious to start the new régime with the impression that it was a continuation of the system under which Andros had been Governor. Moreover, the Colony was well served by its London agent, Increase Mather. He had been introduced to the Prince of Orange by Lord Wharton, who warmly favoured the restitution of the New England Charters. On

[1] Fortescue, *Cal.*, 1677-1680. [2] See Doyle, *Puritan Colonies*, Vol. II.

the other hand, the Committee of the Privy Council reported in 1689 that "the present circumstances of relation in which the Colonies stood to the Sovereign of England was a matter worthy of the consideration of Parliament for the bringing of those proprieties and dominions under a nearer dependence to the Crown, as His Majesty's revenue in the Plantations was very much concerned."[1] In these circumstances a com-
1691. promise was adopted. A Charter[2] was granted to Massachusetts and it was kept separate from New York. But it was a Charter which altered materially the character of the Constitution. So far as the boundaries of the Colony were concerned, the terms were generous enough. New Plymouth, for the significant reason that it might be put "in a better condition of defence," and Maine, were included in Massachusetts, as was also Acadia (which had been conquered in the
1690. previous year by Phipps), and the territory which afterwards became New Brunswick. New Hampshire was left separate, owing, it was afterwards alleged by Lord Bellomont, to the fact that Blathwayt, the Secretary to the Committee for Plantations, had been bribed by Allen, who had acquired the alleged rights of Mason. Still, without New Hampshire, the Colony was a goodly heritage. Other portions of the Charter were not so favourable. There were to be a Governor, Deputy Governor, and Secretary, "appointed and commissionated by us, our heirs and successors." A Council of twenty-eight members was to be chosen by the Assembly, eighteen from Massachusetts, four from Plymouth, three from Maine, and one from Acadia. Annual Assemblies were to be held on a fixed day: such Assemblies to consist of the Governor, Counsellors, and such Freeholders as had been elected by the freeholders; each town returning two members. The qualification for voting was to possess land in freehold of the annual value of forty shillings or personalty amounting to forty pounds. The members of the Assembly were to take the oaths which had been substituted for those of Allegiance and Supremacy. The general Court or Assembly was given the power of

[1] Quoted by Palfrey, Vol. IV. [2] Set out in Macdonald, *op. cit.*, p. 205.

levying taxes, holding courts, and of enacting laws not repugnant to the laws of England. A right of veto was at the same time reserved to the Governor. After such enactment, laws were to be provisionally enforced, but they did not come finally into effect for three years, during which time they might be disallowed by the Home Government. Where the matter in difference exceeded three hundred pounds, a liberty of appeal was given to the Privy Council from the Colonial Courts, and, by an important provision, Admiralty jurisdiction was reserved to the Crown. Liberty of conscience was allowed in the worship of God to all Christians, except Papists. By the last clause, trees, fit for masts, not growing on land which had been already alienated, were reserved for the use of the Royal Navy.

On looking back to the history of the long dispute between England and the Colonies, it will be recognised how greatly the long exercised patience of the Mother country had been rewarded. The main original points on which complaints has been made were the refusal to take the Oath of Allegiance, to recognise the English law courts, and to give the Franchise to other than Church members. On all these points, the Mother country had won the day. And, in addition, it was secured that the Governor should be the nominee of the Crown. Henceforth, Massachusetts might win her independence in the broad light of day, but she could no longer flit among the shades of a vague ambiguous suzerainty.

In some respects the terms were needlessly severe. It appears[1] that in the first draft neither the Deputy Governor nor the Secretary were Crown appointments. Another provision, giving the Governor power to reject members of the Council, was the cause of much subsequent friction.

Partly because they had never legally forfeited their rights, and partly, doubtless, because of their weakness compared with Massachusetts, Connecticut and Rhode Island were allowed to resume their Charters. At the same time, con-

[1] Hutchinson, *Hist. of Massachusetts.*

fusion arose from the Commission to the Governors both of Massachusetts and New York giving the right to take command of the Connecticut and Rhode Island militias. Connecticut resisted, and the claim was not pressed.

The form of government for Massachusetts being thus settled, the next step was to appoint the new Governor. Doubtless the Home Authorities considered that they were showing great discretion in appointing Sir W. Phipps, a native of Massachusetts, a self-made man, who had started as a ship carpenter, and who had lately become famous as the conqueror of Acadia. But it is doubtful if the choice was really a wise one. Phipps' ignorance and inexperience of affairs prevented him from being able to guide the local legislature in its new course. Out of forty-five laws passed by the Colonial Assembly, no less than fifteen were afterwards disallowed by the Crown. The chief cause for contention, however, between the Crown and the Governor on the one side, and the Colony on the other, was on the question of voting a fixed salary to the Governor. For some years the unhappy Governors found themselves torn asunder — between the Home Government, which insisted that they should take nothing less than a proper salary, and the Assembly, which consistently refused to grant more than an occasional bounty. The New England historian waxes warm over this example of the spirit of John Hampden. But the impartial onlooker probably carries away a sense of the pettiness and sordid nature of the questions involved. The English Government sought in a very different quarter a successor to Phipps. Lord Bellomont was a brilliant Irish nobleman, with strong Whig convictions, which he took every opportunity to air. He came out as Governor both of New York and Massachusetts. In Massachusetts at least he laid himself out to be popular, giving way to his real opinions only in his letters and despatches. As an English statesman, the condition of things in Massachusetts filled him with concern. He reports how some gentlemen of the Council expressed "great discontent at the Acts of Navigation, which restrained them

1691-1695.

from an open free trade to all parts of the world. They alleged that they were as real Englishmen as those in England, and thought they had a right to all the privileges which the people of England had. That the London merchants had procured those restraining laws to be made on purpose to make the people of the plantations to go to market to them."[1]

In spite of Bellomont's genial manners he made no headway with the Colony; on the contrary, matters went from bad to worse. The Assembly refused to transmit their acts or to allow appeals. Moreover, the Colony stubbornly refused to build the forts, which were required against the Indians. In these circumstances, there was grave risk lest the Charter should be annulled. The national interests, it was alleged by the Committee for Trade, required that such independent administration should be placed by the legislative power of the kingdom in the same state of dependency as the Royal Governments. In 1701 Lord Bellomont died, and Massachusetts and New York became again under separate Governors. In Massachusetts, the new Governor, Dudley, with the zeal of a renegade, took up a sterner tone in addressing the Assembly. Not being so profitable to the Crown in customs as the southern Colonies, he bluntly told them, they should make up the deficiency, by supplying England with naval stores and other commodities, there wanting. In fact, he found a spirit more stubborn than his own, and, from the English standpoint, there seemed reason in the strongly expressed opinion of the New York Admiralty judge, that no remedy would serve but the reduction of all the Colonies to one standard rule and constitution. There was, however, one grave objection to this course, which was put with great ability a few years later by Dummer. Dealing with the suggested desire in the Colonies for independence, he declares[2] "that they are so distinct from one another in their forms of government, in their religious rites, in their emulation of trade, and consequently in their

1702-1715.

[1] Quoted by Palfrey, 1700. Vol. IV.

[2] *Defence of New England Charters*, 1721.

affections, that they can never be supposed to unite in so dangerous an enterprise," and then goes on to show with convincing ability that the one thing required to unite them would be to bring them under a common rule and government. Be this as it may, the time of war was not in any case one for the introduction of constitutional changes. In their hostility to France, the Mother country and Colony were heartily at one. The old quarrel concerning the refusal to vote a salary to the Governor remained the same, and English officials are found bitterly complaining that the Crown[1] "can never hope for justice here where judge and jury are offenders." But of necessity such matters, for the time, took a secondary place. As early as 1704, we find Dudley[2] urging the Home Authorities to set on foot an expedition against Quebec and Nova Scotia. He draws a graphic picture of the discontent of Massachusetts, which had to bear the burden of attack, while the other provinces sat quiet. All the greater was the disappointment at the
1711. failure of the expedition commanded by Hill. Great things had been expected: the campaign being intended as a Tory counterblast to the Whig triumphs on the Continent of Europe. But the betrayal of Marlborough found here its just Nemesis. There was, of course, plenteous bickering as to the causes of failure. The English officers ascribed it to the delay of the Colony in furnishing transports, while the Colonies were naturally sore at the incapacity and weakness of the English general. It was recognised by all that the failure must tend[3] "to depopulate their frontier, to diminish their trade, and discourage all people, by the constant wars they must now be obliged to maintain, from settling among them or improving the lands." In these circumstances, Dudley reasonably asked that another expedition might be sent the next year. The signing, however,
1713. of the Treaty of Utrecht put an end for the time to any such project. Under that Treaty, Nova Scotia, which had
1710. been again conquered by Nicholson, remained English. The French abandoned all territorial rights in Newfoundland,

[1] *P.R.O. Am. and W. Indies Col. Correspondence, N. England*, 1689-1732. Letter of Bridger, an admiralty official, in 1705. [2] *Ibia.* [3] *Ibid.*

and recognised the right of the Hudson's Bay Company to the territories claimed by them. France, however, still retained, besides Canada, Cape Breton Island, with its Port Louisbourg, the key to the Gulf and River of St Lawrence. Although Placentia in Newfoundland was handed over to England, the French retained the right to catch fish and to dry them on land in certain portions of the coast; a provision which became the source of much future trouble.

Although, from a purely American point of view, the gains to England under the Treaty did not appear very great, in reality her position had been enormously strengthened. Her naval pre-eminence was triumphantly secured. Holland, her old rival and subsequent ally, was left hopelessly behind. The secret of Holland's failure lay in her Continental position. Forced by it to take part in wars by land, she was not strong enough to burn the candle at both ends. France emerged from the war with her navy and shipping ruined. The English trade, we are told, increased rather than diminished during the war. "Before that war England was one of the sea powers. After it, she was *the* sea power, without any second. This power also she held alone, unshared by friend and unchecked by foe."[1] The privilege of carrying negro slaves to the Spanish Colonies was further obtained under the Treaty. England engaged to furnish four thousand eight hundred slaves annually, and in return was entitled to send two ships every year to the Spanish possessions. The privilege was granted for thirty-three years. **Assiento.**

Although Massachusetts was still the leading northern Colony, its position was seriously threatened by the new and growing Colonies of Pennsylvania and New York. In New York there had been at first a readiness to accept whatever Government should gain the upper hand. After the success, however, of William and Mary, the Whig faction, under the leadership of one Leisler, usurped the Government, and appear to have used their power with great intolerance. In none of the Colonies does party feeling seem to have run so high as in New York, and nowhere were parties so evenly **New York.**

[1] Mahan, *Influence of Sea Power upon History*, p. 225.

divided. Colonel Sloughter, who was appointed Governor in 1689, unfortunately died in 1691, and his successor, Fletcher, appears to have thrown himself into the party politics of the Colony, aiding and abetting in every way the Tory faction.

1696. In 1696 he was superseded by Lord Bellomont, who came out, as we have seen, as Governor of New York, Massachusetts and New Hampshire. If Fletcher had shown Tory sympathies, Bellomont was as aggressively Whig. His instructions are worth noting as illustrating Colonial policy.[1] "Whereas," they run, "the Lords, Spiritual and Temporal, in Parliament, upon consideration of the great abuses practised in the Plantation trade, have . . . lately presented the importance it is of, both to His Majesty and the Plantations in America, that the many good laws which have been for the Government of the said Plantations, and particularly the Act passed in the seventh and eighth years of His Majesty's reign . . . be strictly observed, which abuses must arise, either from the insolvency of the persons who are accepted for security, or from the remissness or connivance of such as are or have been Governors in the several Plantations, who ought to take care that the persons who give bond should be duly prosecuted in cases of non-performance," etc. The state of things found by Bellomont with regard to illicit trading was very striking. "The observance of the laws of Trade was so great a novelty that it gave as great discontent as if it had been an infringement of their Charter." Again, "They say I have ruined the town by hindering the privateers, for so they call pirates, from bringing in a hundred thousand pounds since my coming." Bellomont was a man perhaps given to some exaggeration, but in favour of his contention was the fact that, though New York had increased greatly in size and importance since 1687, the revenue from Customs had actually declined. He draws a striking picture how a Custom House officer appointed by him came and begged he might resign, "telling me that though most of that town were his near relations and several of them of his name, yet he was threatened by them to be knocked on the head, and he had

[1] *N. Y. Docs.*, Vol. IV.

already suffered many abuses, insomuch that he was in fear of his life." Credit must be given to Bellomont for putting his finger on the root of the evil. The Boston Collector "has been in England above two years. I believe a full one-third of the trade of Boston and this place (New York) is directly against law, and if your lordships will not keep a strict hand over your collectors, the trade of England must suffer accordingly." It would seem that Bellomont's predecessor, Fletcher, had been intimately associated with illicit trade. It was his practice to sell commissions to privateers, and he was in the habit of frequenting the company of a notorious pirate. When remonstrated with by the Home Government, his explanation was that he wished to reclaim him from a vile habit of swearing! After this we are not surprised to find that the New York Council consisted of merchants who were for the most part interested in illegal trading.

On another subject we find Bellomont speaking out with with no uncertain voice. "That which is the very soul of Government goes upon crutches in this province." The Chief Justice "is no sort of lawyer, having been bred a soldier; he is a man of sense, and a more gentlemanlike man than any I have met in this province, but that does not make him a lawyer. So far from being barristers, one of them (the judges) was a dancing master, another a glover." He therefore recommends that English judges and King's Counsel should be sent out "to mind the interests of the Crown." He declared that "an honest, able judge and Attorney-General" would be of greater service than a man-of-war or soldiers "for the suppressing of piracy and unlawful trade"; and added bitterly, "they are all in a piece at New York." His advice was taken, and a Chief Justice and Attorney-General were appointed in England. Unfortunately, however, the new Chief Justice was so devoid of tact and fitness for the post that almost the first act of the new Governor, Lord Cornbury, was to suspend him 1701.
from his duties.

In passing from Lord Bellomont to Lord Cornbury, we feel at once that we are breathing a lower moral air. Bellomont

had his faults, and nothing could have been more ill-advised than his foolish employment of Kidd to suppress piracy, but his despatches impress one as those of an upright and able man. Doubtless there was truth in his assertion: "I discourage all I can those distinctions of Dutch and English . . . and I tell them those are only to be acknowledged as Englishmen that live in obedience to the laws of England."

It is noteworthy of the state of things prevalent that in 1703 a Royal letter was issued to the various Colonies, prohibiting the receiving of presents by the Governors. In Lord Cornbury's case, an additional six hundred pounds was added by the Home authorities to the salary of six hundred pounds granted him by the Colony. A little later we find the first mention of a subject which was to agitate deeply the mind of
1706. the Colony. In a despatch from the Board of Trade to Lord Cornbury, they say: "In other Her Majesty's plantations the Assemblies do not pretend to the sole right of framing money bills, but admit of the Council's amendments to such Bills." Henceforth the relations between the Governor and the Colony were to be as strained as those between the Governor and people of Massachusetts, so that it becomes impossible to say that the difficulty in governing the latter was solely due to the peculiar independence of the New England character. It is noteworthy, however, that there appears to have been a considerable emigration from New England into New York.

"The officers of the Government," writes Governor Hunter[1] in 1711, "are starving, the forts on the frontier in ruins, the French and French Indians threatening us every day; no public money, nor credit for five pounds on the public account; all the necessary expenses of the Government supplied by my proper credit."[2] The amount of revenue which had been voted expired in 1709, and the Assembly steadily refused to vote fresh supplies. They refused to vote the Governor a salary, on the ground that the preparations for the expedition against Canada had

[1] Appointed in 1709.

[2] Hunter to Lords of Trade, March 17, 1711. *N. Y. Docs.*, Vol. V., 209.

"sunk them so low." The Governor pathetically laments[1] that the Act allowing a salary to Assembly men had made the office of representative a trade, so that the most ready way of securing popularity was to make a boast of economy. The Colonies were "infants sucking their mothers' breasts,"[2] but such as would wean themselves when they came of age. The pretensions of the Assembly already rivalled those of the English House of Commons. The Governor was obliged to return to them in an informal way a money bill which contained some verbal error, because they would never have tolerated its alteration by the Council. "This conduct, how unparliamentary soever, I was obliged to follow, or baulk the expedition." Hunter's disposition, however, was by no means conciliatory. "In the infancy of the Colonies," he writes, "the Crown was lavish of privileges, as necessary for their nursing; but a full-grown boy makes commonly but indifferent use of that indulgence requisite towards a child." He considered that the putting of all North America under one uniform government would most certainly be a sure remedy, but one "too lingering for your present exigency." His own proposal for securing the necessary money was to impose a quit rent of two shillings and sixpence upon every hundred acres of land in the Colony, and for the English Parliament to place duties on all goods imported and exported from the Colony. In other words, he advised the imposition of taxation upon the Colony by England.

Nov. 14, 1710.

In fact, the situation was a serious one. The claim asserted by the Colonies, and for the most part asserted with success, merely to vote annual grants to the Governor and other civil servants, involved far-reaching consequences. It rendered the Governor and all the other servants of the Crown dependent on the Assembly. But the claim of the Colonies did not end here. They further put forward the claim to appropriate supply, to assume in the words of Pownall[3]—"the actual executive part of the Government, than which nothing is more clearly and unquestionably settled

[1] Hunter to St John, Sept. 12, 1711. *N. Y. Docs.*, Vol. V., 179.
[2] *Ibid.*, 256.
[3] *Administration of the Colonies.*

in the Crown. In the Colonies the Treasurer is solely and entirely a servant of the Assembly or General Court, and although the moneys granted and appropriated be, or ought to be, granted to the Crown on such appropriations, the Treasurer is neither named by the Crown nor its Governor, nor gives security to the Crown or to the Lord High Treasurer — which seems the most proper — nor in many of the Colonies is to obey the Governor's warrant in the issue, nor accounts in the Auditor's office, nor in any one Colony is it admitted that he is liable to such account. In consequence of this supposed necessity for the assemblies taking upon them the administration of the Treasury and revenue, the Governor and servants of the Crown, in the ordinary revenue of Government, are not only held dependent on the Assembly, but all services, where special appropriation is made for the extraordinaries, which such services require, are actually executed and done by Commissioners appointed by the Assembly, to whose disposition such appropriations are made liable." From this passage, from a work of authority, written just before the American War of Independence, we see how in this case, as in others, the determination of the colonists wore down the persistency of the Home Government, and came out victor. The practical excuse for the New York Assembly lay in the conduct of the English Governors. Hunter himself admitted that it was to the "misapplications in Lord Cornbury's time we owe that there never will be another revenue settled by Act of Assembly."[1] The appointment of a Treasurer by the Assembly in 1705 was due to the same cause.

Meanwhile, the Board of Trade again and again protested. A Bill was actually drafted in 1711, granting a standing revenue to defray the necessary expenses of the Government of New York. Writing two years later, Hunter seems to doubt whether this measure was ever seriously intended, and in 1715 a *modus vivendi* was found, under which a revenue was granted by the Colonial Assembly for five years.

[1] *N. Y. Docs.*, Vol. V., 403. To Lords of Trade, May 21, 1715.

It is a strange irony which has fastened the epithet tyrannical on the conduct of England towards her Colonies. Incapable, weak, causing the maximum of friction with the minimum of result, Colonial policy may have been, but to call it tyrannical is to travesty either language or facts. The situation, perhaps, permits of a general reflection. The government of the Colonies, as the government of the Mother country before the complete evolution of party government, may be defined as one possessing representative institutions but not responsible government. Now it may be safely affirmed that of all governments such an one is the most difficult to carry on. Order is possible under absolutism and under popular government. But the *tertium quid*, which confers power while refusing responsibility, generally, and, we may almost say, inevitably results in anarchy. In England such logical issue was avoided by the organised employment of bribes, and by the defective character of Parliament, from a representative point of view; but the Colonial Assemblies were of not sufficient importance to be sought as Danae by the metropolitan Zeus, while they did represent the people of the Colony. Consequently in their case there were no retarding influences, and the impossible character of such government was completely brought out. It is probable that, in the case of the American Colonies, there were special circumstances at work, which, in time, would, in any case, have caused separation, but there can, I think, be little question but that the form of the constitution did much to promote dissension, as was seen, at a later date, in the case of Lower Canada. English Colonial Policy.

From the leading cases of Massachusetts and New York, it will have been gathered what were the main difficulties between the Home Government and the American Colonies. There was a general recognition that "no government in America was so well settled or blessed with so industrious a sort of people"[1] as was Pennsylvania. Penn's Charter had been disallowed in 1692 on the ground of neglect and miscarriage in the government, and of the absence of the Pro- Pennsylvania.

[1] MSS. in R. O.

prietor. But it was restored in 1694, and we find Penn in equal favour with the new Government as he had been with that of the Stuarts, though it is only fair to remark how very costly a business such favour is shown by his correspondence[1] to have been. He clearly, however, recognised that the tendency of things was against the continuance of proprietary governments; and negotiations were on several occasions entered into with the view of disposing of his proprietary rights. For one reason or another no settlement was made. Meanwhile in the Colony the same state of things which we have seen elsewhere prevailed[2]; "the Assembly," reported Quarry in 1707, "resolved to have all the government and powers in their own hands. They insist to have the regulation of all courts, and the nomination of all officers . . . so that they have banished all prerogative and government but what is lodged in the Assembly. . . . When it is contrary to their wild notions, then it will not oblige them, unless the Queen will allow them to send their representatives to sit in the Parliament of Great Britain." In Pennsylvania a special difficulty arose from the mixed character of the population. It is true that a large immigration from all quarters, attracted by the special advantages of the province, tended to reduce very greatly the proportion of the Quaker colonists. At the same time, acting as they did together, they were politically of importance, although, we are told,[3] the generality of the most knowing thought government ill-fitted to their principles. In the case of the alarm of war from Indians upon their frontiers, the Quakers of course refused to bear arms, and the non-Quakers, for political purposes, supported them
1709. in opposing the grant of a money equivalent. When in 1709 the other Colonies freely granted the Crown supplies of men, and the Jerseys voted instead £3000, the utmost that the Pennsylvania Assembly would grant was £500. In 1711, however, they made a grant to the Crown of £2000, the scruples of the Quakers being overcome by pretending ignor-

[1] *Logan Correspondence*, Vols. IX. and X. of Publications of Hist. Soc. of Pennsylvania.

[2] MSS. in R. O.

[3] *Logan Corr.*

ance of the object of the grant. The clearest heads recognised that what was required was a law for a militia, "which shall oblige all to serve who can, and those that cannot to contribute a due proportion to the expense." Speaking generally, the Pennsylvania Assembly yielded to none of the others in its pretensions, whilst between it and the proprietor there was the added bitterness which arose from a cash nexus.

Influence of example of Proprietary Governments.

Inasmuch, however, as the affairs of the proprietary governments did not come in so direct a way before the Board of Trade, it is unnecessary to dwell further on these controversies. We may note in passing, however, how the continued existence of provinces, wherein the Governors became more and more *ex necessitate rerum* the creatures of the Assembly, tended to foster a spirit of independence in the other Colonies, which at least nominally were in more direct subjection to the Crown.

Virginia.

In Virginia, the accession of William and Mary caused little change. The corrupt and Papist Lord Howard of Effingham was, in fact, suffered to remain as Governor. The Order restricting the franchise to freeholders was formally re-enacted. Means were taken to secure that the Home Government should be kept in touch with what was happening in the Colony, and the power of suspending Councillors was carefully restricted. Mr Doyle[1] sees in the clear recognition by the Crown of the right of taxation as vested in the Assembly, an "acknowledgment of those rights for which the Virginians did battle eighty years later." But surely it is one thing to admit that the Colony had right of taxation, and another to maintain that there was not at the same time a concurrent jurisdiction in the English Parliament. The Instructions of Governors were concerned with the case as it affected the Crown, and not as it affected Parliament. The mischief of Howard's appointment was minimised by his receiving leave of absence: the government being carried on by the able and industrious Lieutenant-Governor Nicholson. In his despatches he advocates a union of the

[1] *Virg.*, etc., p. 353.

Colonies for military purposes under the headship of the loyal Colony of Virginia, whilst he did all in his power to suggest efficient measures to the local authorities of the other Colonies. In 1692 Howard was succeeded by Sir Edward Andrews.

Already in the Instructions to Howard, in 1685, the English Government had abandoned its long settled practice of enjoining the culture of a variety of products,[1] and now we find Nicholson urging that the whole energies of the Colony should be concentrated on the staple product, tobacco. To allow of this, however, it would be necessary that exports from England of all necessary articles should be carefully kept up; as otherwise, the Colony would be driven to manufacture in self-defence. In 1696 Nicholson received the just reward of his labours by at last being appointed Governor. The difficulty in Virginia lay not as elsewhere in the democratic instincts of the people, but in the haughty arrogance of the ruling oligarchy, who, looking at the other Colonies, did not care that others should outdo them in pretensions. It was jealousy of New England in the main which provoked the Virginian Assembly "to claim all the rights and privileges of an English Parliament." The natural disposition of the people was to be "quiet and easy,"[2] but here, too, in addition to the emulation of the other Colonies, the same motive was at work, the desire of the deputies to recommend themselves to the people by opposing everything that required expense.

Maryland. In Maryland the chief result of the Revolution was to deprive Lord Baltimore of his political authority on the ground of his being a Roman Catholic. This course was taken through an exercise of the prerogative sanctioned, though not advised, by a legal opinion of C. J. Holt. At the same time, Baltimore's pecuniary rights as proprietor were carefully preserved. Henceforth, although in 1715 the proprietorship was nominally restored, the fourth Lord Baltimore being a Protestant, Maryland became for all practical purposes a Colony under the direct administration of the Crown.

[1] Bruce, Vol. II., *Econ. Hist. of Virg.* etc.

[2] Spotswood's *Official Letters*, 1710-1722, Virg. Hist. So., Vols. I and II.

Somewhat strangely, in a Colony which had been in its origin Roman Catholic and the favourite resort of Quakers and dissenters of all denominations, we find the Church of England established by law. An Act to this effect was passed in 1692, and it was made operative in 1700, through the imposition of a Church rate by means of a duty on tobacco. The latter measure had been passed in 1698, but for two years was vetoed by the Crown, the measure having tacked to it a wholly irrelevant clause declaring that the Colonies should henceforth be governed according to the fundamental laws and statutes of England. In Maryland the same cause which has already been adverted upon, viz.: the scandalous manner in which Colonial appointments were too often made, brought about the same result. The Colony which, according to Quarry,[1] had been the freest from all factions and parties of any of the Colonies, "is now, by the ill-conduct of the late Governor, run into as great extravagancy as any of the rest." 1709

An event happened in the reign of Queen Anne, fraught with important consequences for British colonization. In 1707 the Act of Union with Scotland was passed, which threw open to the Scotch the commercial privileges hitherto jealously reserved to England. Historians are agreed that the profound disappointment with the failure of the ill-fated Darien colonization scheme and the recognition that Scotland was not strong enough to stand alone in commercial matters, were the prevailing motives which reconciled the Scotch to a measure at first sight so much opposed to their patriotic instincts. Hitherto the Scotch, except by an exercise of the Royal prerogative or by sufferance, had had no part or parcel in English Empire. This work deals with British Colonial policy, but hitherto that policy had been strictly English. And yet it was already recognised that the Scotch made the most admirable colonists. An early petition [2] from Barbados speaks of them "as the general travailers and soldiers in most foreign parts." And as a curious commentary on this, we find Long, writing about a hundred years later,[3] saying that in

Union with Scotland. 6 Ann., c. 11.

[1] *P.R.O. Am. and W. Indies Col. Correspondence, Maryland*, 1689-1740, 23.
[2] Sainsbury, *Cal. of S. P.*, 1660-1668.
[3] *Hist. of Jamaica.*

1762 about one-third of the European inhabitants of Jamaica were either Scotch by birth or by descent. In this connection we may note the expectation expressed by Logan [1] to Penn that the passing of the Union would double the value of land in Pennsylvania.

Minor statutes.

Enough has already been said about the Navigation Act passed in the reign of William and Mary. Some minor Acts of the reign of Anne may here be noticed. In 1705 rice and molasses became enumerated articles. By an Act passed in the same year "for encouraging the importation of naval stores," a bounty was given on their importation into England from the American plantations. A few years later an Act was passed which exempted mariners trading to America from being impressed by English naval officers and suspended during the continuance of the war, the rule that three-fourths of the crew of vessels must be English, substituting the proportion of one-fourth in its stead. In 1708 an attempt was made to settle the difficult question of the value and kinds of money in the Colonies by the passing of an Act "for ascertaining the rates of foreign coins in Her Majesty's plantations in America." As an example of the truth that statutes, no less than books, *habent sua fata*, we may note that a statute passed in 1710, establishing a general post-office for the Colonies and declaring that any surplus should be expended on colonial defence, passed without protest from the colonial legislatures.[2]

3 and 4 Ann., c. 5, sec. 14.

3 and 4 Ann., c. 10 (continued by 12 Ann., c. 9. See also 8 Ann., c. 14).

6 Ann., c. 64, secs. 9 and 19.

6 Ann., c. 57.

[1] *Logan Corr.* Penns. Hist. So. *Memoirs*, Vols. IX. and X.

[2] *V.* however Spotswood's *Official Letters*, Vol. II., p. 281, as to complaints against the statute in Virginia Assembly.

CHAPTER V

THE PERIOD BETWEEN THE TREATY OF UTRECHT AND THE SEVEN YEARS WAR

Great Britain and the American Colonies between 1713 and 1756.

THE long period which elapsed between the signing of the Treaty of Utrecht and the outbreak of the Seven Years' War was, so far as Colonial policy was concerned, singularly dull and uneventful. The old controversies remained, and new ones were added to their number. But no permanent solution of difficulties was in any way arrived at. It is true that, regarded through the moonlight of memory, the time appeared to the next generation of colonists as one of unbroken contentment and calm; and so high an authority as Mr Lecky has stated[1] that while "for some years before the English Revolution, and for several years after the accession of William, the relations of the Colonies to England had been extremely tense . . . in the long period of unbroken Whig rule which followed, most of the elements of discontent had subsided." But an inspection of what actually occurred hardly bears out this statement. It is true, of course, that colonial questions were more and more shirked by the Home Government. For twenty-four years in succession the Duke of Newcastle was Secretary of State for the Southern Department, which dealt with the Colonies; and Newcastle's ignorance and incapacity became a bye-word among men. "Annapolis, Annapolis! Oh, yes! Annapolis must be defended," he is reported to have said. "To be sure, Annapolis should be defended. Where is Annapolis?"[2] It was said of him that he always appeared to have lost half an hour in the morning, and to be running after it all the rest of the day. But, with regard to colonial matters, he did not even try to overtake the past. Inasmuch as he discouraged all measures that might arouse opposition, he might, in a sense, be described as a safe Colonial Minister. But his procrastina-

[1] *Hist. of England in the Eighteenth Cent.*, Vol. IV. p. 8. 1892 ed.

[2] H. Walpole, *Memoirs of the last ten years of George II.*

tion solved nothing. The old sores, which, it must be remembered, were caused more by the relations between the Colonial Governors and the Colonial Assemblies than they were by the relations between the Colonies and the Home Government, went festering on. It can with no justice be claimed that the Whig *régime* of the early Georges contained in it any solution of the problems which had gone on puzzling statesmen since the first starting of the Colonial Empire. We have the authority of Horace Walpole[1] for the statement that, during the administration of his father, the Board of Trade had almost lapsed into a sinecure. So far as results went, this was doubtless true; but they appear to have gone on, with tolerable regularity, making the same reports which nobody read, and the same recommendations, which nobody heeded.

At the outset a new cause of quarrel meets us. It ha been seen how the difficulty with regard to the voting of a revenue by the New York Assembly was at last overcome by the granting of a revenue for five years. Further trouble, however, arose through the action of the Assembly in imposing a two-and-a-half per cent. duty on all goods imported from Great Britain. For a time, though not without protest, the English authorities allowed the imposition. In former Acts of Revenue similar provisions had been passed without complaint. In 1724, however, an Order in Council was issued,[2] advising the vetoing of an Act imposing a two per cent. duty on European goods imported in English bottoms. The same cause of quarrel arose in the case of other Colonies. Acts had been passed by the Massachusetts and Virginia legislatures, laying duties, the one on imported goods, the other on the importation of liquors and slaves. It was felt that resistance must be made, and the Acts were disallowed. On another question the English authorities endeavoured to establish a clear rule. In particular cases, the Colonial legislatures had claimed to approach the English Government independently of their Governors. The Virginia

[1] *Memoirs of last ten years of George II.*, Vol. I.
[2] *N. Y. Docs.*, Vol. V.

legislature had done so in 1701, Barbados in 1705, and in 1716 Jamaica followed the example of Virginia. It was decided[1] that such a course was only allowable where complaint was made of the personal conduct of the Governor, and that in all other cases the Governor must be the conduit pipe through which the Colony should approach the Home Government. "We cannot but take notice," the Board of Trade significantly adds, "that not only the Assembly of Jamaica, but of several other Colonies in America, have of late pretended to assume new privileges and powers, which, if not prevented, may tend to the weakening of His Majesty's prerogative in those parts." Meanwhile the mind of the Navy Board was seriously exercised by the question of naval stores. The Act of Anne expired in 1726, but a new Act was passed in 1729, under which encouragement was given to the production of all naval stores.[2] The growth and culture of raw silk, and the making of pot-ashes, were also encouraged by being admitted into England free of duty.

2 G. II., c. 35 (continued by 24 G. II., c. 52). 23 G. II., c. 20, and 24 G. II., c. 57.

In other directions, however, the influences at work were not so favourable. The English mercantile interest was becoming of increasing importance, and what it demanded Parliament had to grant. In 1719 the House of Commons resolved "that the erecting of manufactures in the Colonies tended to lessen their dependence upon Great Britain." In the same year a Bill passed both Houses, forbidding the American Colonies to manufacture iron of any kind. Under this, no smith would have been able to make so much as a bolt, a spike, or a nail. No forge could have been erected for making "sows, pigs, or cast iron into bar or rod iron."[3] The opposition aroused, however, by this measure was so great that it was dropped, but duties were imposed on all American iron imported into England. In 1750 these were modified, and pig and bar iron were allowed a free admission to the English market. At the same time it was provided[4] that "no mill or other engine for slitting or rolling of iron, or any

23 G. II., c. 29.

[1] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General*, 602.

[2] The conditions with regard to tar had been made more stringent by 8 G. I., c. 12, sec. 3.

[3] Macpherson's *Annals of Commerce*, Vol. III.

[4] Sec. 9.

plateing forge to work with a tilt hammer, or any furnace for making steel," should be permitted in the Colonies. A yet more striking instance of trade jealousy was given in
5 G. II., c. 22. 1732. North America was the land of furs, and therefore it was natural that a hat industry should come into being. An Act was thereupon passed, forbidding the export of hats not only to England, or to foreign countries, but from one colony to another, and providing that no colonist should pursue the trade, unless he had served a seven years' apprenticeship and should himself employ two apprentices or should teach the industry to negroes. Nor was it merely in the interests of English manufacturers that Parliament interfered. The American Colonies had been in the habit of carrying on a profitable export trade to the French West Indies, and of bringing back, in return, rum, sugar, and molasses. A Bill was introduced into the House of Commons, directed against this trade, and, after much dispute, and the defeat of the Bill in its original shape, it
6 G. II., c. 13. was enacted in 1733, that a duty of ninepence per gallon should be paid upon all rum and spirits made in the plantations not subject to Great Britain, on their importation into any of the British plantations: that sixpence a gallon should be paid on all foreign molasses and syrups imported, and five shillings on every hundredweight of sugar. As a matter of fact, it was found impossible to enforce this law, and therefore the practical grievance of the colonists was slight, but it was none the less a sign of the spirit in which colonial affairs were considered. About the same time
3 G. II., c. 28. 8 G. II., c. 19. 12 G. II., c. 30. permission was given first to Carolina and then to Georgia to ship rice to any port south of Cape Finisterre, and a few years later the same privilege was conferred on West India sugar, provided that it was carried in British-built ships navigated according to law.

Relations between Mother country and Colonies. It will be seen from the foregoing summary that, so far from the period in question being one of peace and goodwill towards the Colonies, it was a time wherein fresh links were being continually added to that chain of commercial legislation which did so much to alienate and disgust the Ameri-

can Colonies. Mr Lecky himself observes[1] that "to a sagacious observer of colonial politics two facts were becoming evident. The one was that the deliberate selfishness of English commercial legislation was digging a chasm between the Mother country and the Colonies, which must inevitably, when the latter had become sufficiently strong, lead to separation. The other was that the presence of the French in Canada was an essential condition of the maintenance of the British empire in America." He then goes on to quote the famous passage, wherein the Swedish traveller Kalm, writing, it must be remembered, many years before George Grenville's Stamp Act, declared[2] "these (commercial) oppres- 1748
sions have made the inhabitants of the English Colonies less tender towards their mother land. This coldness is increased by the many foreigners who are settled among them. For Dutch, Germans and French are here blended with English, and have no special love for Old England. Besides, some people are always discontented and love change, and exceeding freedom and prosperity nurse an untameable spirit. I have been told, not only by native Americans but by English emigrants, publicly, that within thirty or fifty years the English Colonies in America may constitute a separate State entirely independent of England. But as this whole country towards the sea is unguarded, and on the frontier is kept uneasy by the French, these dangerous neighbours are the reason why the love of these Colonies for their metropolis does not utterly decline. The English Government has therefore reason to regard the French in North America as the chief power which urges their Colonies to submission." In the foregoing passage one sentence has generally escaped notice. Bancroft quotes it in full, but in fact it is an authority against his main thesis of English tyranny. "Exceeding freedom and prosperity," such is the verdict of the shrewd foreign observer. A yet more remarkable prophecy, made so early as 1711, is quoted by Mr Parkman.[3] An anonymous

[1] *Hist. of England*, 1892 ed., Vol. II. p. 241.
[2] Pinkerton's *Travels*, Vol. XIII.
[3] *Half Century of Conflict*, Vol. I. p. 155.

French paper affirms that the result of the French Colonies falling would be "that these different provinces will become united, and, shaking off the yoke of the English monarchy, will form themselves into a democracy." On the other hand, it must be remembered that the very different character of the English Colonies from that of the French, led the latter to exaggerate points of difference between the Mother country and the Colonies. In this connection we may note the language of the author of *The Importance of the British Plantations in America to this Kingdom*, 1731. "The writer of this hath lived and traded about fourteen years in those parts, and sincerely wishes that disaffection and general discontent may never appear, there or in these Kingdoms, but if such things should happen, which God forbid, he is persuaded that the people in our Plantations would be the last of all His Majesty's subjects to be deservedly charged with either."

War with Spain and France.

After a long period, during which Walpole had successfully resisted at once the inclination of the English people and the tendencies of events, war broke out again in 1739 between England and Spain. The trivial matter of "Jenkins' ear" served as a cloak to its real purpose, the command of the trade of the West Indies. Under the Assiento contract, England had the right to a certain defined trade with the Spanish Colonies. Under the cover of this a great contraband trade had sprung into being. In the attempt to stop such smuggling, Spain was led to exceed her strict legal rights, and to board and search English ships on the high seas. For our present purpose the war is chiefly noticeable for the attempt to employ American troops in a West Indian expedition, and for the reduction by the New England militia of Louisbourg. Neither matter served to increase the prestige of the Mother country. The attempts upon Cartagena and Santiago de Cuba in 1741 and 1742 were miserable failures, owing mainly to quarrels between the Admiral and the General, whilst the capture of Cape Breton Island, accomplished as it was by colonial troops, although supported by
1748. the Royal Navy, taught the colonists self-confidence. Moreover, the Treaty of Aix-la-Chapelle, which restored Cape

Breton to France in return for Madras, was a bitter pill for the New England colonists. Doubtless, from the point of view of the Empire, the exchange was a profitable one, but the Colonies could not be expected to see things in the same light. All that they saw was that their own trouble and valour had been given in vain, and that others entered into the fruits of their success. It is only fair to add, however, that in these circumstances the English Government made what reparation it could. A very liberal money grant was given towards the expenses of the expedition, with the help of which Massachusetts was able to put its currency on a sound footing.

In 1748 the Duke of Newcastle at last gave up the Southern Department, and was succeeded by the Duke of Bedford. Bancroft seems to date from this event the beginning of a regular conspiracy against the liberties of the American Colonies. I do not know whence his political estimate of the Duke of Bedford is derived. It would probably have surprised very much the Duke of Bedford's own colleagues. According to Pelham and Lord Hardwicke, who were Bedford's friends in the Ministry, he fancied he performed the duties of his office when he did little or nothing. "It is," wrote Pelham,[1] "all jollity, boyishness and vanity; he persuades himself that riding post from London to Woburn and back again is doing a great deal of business." Again, "his total negligence and inability for office was far from being known to mankind in general till this year." King George II. remarked, "He does not much trouble his head about business. Never man had an easier office than he has." It must, of course, be admitted that under Halifax, who became its head in 1748, the Board of Trade showed greater activity than it had for many years past. Horace Walpole, while he admits that Halifax showed "great application to raise the credit of his employment, and as much as he could counteract the supineness of the Administration," represents him as actuated by motives of ambition

[1] Coxe's *Memoirs of the Pelham Administration.* Illust. corr. at end of Vol. II. Pelham to Duke of Newcastle and to Mr Stone in 1750.

to be nominated a third Secretary of State for the West Indies. But, in fact, it did not require the motive of ambition for a long-sighted man to consider that the separation of the Board of Trade from the Secretary of State's department, and its clear recognition as a distinct and independent department, was absolutely necessary, if the failure and neglect of the last fifty years was to be avoided. It must at the same time be admitted that, if its consequences were perceived, a clause (which was afterwards dropped) in the
24 G. II., c. 53. Bill of 1751 relating to paper money, which declared that Royal Instructions to Governors should have the force of Statutes, was a very unwarrantable extension of the Prerogative: but on the whole it is abundantly clear that the English Statesmen of the time lived merely from hand to mouth, and that Bancroft has greatly overestimated the intelligence with which they went to work.

Massachusetts. I have spoken of peace and goodwill. Assuredly, these qualities are not conspicuous when we turn to the particular cases of the leading Colonies of Massachusetts and New York. General Shute became Governor of Massachusetts
1716-1727. in 1716, and from the first he was embroiled in fierce controversy with the Assembly. A few years later, matters had gone to such lengths that Shute proceeded to England, to lay formal complaint against the Assembly. His charge against the Colony contained seven counts. There was the question of disobedience to the provision in the Charter respecting masts for the Royal Navy. There was the question of the Speakership: the Assembly claiming to appoint, independent of any interference from the Governor. This point, at least, was settled by the issue in 1725 of an explanatory Charter enforcing the Governor's rights. A kind of shadowy reflection of the past lay in the proposed revival of church synods, which were forbidden on the ground that Episcopalians at home might not meet in convocation. The Governor further complained of the Assembly taking it upon themselves to adjourn to a distant day. More important, however, as directly interfering with the province of the Crown, was the conduct of the Assembly in dismantling forts,

suspending military officers, and appointing Committees to direct and muster Colonial forces. It is obvious that such claims, if made good, tended to reduce the Crown Governor to a mere figure-head. Whatever, however, the practice, it was impossible to make good such pretensions in the uncongenial air of the Privy Council. A contemporary letter[1] from a New England correspondent, of most cautious and conservative disposition, gives an interesting account of the arguments. His conclusion is—"I am really concerned when I think seriously of these things (having children who must, in all likelihood, spend their days there), that, through the ill-nature and stubbornness of a few men, the country will lose so many valuable privileges as no people else under the British Crown enjoy." He greatly under-estimated, however, the *vis inertiæ*, the unalterable caution of British officialism. There was the usual and now well-nigh stereotyped grumbling, but, except with regard to the Speakership, nothing effectual was done. Shute was succeeded by Burnet, whose excitable nature appears literally to have worn itself out within two years in conflict with the Assembly. 1724. 1727-1729.

In choosing a successor, the English Government made an honest attempt to bring about a more satisfactory state of things. Belcher, who received the appointment in 1740, had been reported, by loyalist gossip, a bitter opponent of the Prerogative. Speaking of the rights of the Colony, he was stated[2] to have termed "*felo de se* the worst kind of murder." In any case, his interests were all bound up with those of Massachusetts. However, in office, he behaved much as other Governors had behaved. Once more we hear the entreaty that naval stores may be encouraged, so as to prevent the emigration of colonists, and avert the setting up of Colonial manufactures. The House of Representatives was continually running wild.[3] Their attempts at assuming the whole legislative as well as executive power were not to be endured with honour to His Majesty. Every day Belcher 1730-1740.

[1] *Mass. Hist. Soc. Collections*, first ser., Vol. II.
[2] *P.R.O. Am. and W. Indies Col. Correspondence, N. England*, 1689-1732. [3] *Ibid.*

was expecting that they would vote the Council a useless part of the legislature. Matters seemed hastening to a crisis. There was no pay for the officers and soldiers; and in all probability they would desert their posts. All this and more, Belcher reported, and the Duke of Newcastle made no sign. In New Hampshire things were even worse. Inspired, according to Belcher, by Dunbar, the Lieutenant-Governor and Surveyor of the Woods, the Assembly refused to vote a penny for the public service. As time passes, however, Belcher reports a better spirit in the Massachusetts Assembly. They passed Acts for the encouragement of hemp and pot-ash, and generally showed a more conciliatory
1735. spirit. In the year 1735, a long-standing controversy was closed, by the complete victory of the Colony. Henceforth the Governor was empowered to accept an annual grant, and the attempt to obtain a permanent salary finally abandoned.

Consider the figure of the average Colonial Governor[1] as he shows himself in the actual colonial records, no longer posing as the Verres of the American school-book. His salary is strictly confined by the Assembly to a single year's grant, while his instructions from England forbid him to accept anything less than a regular fixed salary. So, each year he has to apply for leave to accept the money, and each year the solemn farce is gone through, of giving him leave for this once only. Meanwhile, he has the agreeable consciousness that, besides losing the interest of his money, he is being directly fined by the delay. The £3000 currency (paper) money voted will not be worth more than about £2550 currency, by the time he receives it. Often he will have advanced £3000 or £4000 of his own money before touching his salary. In this state of things, a vacancy to some appointment occurs, and he thrusts into it his son or son-in-law. But the supreme jobbing authority is at work, and he finds his relative must hand over the place to some nominee of the Duke of Newcastle. Thus to suffer in one's lifetime, and to be damned by order to posterity, surely is a

[1] The particular case I have in mind is that of Belcher, as drawn by his despatches in the R. O.

hard fate. Of course, there were additional pickings to be got. But what is to be said of a system under which, without such pickings, no ordinary man of the world could have accepted a governorship? Moreover, the few official appointments rendered more difficult the position of the Governor. The seekers far outnumbered the posts, and every appointment left behind it a scum of resentments and jealousies. If the Governor looked after the interests of his own kith and kin—and who in the eighteenth century did not?—he was bound to make enemies, and such enemies might be dangerous. Thus, we find Shirley, who afterwards succeeded Belcher, at first his friend, but, estranged through some question of this sort, henceforth his determined and formidable enemy.

Question of the Currency.

During this time a further cause of controversy had been at work. The experience of modern times has again and again justified Hutchinson's wise remark[1] that the influence that a bad currency has upon the morals of a people is greater than is generally imagined. On this subject it is not for Englishmen to throw stones. The difficulties of the American Colonies with regard to the currency were largely due to the artificial action of English laws. The Mercantile theory, which attached a special value to the precious metals and which considered trade profitable only so far as it showed an excess in gold and silver, threw, of course, every obstacle in the way of the export of bullion to the Colonies. It must be remembered, moreover, that the export[2] of bullion from England was expressly forbidden before 1663. If the trade of the Colonies was to be monopolised by the Home Government, and if their share of returns was to be strictly limited to English manufactures, it was obvious that there must be a scarcity of coin. Of course, as a matter of fact, trade was not confined to the home country, and the precious metals found somehow an entry. Still there was a serious scarcity, and this scarcity was undoubtedly, in great measure, caused by the action of English legislation. It is difficult, however,

[1] *Hist. of Mass.*, Vol. II.

[2] See Weeden's *Social and Econ. Hist. of N. England*, Vol. I.

exactly to estimate the real extent of this influence, because in the West Indies, where there was plenty of Spanish and English coin, a system of barter was found prevailing as late as 1672. Still, the difficulty of obtaining coin from England undoubtedly added to the financial difficulties of the Colonies. In these circumstances, they became the natural hunting-ground of that most mischievous of all heretics, the currency quack. Readers of Macaulay will remember the trenchant language with which he deals with the hapless originator of the scheme of a Land Bank, one Chamberlain. The circumstances of New England were such, however, as to lend much greater plausibility to such a scheme. The earliest advocate in America of some kind of Land Bank was the younger Winthrop. He conceived of a currency[1] "which should have something of the credit and expansive power of paper money without its convertibility into specie. He would maintain the credit of his bills by some ingenious hypothecation of lands or commodities." We find forms of land banks in 1671, 1681, and 1686, but the first appearance of regular paper money dates from 1690. In 1712 the Legal Tender Act was passed, making Bills of Credit good money, except when the Contract expressly stated otherwise. All the Colonies, with the exception of Virginia, appear to have suffered from the disease of a depreciated currency. It is true that in Virginia tobacco was no longer, as throughout the seventeenth century, the recognised money of the Colony, but the scattered character of the settlements and the absence of towns averted the dangers of paper money.

In New England the actual depreciation of the redeemable paper currency began in 1712 or 1713. An Act of 1727 regulated the price of silver for debts previously contracted. Eight shillings per ounce being the par of exchange, the value was fixed for 1710-1711 at eight shillings. Its value was fixed higher for each year until it reached the value of seventeen shillings for 1724-7. In private inventories prices went up steadily. In 1719-20 silver was at ten shillings to eleven shillings per oz. and gold at £8 per oz. In 1745 the

[1] Weeden, *Social and Economic History of New England*, Vol. I.

respective prices were thirty-three to thirty-six shillings and £24. A clergyman, writing in 1747, gave the advance in price of a long list of household supplies from his private accounts for a space of forty years. Quantities, which at the earlier date were worth £1, 10s. 6d., were then worth the enormous sum of £15, 2s. 6d. in paper money. How ineffectual had been the proclamation of Anne which purported to regulate the currency of the Colonies, appears, from a return given by Anderson[1] for 1740, of the value of £100 sterling in the different States. According to this return, while in New York and the Jerseys £100 sterling was worth £160 currency, in Pennsylvania £170, and in Maryland £200; in New England it was worth £525, in South Carolina £800, and in North Carolina £1400. Besides the proclamation of Anne, which had proved ineffectual, an English statute was enacted "for restraining several unwarrantable schemes and undertakings in His Majesty's plantations." The instructions to Governors, moreover, contained elaborate provisions as to regulating the amount of paper money to be allowed in currency to the actual expenses of the year. But, in fact, the economic deluge was too serious to be dealt with by the Mother Partington mops of the Board of Trade, and a fertile cause of moral and economic disintegration continued busily at work.

How demoralising the effects must have been of this depreciation of the currency it is impossible to say, but an impartial judgment would probably find in this, and in the smuggling which went on by the side of it, the most serious grounds for condemnation of British Colonial policy. Such, however, was not the light in which things presented themselves to the English statesmen of the day. The Mercantile system was to them part of the natural order of the universe, and to lament its consequences would have seemed as idle as to cry for the moon. Where they are to be condemned is that they did not act up to their own lights. Thus in 1729 we find the Board of Trade again asserting[2] that "nothing can cure these evils but the repeal of their Charters and the

[1] Macpherson's *Annals of Commerce*, Vol. III.

[2] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General*, 602.

providing some other way a salary for their Governor, which may render him independent of so stubborn and seditious a people." And yet no attempt was made to put these views into practice. It is not necessary to sympathise with the point of view, or to approve the epithets, to recognise how necessary it was in the interests of England that colonial officials should recognise that their interests were not all tied up with the approval or disapproval of the Colonial Assembly.

Shirley, 1740-1756. In 1741 Shirley became Governor, and to the relief of the student a new spirit breathes in his letters. At first, there is the same note of lament. The mere mention [1] of a suspending clause attached to a money Bill is enough at once to take away the disposition of the Assembly for the public service, whatever the private views of members. The feeling of the people was so strong against voting a fixed salary that the representatives ("who by being annually elected are rendered entirely dependent upon the humour of their constituents") would never consent to vote for such a measure.[2] "If ever it is effected, without the intervention of Parliament, it seems to me it must be done not by dint of dispute . . . but at some unexpected juncture, when their settled affection for a Governor may give the representatives courage to venture upon a short settlement at first, out of personal regard for him, which may be followed by a settlement during the administration, from which precedent it might be difficult for the people to recede upon the appointment of a new Governor." More important questions soon, 1744 however, occupied Shirley's attention. To him belongs the credit of having first suggested the attack on Louisbourg, and 1745. of having arranged its carrying out in the following year. The manner in which the land and sea forces co-operated—a point in which the expeditions of the time were apt to fail—reflected the highest credit on all concerned, and the June. surrender of Louisbourg was one of the most important achievements of the war. Whatever the faults of the men of Massachusetts, it must be admitted that they always rose

[1] *P.R.O. Am. and W. Indies Col. Correspondence, N. England*, 3. [2] *Ibid.*

to great occasions. Ill to drive, under capable leadership they could be guided easily. Whereas one gathers that in New York political opposition was to a great extent factious, and based on selfish considerations, in Massachusetts political opposition was fierce, but was not incompatible with conduct of large generosity. It must be admitted that Shirley showed himself no unworthy Governor of such a Colony. When he heard reports that the services of the colonial forces were being depreciated in London, he expressed[1] himself stoutly on their behalf. On another matter, he showed independent judgment. A plan was on foot to banish the French inhabitants of Acadia. Shirley at once protested against such a proceeding. He showed that, if the Acadians had mistaken their position, and assumed a greater neutrality than the provisions of the Treaty admitted, they had been misled by the promises of English officials, and that their position was one of extreme difficulty, placed, as they were, between two fires.

Upon the whole the history of the part taken by Massachusetts in the war, which closed with the Peace of Aix-la- 1748
Chapelle, together with its happy epilogue, in the voting by the English Parliament of the contribution which was applied (at the wise advice of Hutchinson) to redeeming the depreciated paper currency, affords one of the most pleasing pages in the history of English and American relations. Even here, however, there was the fly in the amber, when the Colony found that, after all its exertions, Cape Breton was to be restored to France. Assuredly, whatever might be said on this matter, no blame attached to Shirley. Again and again he had termed Louisbourg[2] "the key" of both the French and British Northern Colonies. "Which, by its vicinity to the British Colonies, gives the Crown of Great Britain a most absolute hold and command of them, if ever there should come a time when they should grow restive and shake off their dependency upon their Mother country; the possibility of which, I must freely own, seems to me, from the observations I have been able to make upon the spot, at the

[1] *P.R.O. Am. and W. Indies Col. Correspondence, N. England*, 4. [2] *Ibid.*, 3.

distance of some centuries further off than I have heard it does to some gentlemen at home!" In spite, however, of the restoration of Cape Breton, Hutchinson is probably right when he asserts[1] that the people of Massachusetts were never in a more easy and happy situation than at the close of the war with France. Difficulties there were, doubtless, in the way. The system of town meetings made New England a genuinely democratic community, and democracy had not much in common with the England of the eighteenth century. A riot which occurred in 1747 about impressments was very nearly assuming dangerous proportions. The English Law Officers held that the Act of Anne against such impressments in America had expired. Whatever, however, the strict legal position, it was most inexpedient to attempt the enforcement of impressment in a community which had done so much for the service of England as had Boston. The town militia at first refused to obey the call to arms, and, but for the coolness and promptitude of Shirley, it is possible that the matter might have had a different ending from the satisfactory one which he was able to report.

6 Ann., c. 64.

New York.

In New York the English Executive found itself confronted with the same difficulties. To this important mercantile community the Navigation Acts were especially distasteful. Thus we find Clinton reporting[2] that the faction opposed to him chiefly consisted of merchants who were interested in the breach of the Navigation Laws. They therefore "make officers sensible that the only way for them to prosper or to be rewarded is by a neglect in their duty, and that they must suffer by a performance of it. These attempts extend from a judge to a constable and from a Governor to a tide-waiter." Mr Weeden[3] has collected some striking instances in the neighbouring New England Colonies which well illustrate this text. Thus we find an obituary notice of a deceased Boston Customs' collector, wherein it is said how "with real humanity he took pleasure in directing masters of vessels how they ought to avoid the breach of the Acts of Trade." A yet

[1] *Hist. of Mass.*, 1749-1774.
[2] *N. Y. Docs.*, Vol. VI., Oct. 4, 1752.
[3] Vol. II.

more remarkable example is a letter from a Boston official, "deliberately warning a community of respectable lawbreakers that they will suffer the legal penalty if they ship their goods by a particular captain." "They must not (after such notice of my design) think hard of me, as what I may do will be to punish said Ober and not them." In 1716, because the King's officers hindered the people from a full freedom of illegal trade, the Boston mob took the wine and stove the casks in the open street, while the English Executive looked helplessly on.

The New York Assembly had become "a dead weight against the other branches of the Legislature." We have seen how, under a compromise, a revenue had been from time to time voted by the New York Assembly for five years. But they soon repented of such moderation, and reverted to the plan of only making a grant for the year. The colonial Treasurer gave no account of the revenue to the Governor or the Council, but was the mere creature of the Assembly. The King had not one farthing of his revenue at his command for the support of Government.

In a paper[1] drawn up by Governor Clinton, enumerating the encroachments of the Assembly since 1743, it is stated that they tacked on grants for extraordinary services (such as writing libels on the Government!); that they assumed the right to pass the muster roll of troops; to have charge of the gunpowder; to erect forts; and to decide how they were to be raised and by whom. The militia, he further asserted, refused to obey the Governor's orders unless confirmed by Act of Assembly. A young woman was unfortunately shot by a gun fired from a British man-of-war. The seaman was arrested by the Colonial officers and his discharge refused, although the offence, having occurred at sea, was clearly triable in the English Courts. Such a state of things obviously required the exercise of the greatest wisdom and statesmanship. The evidence of Clinton is of course *ex parte*, and he does not seem to have himself shown any great discretion or tact. At the same time, the substance of his

[1] *N. Y. Docs.*, Vol. VI.

charges was in effect admitted by the Assembly, and it is only fair to recognise that he began with the most conciliatory intentions. The opposition was probably to some extent fictitious and made to order. Thus we find C. J. Delancey, who, according to Clinton, had been the main conspirator against the Government, quite prepared, when the wheel of fortune made him acting Governor, to support the Prerogative which he had so stoutly resisted.

The mention of this suggests one constant cause of weakness. Whatever may have been the reasons, one is struck by the great number of Colonial Governors who died; many of them during the very beginning of their period of office. In such cases, and in the case of vacancies brought about by other causes, the Lieutenant-Governor acted as Governor. But the Lieutenant-Governor might be, as was Delancey, interested in the factions of the Colony, and, in any case, as a local man, he was less likely to resist the encroachments of the Assembly. Clinton rightly or wrongly ascribed his own difficulties in great measure to the conduct of Lieutenant-Governor Clarke, who acted as Governor from the death of Cosby in 1738 to the arrival of Clinton in 1743. Be this, however, as it may, and whosesoever the fault, the situation between Clinton and the Assembly had become critical. In vain, however, he appealed to the Home Authorities. "The spirit of faction," he wrote in 1749, "is kept up by not having any Orders on the subject-matter, of the present public dissensions." He had determined to make a stand, to resist the encroachments which had been made by the Assembly on the province of the Executive. He refused to pass Bills in the form which had become customary. When, however, no approval came from England, he lost heart and yielded. "For two years I have declined the passing of such laws, hoping His Majesty's directions on that head, but as no directions came I conceived that I could not justify any longer delay." Meanwhile the authorities at home were not sleeping. The delay, they explained, arose from the importance of the subject. At last the report of the Board of Trade was ready, and was made to the Privy Council. If ever there

was a case of *nascetur ridiculus mus* it was this. Not a word was said to assist the solution of the real problem at issue. The *deus ex machinâ*, who was to mend matters, was to be a new Governor; while the pious hope was expressed that a perpetual revenue might be voted, as had been voted in Jamaica. New Instructions [1] were issued to the various Governors in 1752, under which a digest of existing laws was ordered to be prepared, and no new laws were to be passed without a clause preventing their taking effect till the pleasure of the Crown could be known. This course was intended to meet the practice of the New York Assembly, who were accustomed to make laws of a short duration, which might come into effect before the English authorities had had notice of them, and be then held up as "precedents for after laws of the like nature." No attempt, however, was made to settle what was the real crux of the matter, viz., the respective functions of the Executive and of the Legislature.

Another modest alteration of the same date was a distinct improvement. Hitherto it had been the practice of Colonial Governors to send reports both to the Board of Trade and to the Secretary of State. It was decided that henceforth all ordinary accounts of proceedings should be directed to the Board of Trade. Some overlapping and confusion was thus doubtless avoided. It may be said that the caution of the English Government in interfering with the Colonial Assemblies lay in its respect for colonial liberties, and should therefore be approved. Unfortunately, however, its conduct hardly bears out this view. When, according to a view which has at all times been popular, the New York people believed that economic ills could be cured by political remedies, and that a more frequent meeting of Assemblies would increase population and revive trade, the English Government disallowed the Act enforcing triennial Assemblies. And yet, if ever there was a matter clearly of domestic interest, and on which a self-governing Colony should have been allowed to decide for itself, it was this. To strain at the gnat and swallow the camel,—such, during the first half of the eigh-

March 1752.

1738.

[1] *N. Y. Docs.*, Vol. VI., March 12.

teenth century, was the invariable course of British Colonial policy.

To anyone who has closely followed the dealings of the English Governors with the Colonial Assemblies, and their practical impotence before the bodies clothed with the power of the purse, it is amusing to read Horace Walpole's remark, and the admiring comment of his editor, Lord Holland. Horace Walpole writes of the Duke of Newcastle: "The prerogative was strained unwarrantably over the Assemblies.
1753. Instructions to Sir Danvers Osborne, a new Governor of New York,[1] seemed better calculated for the latitude of Mexico, and for a Spanish tribunal, than for a free, rich, British settlement, and in such opulence, and of such haughtiness, that suspicions had long been conceived of their meditating to throw off their dependence on their Mother country." His editor adds: "If this was written at the time, it is a very remarkable passage." But, in fact, the instructions to Sir Danvers Osborne,[2] who was appointed Clinton's successor, were, in the main, the usual instructions to Governors, with the additional points mentioned above, and a clause enjoining him to obtain from the different Colonies the quotas to a common fund, prescribed in the time of William and Mary. As, however, there was no means of making this Order effectual, it remained a dead letter. Moreover, the instructions were drafted several years after the Duke of Newcastle had ceased to be Secretary for the Southern Department. Indeed, whatever were the causes of the loss of the American provinces, it was assuredly not due to the despotic action of their Governors. The Americans were already a remarkably wide-awake people, and were well content that the Home authorities should be amused with the shadow of authority, so long as they themselves were able to secure the substance of power.

S. Carolina. From South Carolina came the same tale of woe. The interests of seven out of the eight proprietors had been

[1] d. in Aug. of same year.

[2] *See* Representations of the Lords of Trade on these instructions, *N. Y. Docs.*, Vol. VI. p. 788.

brought up in 1727, but things did not run much more smoothly under the Government of the Crown. The pompous and didactic Glen, who bombarded the ducal Secretaries of State with long Latin quotations and views on international law, declared[1] that "little by little the people have got the whole administration in their hands . . . Almost all the places of profit or trust are disposed of by the Assembly. The Treasurer, the person that receives and pays away all the public moneys, is named by them, and cannot be displaced but by them." The Assembly had the nomination to all livings, and, hardest cut of all, the Governor found himself in the unhappy position of not being prayed for in Church, while the Assembly was! The Assembly claimed the right to settle what places should have representatives, and what the number of such representatives was to be. The members of the Council lived at a distance and seldom attended. Altogether, the elaborate Glen found himself wallowing *in fæce Romuli.*

Pennsylvania.

The history of the proprietary governments only throws light indirectly on British Colonial policy. Whatever were the failures of the Royal and Chartered governments, they were as nothing compared to the failure of the proprietary government in Pennsylvania. Unfortunately, both for himself and for his Colony, the negotiations of Penn with the Crown, for the acquisition of his rights, never came to a satisfactory conclusion, and the disputes between the proprietors and the Colony went on, becoming worse year by year. Penn's successors were of inferior clay, although doubtless there were faults on both sides. As Franklin shrewdly remarked,[2] "Proprietaries must have a multitude of private accounts and dealings with almost all the people of their provinces, either for purchase money or quit rents. Dealings often occasion differences, and differences produce mutual opinions of injustice. If proprietaries do not insist on small rights, they must, on the whole, lose large sums; and if they do insist on small rights, they seem to descend;

[1] *P.R.O. Am. and W. Indies Col. Correspondence, South Carolina,* 18.

[2] *Works,* "Cool thoughts on the present situation," 1764.

their dignity suffers in the opinion of the people, and, with it, the respect necessary to keep up the authority of Government." In this state of things, mobs and riots were of frequent occurrence. Government was weak, and truckled to the lawless. An outrageous custom had grown up of Governors refusing their consent to Bills, unless they were accompanied by presents to themselves. The proprietary's family, by virtue of a secret bond which they obtained from the Governor at his appointment, shared with him the sums so obtained. Thus the practice of purchasing laws became interwoven with the proprietary government. A certain improvement was effected by the decision that the proprietary estates should be taxed in due proportion for the defence of the Colony, but any measure less than a complete resumption of the authority of the Crown was recognised to be a mere palliative, and, in spite of all its shortcomings, it speaks well for British government that so wise and cool an observer as Franklin did all he could to bring about that consummation.

Georgia. The Colony of Georgia[1] was started in 1732. Its foundation is noteworthy, because it affords the first example of State-aided emigration as a remedy for distress at home. We have seen that in practice the Colonies had been freely used as dumping grounds for the undesirable and the worthless, but Georgia was the first Colony systematically based on charitable lines. "Whereas," runs the preamble of the Charter, "many of our poor subjects are, through misfortunes and want of employment, reduced to great necessity, inasmuch as by their labour they are not able to provide a maintenance for themselves and families; and if they had means to defray their charges of passage and other expenses incident to New Settlements, they would be glad to settle in any of our provinces in America." The failure of Georgia is no occasion for surprise. Experience has abundantly proved that assisted emigration can only be made successful by the use of the most careful sifting; and the State is the

[1] Some interesting Tracts relating to Georgia may be found in Force's *Hist. Tracts* in Vol. I.

[2] Set out in Macdonald, *op. cit.*, p. 235.

body least likely to carry through such sifting with success. We are happily here not concerned with the details of the squalid controversy. The attempt to convert the unemployed into a kind of Roman Colony, who should both work and act as a frontier guard against the Indians, was foredoomed to failure. The provisions in the Charter, excellent in themselves, against the introduction into the Colony of negroes and of rum, only served to increase the discontent. The fifty acres allotted to a family appeared insufficient, and the law which limited succession to land in tail male proved unpopular. In one respect the Georgia Charter—doubtless because of the material with which it had to deal—involved a new departure. In previous Charters some form of popular assembly had been contemplated from the first. But in that of Georgia the Trustees were given autocratic power for twenty-one years, after which time the government was to revert to the Crown, who would then decide as to its future constitution. The unlucky undertaking of Oglethorpe has for the most part fallen into oblivion, but it represents in a singularly naïve and crude form a theory of Colonial policy which is not without its advocates to-day.

Newfoundland.

With regard to Newfoundland, the policy pursued is best stated in the words of Knox (one of the Under Secretaries of State) in 1793.[1] "The Island of Newfoundland has been considered in all former times as a great ship moored near the banks during the fishing season for the convenience of English fishermen. The Governor was considered as the ship's Captain, and those, who were concerned in the fishery business, as his crew, and subject to naval discipline while there, and expected to return to England when the season was over. In 1728 the first regular naval Governor was appointed, but it was not till nearly the end of the century that an Act of Parliament was passed giving the Colony a legally appointed Court and chief justice."

Nova Scotia.

It has been seen that under the Treaty of Utrecht, Nova Scotia became an English possession. For many years, however, little was done in the way of settlement. The

[1] Evidence before Parl. Com.

name of Port Royal was changed to Annapolis, and a small body of New England soldiers was stationed at that place. Considerable difficulty was experienced in dealing with the French inhabitants of the province. The alternative was offered them of either becoming English subjects, with the free enjoyment of their religion, or of leaving the country within one year. Negotiations for their removal to Cape Breton broke down, and they stayed on, while refusing to take the Oath of Allegiance. The Government was vested in the Governor; a Council being added a few years later. At length a great proportion of the French were induced to take the Oath. A kind of shadow of representative government was given them, by their being allowed to vote for deputies, who acted as Arbitrators in small matters of controversy between the inhabitants, an appeal lying to the Governor and Council. That the English rule was in no way tyrannical is shown by the fact that no rent or taxes were ever exacted from these people. Meanwhile, efforts were made, by liberal offers of land at easy terms, to introduce settlers from New England. The unsettled character of the country, however, and the probabilities of a renewal of war prevented the acceptance of such offers. In fact, so far as America was concerned, the Treaty of Utrecht gave no hope of permanent peace. The French, as has been said, were left in possession of Cape Breton, and made of Louisbourg a fortified stronghold. They encouraged the Indians to harass the English settlers, and, when war was again formally proclaimed, the difference to the English was not great. In the ensuing war the New England colonists won, as we have seen, great glory by the capture of Louisbourg. The plan for its reduction "had a lawyer for contriver, a merchant for general, and farmers, fishermen and mechanics for soldiers."[1]

In the period which ensued after the Peace of Aix-la-Chapelle, more successful efforts were made to settle Nova Scotia. The Board of Trade and Plantations, under the presidency of Lord Halifax, put forth a scheme of coloniza-

[1] Parkman, quoting a contemporary, Dr Douglas of Boston.

tion whereby the officers and men of the army and navy should receive grants of land on favourable terms. Money was voted by Parliament, and about 4000 settlers, with their families, were thus obtained, by whom the town of Halifax was erected. Meanwhile, the French were at work in another way. Under the Treaty of Utrecht the term Acadia had been used, but no attempt had been made to define its limits. Under that of Aix-la-Chapelle, Commissioners were appointed to settle the boundaries. It has been already seen[1] how at an earlier date the ignorance of English statesmen sought to establish a distinction between Acadia and Nova Scotia. An attempt was now made to hoist them with their own petard. The French now maintained that Acadia was only a portion of the peninsula, in complete defiance of their past claims and contentions. The English, on the other hand, asserted that Acadia included all the territory bounded by the river St Lawrence on the north, by Pentagoet on the west, and by the Atlantic on the south and east. It would seem that the extreme claims of neither party could be made good, but the French were the more clearly in the wrong. However, another war was necessary, before the relations of France and England in the New World could be satisfactorily determined.

Louisiana.

We have already mentioned the discovery of La Salle of the mouths of the Mississippi. After the failure of his scheme, for some years nothing was done, but in 1697 and 1698 serious efforts were made to settle the country. Happily for England, Louis XIV. had not the wisdom to imitate the Stuart policy, and replied, to a proposal for a Huguenot Colony, that he had not expelled heretics from France in order that they should set up a republic in America. To Louis XIV., the important point in colonizing was to find mines. In 1712 a grant was made of Louisiana to Crozat. At this time the total population of the Colony, including troops, government officials and clergy, consisted of 380. Nor did Louisiana thrive better under Crozat. In 1717 it was restored to the Crown, but was soon after

[1] *Supra*, p. 84.

handed over to the new Mississippi Company. The bursting of the Mississippi bubble threw the unfortunate Colony again upon the hands of the Crown. Hitherto its prospects had not been bright. It was reckoned that the King, Crozat, and the Mississippi Company had spent between them eight million livres on Louisiana, and the return had been nil. At last, however, Louisiana began to be more or less firmly rooted, and French rulers were at liberty to begin working out their favourite scheme of connecting the two extremities of New France, by a chain of forts, which should give them the command of the west, and enclose the English within the Alleghany Mountains. Niagara held the passage from Lake Ontario to Lake Erie. "Detroit closed the entrance to Lake Huron, and Michillimackinac guarded the point where Lake Huron is joined by Lakes Michigan and Superior."[1] The various routes to the Mississippi were guarded by La Baye and other forts, and "even if, in spite of these obstructions, an enemy should reach the Mississippi by any of its northern affluents, the cannon of Fort Chartres would prevent him from descending it."

Contrasted position of English and French Colonies.

It must be obvious to whoever has followed with any attention the history of the English Colonies, how impossible it was for them to oppose to the French any such organised system. The building of Oswego on Lake Ontario was indeed a highly creditable achievement on the part of Burnet: effected, as it was, in spite of the short-sighted opposition of the New York Assembly. It became the great centre of Indian trade, and was rightly much feared by the Canadian authorities. Upon the whole, however, the remark made[2] on one occasion that while the English Colonies "were quarrelling for the bone, the French ran away with it," was generally true, and the rivalries, between Colony and Colony, and Assembly and Governor, prevented all concerted action. Nor was it merely moral grounds which were at fault. The actual physical configuration of the French Colonies was also much in their favour. In a very

[1] Parkman, *Half Century of Conflict*, Vol. II. p. 76.

[2] Mitchell, *Contest in America*, quoted by Parkman.

able paper[1] at the Record Office, Pownall pointed out that, whereas the St Lawrence and the Mississippi gave a compact unity to both the French Colonies, the English Colonies, on the other hand, were served by no one common watershed. In this state of things, all that Pownall could suggest was "a real and stable alliance with the Indians." But here, again, the French stood at an advantage. The Indians were warriors and hunters, and it was as hunters and warriors that the French appealed to them. Their Colonies were not farms nor settlements of farmers, but forts and settlements of soldiers. The particular trade in which the French were interested, the fur trade, was one which concerned the hunter rather than the ordinary merchant. The English, on the other hand, came to oust the Indian from his land, and thus aroused his hostility. Moreover, the charm of the French manner has always had its fascination for uncivilised people. In spite of all these advantages, there was still on the side of the English the weight of numbers. Their true policy, undoubtedly, was to open up the west and thus prevent a junction between Canada and Louisiana. The Five Nations, alarmed by the building of Detroit, had conveyed the whole country, from Lake Ontario northwards to Lake Superior, and westwards as far as Chicago, to King William III., but no steps were taken to make good the English claim. At a later date, it was seriously intended by Lord Halifax and the Board of Trade, after the Peace of Aix-la-Chapelle, to open the Ohio country, but here, again, the English found themselves forestalled by the French. To judge from the past it is almost certain that but for the new spirit, which entered upon the scene with Pitt, France would have been, at least for the time, successful in the struggle with England for the dominion of America. The loss of fort after fort, the disaster of Braddock at the Monongahela, were due to deep-seated causes. The absence of a general plan of concerted action can be made good by no compensating advantages. In the long run, generalship prevails, and, but for the entering upon the scene of Pitt, it is more than doubtful

[1] *P.R.O. Am. and W. Indies Col. Correspondence, Plantations General* 1749-1754, 604.

whether the better generalship would have been on the side of the English.

West Indies.

In passing to the West Indies, we at once recognise that we are, so far as general Colonial policy is concerned, in comparatively quiet waters. The Englishman settled in the West Indies was, it is true, of the same stubborn stock which was giving such trouble upon the Continent of America. But special causes were at work which prevented him from ever taking a genuinely independent line. In the first place the situation of the West Indies, as the natural cockpit of the European nations in the struggle for hegemony, rendered it idle for these islands to hope to be independent of one or other of the great powers. In the second place the great increase of negro population caused the English settlers to be less inclined to break away from the mother country. Alongside of economic influences promoting the importation of negroes, there was always latent in the minds of the white settlers the blind dread of a negro rising. Fear rather than deliberate cruelty prompted legislation of which the following is a sample[1]: "Whereas slaves are, for the brutishness of their natures, no otherwise valued or esteemed among us than as goods and chattels, therefore our prudent neighbours, as Barbados, &c., have thought fit to make laws to prevent the penalty and forfeiture in case of killing a negro, be it enacted that if any person . . . shall in the deserved correction . . . of his slave . . . accidentally happen to kill such slave . . . that the aforesaid owner . . . shall not be liable . . . to any penalty or forfeiture whatsoever . . . provided always that if any person . . . shall maliciously and wilfully kill or destroy . . . any slave . . . the aforesaid person . . . shall forfeit and pay . . . the full sum of ten pounds current money to be employed for and towards the support of the Government of these Islands and the contingent charges thereof." Nor do we find that the Home Government, which was so jealous where its own interests were concerned, had a word to say against legislation such as this. Conscious as we are of this

[1] Quoted by T. Southey, *Chronological History of West Indies.*

dark background, it is a little difficult to take seriously the attempt of a small oligarchy to take on its lips the outraged name of constitutional liberty. Still the same questions, more or less, which agitated the American Colonies, found their feeble counterpart in the West Indies. Thus the question of a fixed annual revenue is found for years agitating the public mind of Jamaica, until it was finally settled in 1728 by the granting by the Colonial Assembly of a permanent revenue of £8000, without regard to the quantity of produce, either raised or exported. The quit rents of the whole island, estimated at about fifteen hundred pounds, were to be considered as part of this £8000. In the same year we find the Barbados Assembly bitterly complaining to the Governor that if they had not been obstructed by long adjournments and prorogations they would have despatched the public business. They complain of the ruinous condition of the forts and say that they cannot support the load of any new taxation, the annual excise excepted. They therefore pray that "the Governor will, out of the taxes paid for his use, apply a part thereof to repair the forts": a petition not very likely of acceptance by an eighteenth century Governor. Another question, which we have seen bulked large in the American Colonies, also arose in Jamaica. In 1753 the Assembly, in a money Bill, thought fit to appoint another officer, instead of the Crown Receiver General, to receive and issue the money; and in some other Bills they left out the clause suspending the execution of them till His Majesty's pleasure should be known. Upon this the Governor refused his consent to the Bills, whereupon the Assembly resolved that they had an undoubted right to raise and apply money for the service of the State, and to appoint whom they pleased to receive and issue it. They further claimed that all laws and ordinances made by the Assembly and assented to by the Governor, were immediately in full force and effect, and continued to be so until they were disannulled by the Crown. The answer to these claims belongs to a somewhat later date, but it may be dealt with here. The House of Commons Committee naturally 1757.

found that the first claim of the Assembly of Jamaica was "illegal, repugnant to the terms of the Governor's commission, and derogatory of the rights of the Crown and people of Great Britain. That the other resolutions proceeded on a manifest misapprehension of the King's instructions to his Governor, requiring him not to give his assent to any Bill of an unusual or extraordinary nature or importance, wherein His Majesty's Prerogative or the property of his subjects might be prejudiced, or the trade or shipping of the kingdom any ways affected, unless there should be a clause inserted suspending the execution of such Bill until His Majesty's pleasure should be known; that such Instruction was just and necessary, and no alteration of the constitution of the Island, nor in any way derogatory to the rights of the subjects of Jamaica." When all was said and done, however, there was probably little real meaning at the back of all this constitutional boasting. We have seen that the real grievances of the American Colonies were economic and not political, and that the Mercantile system, not any straining of the Prerogative, was mainly responsible for the state of things which finally issued in separation. But, from the point of view of the Mercantile system, the West Indies were a virtuous community, whose staple products in no way competed with those of England, while the islands afforded a valuable market for English manufactures. The climate of the West Indies, moreover, forbade in most cases that Englishmen should make them their permanent home in the manner that the American Colonies were the homes of the settlers; so that very often the money made in the West Indies was spent in England. Moreover, the West Indian merchants were a strong and well organised body, and could bring powerful pressure to bear upon the English Parliament. In this state of things, it is not strange to find that the interests of the West Indies were preferred to those of the Americans, as in the case of the ill-fated Sugar Act, to the attempted enforcement of which so much of the subsequent trouble is due. What, however, is surprising is to find those West Indies, who

had done so much to sow the wind, afterwards solemnly petitioning in favour of the Americans. These slave-holders, whose consciences could have told them what slavery really meant, were found "deploring and beholding with amazement a plan almost carried into execution for the reducing of the Colonies into the most abject state of slavery."

CHAPTER VI

THE EVE OF THE CRISIS

Congress of 1754. THE general agreement of American authors has attached great importance to the Congress of representatives from the different Colonies which met at Albany in 1754. Even so cool and cautious a writer as Mr Weeden remarks,[1] "a larger organism of state, a better co-operation and autonomy, which should articulate into itself the town or parish meeting and the rude Colonial assembly, began to work in the minds of men. This sentiment found its first political expression in the assembly in 1754." But, in fact, this assembly was suggested and directed by the English Government, and, although its conclusions were arrived at with tolerable unanimity, it was at the same time generally recognised that the mutual jealousies of the various Colonial Assemblies would prevent those conclusions from being generally accepted. The evil to be met was of course an old one.

1746. During the last war, Shirley had called serious attention to "the difficulty of uniting five or six different Governments

1754. in acting for their common safety and interest."[2] In the very year of the Congress we find him writing that it would be impossible to obtain proper contributions from the different Colonies unless the English Government gave peremptory

1754. directions. De Lancey bore similar testimony.[3] "A general union becomes every day more necessary, the necessity more visible, for in the present disjointed way in which the Colonies act, and some will not act at all, nothing is done." At the same time De Lancey clearly recognised that such union could never take effect except by interposition of the British Parliament "to oblige the Colonies." Dinwiddie from Virginia is found[4] advising an Act of Parliament to compel each Colony to raise a proportional quota for a general fund,

[1] Vol. II. p. 668. [2] *P.R.O. Am. and W. Indies Col. Corr., N. England*, 4.
[3] *N. Y. Docs.*, Vol. VI. [4] *Dinwiddie Papers*, Virg. Hist. So., Vols. III. and IV.

by a poll tax of one shilling or by some other means. Nor were such opinions confined to Governors and persons in authority; the colonists themselves clearly recognised the difficulty. Massachusetts was sore because the contributions of the other Colonies in men and money had been grossly insufficient, and the Assembly assured Shirley "Your Ex- 1754.
cellency must be sensible that an union of the several Governments for their mutual defence and for the annoyance of the enemy has long been desired by this province." The separate Colonies were slow to intervene on each other's behalf, though they might rise to the occasion of a general war. Especially the rich and populous state of Pennsylvania shirked its natural obligations, and the majority, who were non-Quakers, concealed their meanness by crouching behind the cloak of the Quaker's honest scruples. We find Franklin forwarding[1] to a correspondent an emblem of a serpent which May 1754.
has its parts—beginning with the head, Massachusetts, and ending with the tail, South Carolina—disjointed, while the motto is affixed, "Join or Die."

A few years later, in the very middle of the war with France, the dispute between New York and Massachusetts, 1757.
concerning their boundaries,[2] was carried to such indecent lengths as to have been the occasion of riot and bloodshed. To the Board of Trade at home,[3] the important points ap- August
peared to be that there should be established a systematic 1754.
mode of raising levies from the different Colonies, in case of attack, that the necessary forts should be obtained under a general plan, and that there should be a Commander-in-chief for America. The last matter lay entirely with the Home November
Government, and General Braddock was appointed such 1754.
Commander-in-chief. Bancroft sees in this a measure of tyranny, but, in fact, the all-important point being that a "common fund" should be provided, General Braddock's instructions[4] merely enjoined him "to give all the advice and assistance you can towards effectuating this." Upon another point it was possible to make some improvement. Little has

[1] *P.R.O. Am. and W. Indies Col. Correspondence, N. Englana*, 4.
[2] *N. Y. Docs.*, Vol. VII. [3] *N. Y. Docs.*, Vol. VI. [4] *Ibid.*

been said here of the colonial relations with the Indians. But it must be remembered that throughout all this period the American Colonies were in the position of the South African Colonies of to-day, with large bodies of natives on their flanks, who were further rendered very dangerous by the continual influence of French intrigue. In this state of things Indian affairs were, as far as possible, withdrawn from the Colonial authorities and put under the charge of special Commissioners. As time passes the Colonial records become increasingly occupied with accounts of parleyings with Indian chiefs.[1] There was, as is always the case where European settlers come in contact with savage natives, the risk lest the Indians should be unfairly dealt with. Stringent instructions were forwarded to the Governors forbidding all private purchases of land from Indians, unless a proper licence had been previously obtained. Upon the whole, Sir William Johnson, who was for many years the English Commissioner, appears to have done his work very well, and it is noteworthy that in the War of Independence the sympathies of the Indians seemed to have been generally upon the side of the English Government.

So far then as the appointment of a Commander-in-chief and the settlement of Indian affairs were concerned, England could take the initiative, but with the question of Colonial defence there was bound up a question of finance, which opened out every kind of difficulty. It was in every way desirable that on this point the Colonies should evolve their own plan, and the recommendations [2] of the Congress of 1754 were an honest attempt to meet the difficulty. The scheme was due to the active brain of Franklin, and is in several respects noteworthy. It proposed that there should be a presiding General appointed and maintained by the Crown, and a Grand Council chosen by the Assemblies of the different Colonies. The Colonies were to be represented upon the Council, according to the amount of their respective contributions. But, at the start, Massachusetts was to have seven members, Connecticut five, Rhode Island two, New

[1] See in *N. Y. Docs.*, *passim*.

[2] *N. Y. Docs.*, Vol. VI. Set out in Macdonald, *op. cit.*, p. 253

York four, New Jersey three, Pennsylvania six, Maryland four, Virginia seven, North Carolina four, and South Carolina four. Elections were to be held triennially. The business to be entrusted to this body included the management of all matters relating to the Indians, and of all military affairs, such as the building of forts, raising of troops, etc. For these purposes power was given to make laws and to levy such general duties upon imports and taxes "as to them shall appear most equal and just, considering the ability and other circumstances of the inhabitants, with the least inconvenience to the people, rather discouraging luxury than loading industry with unnecessary burdens." Laws made by the Congress were to be remitted to England, and, if not disapproved within three years, were to remain in full force. It was decided that application should be made for an Act of the British Parliament to establish such a single general government in America.

Afterwards Franklin asserted[1] that his plan was probably a just one, inasmuch as it was repudiated on the one hand by the Colonial Assemblies and on the other by the British Board of Trade; on the opposite grounds that it showed too much or too little deference to the Prerogative of the Crown. But, in fact, whatever had been the attitude of the English authorities, the prospect of any such scheme proving acceptable to the Colonies was very slight. When we remember how difficult it proved, even after common interests and fellowship in arms had strengthened the ties of union, to raise the general taxes, we may well recognise that at the time any such union was impossible. It was found that Massachusetts was the only Colony which had given its delegates definite power to agree to any plan. The result of the Congress was, according to Shirley,[2] to put on record the formal recognition by representative men from the different states, of the necessity for union, and to prove the impossibility of such union without a British Act of Parliament. He considered that it showed the necessity, not only of a parliamentary union, but also of taxation by Parliament for the preservation of His Majesty's

[1] In his *Autobiography*.

[2] *P.R.O. Am. and W. Indies Col. Correspondence, from Governors in America*, 68.

dominions, "which the several assemblies have in so great a measure abandoned the defence of." And the Governors expressed to Braddock an unanimous opinion in favour of a common fund and a Parliamentary interference to bring it about. This recognition that it was hopeless to look to the American Colonies themselves for common measures on behalf of their common defence is of importance, as giving the key to what followed. For the time being, however, the failure of the Congress was acquiesced in, the actual outbreak of hostilities giving English statesmen other things to think of.

April 14, 1755.

The struggle between England and France.

In America the actual outbreak of war had preceded its formal declaration in 1756. The occupation by the French of the sources of the Ohio had led to the commencement of the struggle for the West. As usual, in spite of the vigour of Dinwiddie, the French forestalled their adversaries. The destruction of an English fort and the erection of Fort Duquesne was met by the despatch of Washington to Fort Necessity. The necessary abandonment of this fort decided the wavering Indians to adopt the French side. In 1755, on the arrival of Braddock, operations were resumed on a greater scale, but the disaster at the river Monongahela, due mainly to the ignorance of the British regulars of the Indian methods of warfare, rendered the position of the English very critical.

1753.

1754.

1755.

Banishment of Acadians.

About this time there had occurred an event which showed in a painful manner the strained nature of the situation. The French inhabitants of Acadia were forcibly removed[1] from their homes and distributed among the different Colonies. Doubtless there was much excuse for what was done. The war waged by the French against the English was an unfair war, wherein savages were employed, and which was attended with the horrors inevitably accompanying such employment. The neutral French naturally sympathised with their countrymen, and, in individual cases, sympathy found vent in deeds. To have sent them all to Canada would have been to

[1] The best account of this matter is in Parkman's *Montcalm and Wolfe*, Vol. I. chap. viii. Bancroft is, of course, violently anti-English, and Dr Kingsford may be accused by some as prejudiced in the other direction.

strengthen the hands of the French. Nevertheless, when all has been said in palliation, we recognise that the dispersion of these simple people was an act of violence, which was altogether alien to the general spirit of British Colonial policy. Moreover, if the dispersion was necessary, at least suitable arrangements might have been made beforehand. As it was, the Colonial Governments had not been notified,[1] so that in some cases the exiles were refused admission.

Results of Seven Years' War.

Braddock was succeeded as Commander-in-chief by the arrogant and inefficient Lord Loudoun, but, with the entrance upon the stage of Pitt[2] as Secretary of State, a change took place everywhere. In 1758, Lord Amherst being now Commander-in-chief, Fort Duquesne, the key of the West, yielded to the brave Forbes,[3] and Cape Breton was once more reduced, this time by British troops. 1759 and 1760 witnessed the captures of Quebec and Montreal. To recognise the full effect of this brilliant record of triumph upon the imagination of the Americans, we must recall to memory the past history. During the long period since the outbreak of William III.'s first war with France, the supremacy of England upon the sea had been steadily advancing, and upon land there had been the victories of Marlborough. But it so happened that in America England's record had been far from a glorious one. The conquest of Port Royal in the first war, and of Louisbourg in the last, had been accomplished by New Englanders, and the main business of the Mother country appeared to be to lose by diplomacy what others had gained by arms. The abortive Canada expedition of 1711 had been an object-lesson in the result of Government by Court favourites, and the Colonies had seen the lives of their kinsmen uselessly squandered in the fruitless West Indian Expeditions mentioned above.[4] To a proud people nothing can have been more exasperating than this sense of failure, for which they

1758.

[1] Much correspondence will be found on this in MSS. in R.O. *P.R.O. Am. and W. Indies Col. Correspondence, from Governors in Am.*, 69.

[2] Pitt became Secretary of State in Dec. 1756; he resigned in April 1757, and was reappointed June 1757.

[3] The name of Forbes, who ranks next to Wolfe in the story of the conquest of French America, is omitted in the *Dict. of Nat. Biography*.

[4] *Supra*, p. 144.

themselves were in no way responsible. But the Seven Years' War altered all this. We are not here concerned with the deeds which converted in the East a few factories into an Empire, but the results in America were no less glorious.

Treaty of Paris. Under the Treaty of Paris, signed February 10, 1763, France renounced all claim to Canada, Nova Scotia and all the Islands of the St Lawrence. Along with Canada, she ceded the valley of the Ohio and all her territory on the east side of the Mississippi, with the exception of the City of New Orleans; while Spain gave up Florida in return for the restoration of Cuba.[1] In the West Indies England restored to France Martinique and Guadaloupe, but retained Grenada. Of the four islands which had been neutral, St Vincent, Tobago, and Dominica became British possessions; while St Lucia was given to France.

Upon the wisdom of the Treaty of Paris different opinions may fairly be held. Upon the one hand, there seems little doubt but that jealousy and fear of Pitt were the motives prompting the English Ministry in the negotiations. Moreover, the difficulties, which have constantly occurred with respect to the Newfoundland fisheries, seem to have justified Pitt in insisting on the abandonment of the French rights. The conduct of Spain in 1762 further showed the accuracy of Pitt's information, with respect to the existence of a secret treaty between that country and France. On the other hand, however, those who have witnessed in our own times the marvellous recuperative powers of France, will agree with the Duke of Bedford[2] that "the endeavouring to drive France out of any naval power is fighting against Nature." The immense strain which had been put upon the resources of England and the rapid increase of the National Debt imperatively called for peace, and Pitt, who could win for his country empires, was the least fitted of men to provide for their cost.

W. Pitt. It is the tragedy of this particular period of English history how largely the misfortunes of England were mixed up with the failings of this great man. At a time when

[1] On this see Frewen Lord's *Lost Possessions of England.*

[2] *Bedford Corr.*, Vol. III., July 1761.

English party politics had reached their lowest level, when the great historic Whig party had become severed into distinct squads of individual partisans of particular persons—the Duke of Bedford, Rockingham, or the Grenvilles—hanging together by nothing except personal ties, Pitt pursued the will-o'-the-wisp of a patriotism which should rise above party, and thus fell an easy victim to such Bœotian Machiavels as Lord Bute and George III. Pitt's own sister said of him that he knew nothing accurately, except Spenser's *Faerie Queene*. The kindness and goodness of his real nature were enveloped in such a cloud of attitude and affectation that it was only at rare intervals that the real man could be seen. The bitterness with which Burke thought and wrote of him is lamentable enough, but it had its excuse in consequences of Pitt's failings, which were even more far-reaching than those which Burke was regarding.

General situation after Treaty of Paris.

To the history of Colonial Policy, the retirement of Pitt from the ministry in 1761 was an event little short of calamitous. Whatever were his faults, they were not such as to be recognised at a distance, and there is good ground for saying that in no war had the relations between England and her Colonies been so satisfactory, as in that which was closed by the Treaty of Paris. Massachusetts, as a rule the most inclined to find fault of all the Colonies, distinguished itself by its protestations of gratitude and loyalty. Without the assistance of England, the Colonial Representatives asserted, they must have fallen a prey to the power of France, and, without the compensation granted to them by Parliament, the burden of the war would have been insupportable. At the same time they fully recognised the satisfactory character of the terms of peace. In England there were not wanting at the time clever people, amongst whom was the great Judge, Lord Mansfield, whose political timidity was at least as conspicuous as his political capacity, who maintained that it would have been good policy to restore Canada, and to obtain an equivalent for it in the West Indies. Such might have called in aid, had they known them, the prophetic words with which the future French minister, who

was to play so leading a part in fulfilling his own prediction, foretold the consequences to Great Britain of the conquest of Canada. Vergennes, who was at the time French Ambassador at Constantinople, is reported to have said to an English traveller, "The consequences of the entire cession of Canada are obvious. I am persuaded England will erelong repent of having removed the only check that could keep her Colonies in awe. They stand no longer in need of her protection; she will call on them to contribute towards supporting the burdens they have helped to bring on her; and they will answer by striking off all dependence."[1] Whatever may be thought of such forecasts, it is probable that the cunning of such a policy of suspicion would have in any case overreached itself. If the predominance of England over her Colonies could only be maintained by "a balance of power in America," what was to prevent France and the English Colonies coming to terms as against England? In all probability the maintenance of the French power in Canada would not have preserved her Colonies to England while it would have made the remote outlook infinitely more gloomy. To have met the Colonies in such a spirit of petty cunning would have been an insult, which history would have known how to avenge.

Be this, however, as it may, the good-will excited by the triumph over France afforded just the needed opportunity for England to set her house in order with regard to Colonial matters. It was, indeed, a pity that Pitt had left the Ministry. The pathetic story,[2] which describes the Great Commoner
June. after the failure to form a Ministry in 1765, addressing Temple with the words:—

> "Exstinxti me teque, soror, populumque, patresque
> Sidonios, urbemque tuam,"

covers a deep meaning. But if, even after the mischief of the Stamp Act, the presence of Pitt in the Ministry might have brought back confidence to America, what might have been his influence before that fatal step had yet been taken?

[1] Lind's *Three Letters to Dr Price*, 137; quoted by Bancroft in Vol. III., p. 325, of *Hist. of the United States, etc.* New ed. in 7 vols.; no date.

[2] *Grenville Corr.*, Vol. III.

Even without Pitt, however, the opportunity was very favourable. It was afterwards said by a shrewd cynic[1] that "Mr Grenville lost America because he read the American despatches, which his predecessors had never done." But he must have read history to little purpose who finds in it such excuse for procrastination and inaction. In truth, there was urgent need that the despatches from America should be read, learnt and inwardly digested, and the urgency for some change of policy was very pressing. For what was the state of things revealed in those despatches? From the point of view of English statesmen, by far the most serious question was the continually asserted weakness of the Executive. In the last resort Government must either depend upon consent or coercion; but England went on blindly pursuing a path, which made consent more and more impossible, while, at the same time, it neglected the necessary precautionary methods. In a modern society what are the forces upon which the established state of things depends? As a first line of defence, there are the police, judges, magistrates, soldiers, etc., all of whose interests are closely bound up with those of their employers; while behind you have ranked all those who have anything to lose. But, in the American Colonies, the power of the Executive, as we have again and again seen, tended more and more to fall into the hands of the Assembly, whose interests might very well be contrary to those of the Mother country; while those who would be the natural adherents of the established Government, the owners of property, were seriously alienated by that Mercantile system which either sacrificed their interests to those of the English merchants, or else obliged them to resort to a new morality, wherein smuggling was no longer an offence. To one, then, who should have taken serious stock of the situation, the necessity for doing something must have been apparent. Of course, it may be said that nothing could have availed. The destinies of the United States had to be accomplished, and certainly, in a sense, this is true. But the parting assuredly might have been delayed, and, when it happened, it might

[1] Lord Essex. Lord Albemarle's *Life of Rockingham*, Vol. I.

have been unaccompanied by that bitterness which has cast a dark trail along subsequent history.

It is a matter of no little difficulty to realise the real feelings of the Colonies at the time. The subject has been largely, of course, dealt with by Americans, who find it difficult to conceive of a time at which American patriotism had not come into existence. I have already quoted the words of the Swede, Kalm; but Kalm wrote, to some extent, under the influence of prejudice. He grudged the loss to Sweden of Delaware. Nor, because a prophecy is fulfilled, does it follow that at the time the prophet was justified. In public and private affairs, the English race loves to grumble, and the foreign observer probably did not make sufficient allowance for the national failing. Probably the truest estimate of the situation is to be found in the language of Franklin[1]: "The seeds of liberty are universally found there, and nothing can eradicate them. And yet, there remains among the people so much respect, veneration and affection for Britain that, if cultivated prudently, they might be easily governed still for ages without force or even considerable expense." Even as late as 1775 John Adams, who from the first had merited the character of "decided," afterwards[2] given him by Lord Howe, could write, "If public principles and motives and arguments were alone to determine this dispute, it might be settled for ever in a few hours."[3] Note, too, the language in the same year of Jefferson, one of the most determined opponents of English rule: "I wish no false sense of honour, no ignorance of our real intentions, no vain hope that partial concessions of right will be accepted, may induce the Ministry to trifle with accommodation, till it shall be put out of our power ever to accommodate . . . to risk our accepting of foreign aid, which may not be obtainable but on a condition of everlasting avulsion from Great Britain."[4]

It must always be remembered that an American patriotism was a plant of slow growth. Indeed it never came to its

[1] *Works*, Vol. VII.
[2] In 1775. *Works*, Vol. III. p. 80.
[3] Writing as 'Novanglus,' *Works*, Vol. III.
[4] Hist. MSS. Com. *Dartmouth Cor.*

full bloom till its roots had been fed on kindred blood shed in the lifetime of men not yet old. It was not merely the burden of Governors and courtiers that the Colonies were more distinct from each other than from England. "Different forms of Government," wrote Franklin,[1] "different laws, different interests, and, in some of them, different religious persuasions and different manners. Their jealousy of each other is so great that, however necessary a union of the Colonies has long been for their common defence and security against their enemies, and how sensible soever each Colony has been of that necessity, yet they have never been able to effect such a union among themselves, nor even to agree in requesting the mother country to establish it for them. If they could not agree to unite against the French and Indians, who were perpetually harassing their settlements, burning their villages, and murdering their people, can it reasonably be supposed that there is any danger of their uniting against their own nation . . . with which they have so many connections, and ties of blood intercourse and affections, and which it is well known they all love much more than they love one another?" We may note[2] that even the wise Washington perhaps showed in the first years of his public life some slight traces of this narrow particularism. The pertinacity with which he opposed the route to Fort Duquesne, selected by Forbes, may have been in some measure due to the prejudices of a Virginian, opposing the rival interests of Pennsylvania.

The deep-rooted love of England is attested in many ways. "To be an old England man," acknowledged Franklin,[3] "was of itself a character of some respect, and gave a kind of rank among us." In the life of Otis it is remarked that in American business letters, the word "home"[4] was always used for England. Moreover, at this time the feeling of personal loyalty felt for the King was

[1] Canada Pamphlet. *Works*, Vol. IV.
[2] See Dr Kingsford's *Hist. of Can.*, Vol. IV., p. 197.
[3] Ev. before H. of C. Com., Feb. 1766. *Works*, Vol. IV.
[4] Tudor's *Life of Otis*.

something very great. Franklin was a man of the world and a philosopher, but he shows in his letters as late as 1768 a kind of loyalty, which nowadays you would not often find. Mr Greene,[1] who writes strongly from the American patriotic standpoint, has himself admitted that it was difficult for people who had wasted such loyalty on King George to take kindly to the rule of King Congress. In truth, the difficulties which beset the infant American Republic are all accounted for by the fact that the American Revolution had owed nothing to national aspirations. It seems to me that a recognition of this truth brings the deepest condemnation on the English politicians, who yet caused that Revolution to become inevitable. To whoever believes in progress, along the slow but sure lines of natural evolution, the breach between the two great branches of the English-speaking race, which never seems thoroughly able to heal, must always appear one of the most calamitous events in the world's history.

But it may be said what practical measures could have been taken in 1763? Unhappily the one measure needful could not, in the then state of English public opinion, have been taken. To treat the English across the seas as English men, with all the commercial rights of Englishmen, would have been a policy which would not have secured a single vote in the House of Commons. And yet, at the time of which we are treating, a course was suggested which might have met the difficulty. To Governor Pownall belongs the credit of having proposed in his very able book on *Administration of the Colonies* an Imperial *zollverein*. The Navigation Acts regarded English America as mere Plantations, tracts of foreign country, employed in raising certain staple products. But these Plantations had, in fact, become important trading communities. In this state of things two courses were alone possible. Either to "narrow the bottom of our commercial interests to the model of our plantation laws, or we must enlarge the spirit of our commercial laws to that latitude to which our commercial empire does extend." In other words,

[1] *Hist. view of Amer. Rev.*

there must arise "a grand marine empire." The importance of Pownall's position lies in the fact that he clearly adopts and expounds the commercial doctrines of his day. The wisdom of a trading nation is to gain as many customers as possible. Those, however, gained in foreign trade, we possess under restrictions and difficulties, and we may lose them in the rivalship of commerce, while those, that a trading nation can create within itself, it deals with under its own regulations and makes its own, and cannot lose. The valuable consideration which Colonies give to the Mother country, in return for the grants, charters, privileges and protection which they receive, is the exclusive right to the external profits of their labour and to their custom. In dealing with the principle of the Navigation Acts, I suggested the ideal at which they might have aimed, and the Mercantile system found its genuine accomplishment. Pownall was, however, a voice crying in the wilderness, and the course of English policy went on unheeding.

But if this, which was the main sore, could not be healed, it does not follow that minor measures, themselves useful, could not have been taken. The first necessary step was to form a just estimate of the situation. There was almost constant conflict between the Governors and the Assemblies, and the reasonable British course should have been to send out a strong Commission to report upon the spot. We have seen how, at an earlier date, this course had been adopted, and had only failed through the unfortunate choice of Commissioners, and yet, when the need was far more urgent, no such proposal was ever, so far as I am aware, made, except by the irresponsible Quaker, Dr Fothergill.[1] It is true that at a later date, Onslow[2] suggested that Grenville and himself should go out as Commissioners, but the proposal was made in joke, to lead to the point that the event would conduce to the future quiet of both countries; and English statesmen appear to have felt no doubts in deciding upon a case, which they had never diagnosed.

[1] Hist. MSS. Com., *Dartmouth Corr.*

[2] Franklin's *Works*, Vol. VII., Letter of Dec. 19, 1767.

There were other measures, relating to the executive, which should have been possible. It has been seen how much ill-feeling arose about the position of the judges. Upon the one hand, the Assemblies refused to pay them a proper permanent salary, and kept them at their beck and call dangling for their money. Upon the other hand the Crown maintained that the status of the Colonial judges did not justify their appointments being made for life, and that they must still continue in the position of English judges before the Revolution, "during the pleasure" of the Crown. Surely there was here room for compromise. If the distinct proposal had been made, that the judges should be placed in the position of English judges, if the Assemblies would secure to them a proper permanent salary, in all probability the matter might have been arranged. Take the yet more burning question of the Governor's salary. We have hitherto looked at it mainly through the doleful spectacles of the Governor's complaints, but assuredly there was another side to the shield. Unhappily, in the one colony where the salary of the Governor was a permanent charge on the colonial quit rents, the bad practice obtained of the Governor living at his ease in England, while the work was performed by deputy. How complete was the absence of a proper public opinion in this matter is shown by the following case. Nothing aroused greater indignation in the mind of Pitt than the dismissal in 1768 of Amherst from the Government of Virginia, but what were the facts? He was informed that, it being necessary in the present state of affairs in America for Governors to reside in their province, he must choose between returning to Virginia or retiring. He treated the suggestion that he, who had been Commander-in-Chief in America, should return there as the Governor of a single province as an insult. He indignantly refused a pension, but it never occurred to him, or to his patriotic friends, that to be paid for work one does not perform involves all the faults of a pension, while it cannot be defended upon the separate grounds upon which pensions may be most expedient. In any case, the example of a man of high merit and unim-

peached honour, like Amherst, serves to explain the jealousy of the Colonial Assemblies. But here again, what was to prevent some kind of compromise? If the English had enforced, if necessary by Act of Parliament, the necessity of Governors residing in their provinces, and if their commissions had been for a term of five or six years, not to be renewed except on the express petition of the Colonial Assembly, in all probability the question of a salary might have been settled. Then again, undoubtedly, the Governors were right when they urged that, in the interests of the Crown, their position in the filling up of offices and posts should be strengthened. Surely there were enough jobs open for a Minister in England without the Colonies being further flooded with the scum of English corruption. Years before the Board of Trade had very wisely recommended[1] that Colonial appointments should, as far as possible, be given as rewards to well-deserving colonials, but nothing effectual had been done in this direction, and the people were never encouraged to look up to the Royal Governor as the fountain of honour. While the English Government showed such little respect and trust in their officers, how could it expect them to obtain the respect and trust of the people? In the state of things which had come about, it was of the utmost importance to secure the services of the most capable men possible for the post of Governor. And yet no sense of this seems to have dawned on English politicians.

There was one other matter of extreme difficulty, in which something might have been attempted. No one who was not blinded by prejudice could doubt of the splendid fighting material shown by America during the late war with France. Whoever has observed the extreme attraction exercised over the minds of a militia by regular troops must admit that, if wise precautions had been taken, and all risk avoided of appearing to act against the constitutional rights of the Colonies, it might have been possible to attach to the service of the Crown a Colonial army, which might have rendered

[1] 1715. *N. Y. Doc.*, Vol. V.

the immediate course of history very different. Any project to use an American army against American liberties would undoubtedly have failed, but had moderation ruled in politics, the presence of a loyal American army might have been a force, making for British interests, the importance of which could not be exaggerated. So far was the British Government from attempting this that by a most unwise regulation
1753. all commissions in the royal Army above the rank of Captain took precedence of all commissions in the Colonial
1757. service. And when this rule was modified by the policy of Pitt, Colonial officers, however senior, were still counted inferior to all regular officers of the same rank. It was rules such as these that would have lost to England the services of Washington, but for the wisdom of Braddock and Forbes in offering him staff appointments. Moreover, the effect of such rules was greatly aggravated by the supercilious attitude generally assumed by the British officers. Most lamentable, from this point of view, was the death, at the ill-
1758. fated attack on Ticonderoga, of the gifted and beloved Lord Howe, the Marcellus of British interests in America. When one contrasts his untimely end with the manner in which his brother was carefully preserved to be the Empire's executioner, one recognises that the stars in their courses were fighting against Great Britain.

CHAPTER VII

THE STAMP ACT AND ITS REPEAL

THE moral of the American despatches being two-fold, the weakness of the Executive and the need of a fixed American revenue, Grenville completely disregarded the first, which was by far the more pressing of the two, and embarked with a light heart on the course, which was to end with the coming into being of a new great world State. Policy of G. Grenville.

Before, however, entering upon this melancholy chapter of English history, we may note some other suggested solutions of the American difficulty. William Knox, who had been in America and had acted as agent for Georgia, and who, afterwards became Under Secretary of State, was convinced that the evil arose largely from the want of balance in the American Constitution, afforded in England by the House of Lords. He desired therefore—and Governor Bernard seems to have shared the wish—the creation of an American aristocracy; but in fact, aristocracies, like the college lawns admired by the American tourist, cannot be brought into sudden life. An aristocracy in name only is the weakest of social bulwarks, and any such attempt in America would have been almost certainly foredoomed to failure. A more dangerous suggestion must be noted. It was thought that the wings of the more unruly Colonies might be clipped by the setting up of a uniform government over the different Provinces. Any attempt to thrust, from outside, a hard and fast Constitution on all the Colonies, any scheme, which did not allow for their differences in history and character, would have aroused at least as much opposition, and been fraught with as serious consequences, as was the attempt directly to tax them. A more serious proposal deserves detailed notice. A variety of writers, from a variety of reasons, ranging from the strict Grenvillite Knox, to the liberal Pownall, and including the

master economist whose fame was to eclipse the ephemerioi of party politics, advocated the admission of American representatives to the House of Commons, as the only way out of the imbroglio. The position of Governor Bernard was peculiar.[1] Deeply impressed with the weakness and impotence of the Colonial Government, recognizing that their springs were so relaxed that they "never can recover their tone again by any power of their own," and that "the weak patchwork government of the country had no power to defer separation one hour after the people had resolved on it," he therefore proposed that Colonial representatives should be admitted to the British Legislature for the purpose of considering and forming a new American Constitution, that then, being *functi officio*, they should permanently withdraw. The proposal is mainly noteworthy as throwing light on the character of Bernard. Adams honestly believed[2] that Bernard,[3] Oliver, and Hutchinson were in solemn league against the liberties of America. In fact, rightly or wrongly, the English officials in America considered themselves to be acting in strict self-defence. So far from wishing to interfere with other people's landmarks, they honestly believed that the ground was slipping from under their feet. Bernard seems to have been pompous, narrow and unsympathetic, but his letters show him to have been a man of strict legality. Be this as it may, the proposal had little in it of an encouraging character, but, if we consider the more general proposal, will the verdict be more favourable? Inasmuch as, writing in 1766, Franklin said,[4] "the time has been when the Colonies would have esteemed it a great advantage as well as honour to be permitted to send members to Parliament . . . the time is now come when they are indifferent about it . . . though they might accept it if offered them, and the time will come when they will certainly refuse it"; it is clear that, if such a scheme could ever have been carried into successful effect, it should have been after the

[1] *Select letters on Trade and Government of America.*
[2] *Works*, Vol. II., Diary, Nov. 1774.
[3] Bernard was Governor from 1760 to 1769. He succeeded Pownall (1757-1760).
[4] *Works*, Vol. IV., Letter, Jan. 6, 1766.

Treaty of Paris in 1763. Grenville himself had no objection to American representation, and his follower Knox was, as we have seen, its strenuous advocate. But would it really have made for peace and amity? One thing is clear. The Americans were far too clever to assent, on the grounds silently held by most of its English advocates. If the main object was that the sheep should be sheared according to constitutional precedent, they would not have followed meekly into the pinfold. The real question was—was or was not England prepared to treat these Englishmen beyond the seas on the full footing of political and commercial equality? If she was, well and good, constitutional difficulties would soon find their remedy. But if she was not, to tantalise a high-spirited people with a semblance of power would have only served to aggravate the situation. It must be remembered also, that if intelligent interest in public affairs be a sign of civilisation, the Colonies, at least the New England provinces, had far outstripped the Mother country, and would have felt nothing but disgust for the state of things prevailing in England. Franklin had lived for some years in England, and had come into intimate relations with all that was best in English society, but hear Franklin on a general election.[1] "In short, the whole venal nation is now at market, and will be sold for about two millions, and might be bought . . . by the very devil himself." Had there been American representatives in Parliament, one of two things would have happened. Either they would have themselves fallen victims to corruption, which was the view[2] held by John Adams, in which case they would have formed a kind of provincial cohort in the party of the King's friends, or else, and this is what I expect would have happened, they would have maintained their independence and stood aloof, in grim and sullen isolation, from the squalid intrigues of English political life. Consider the risk of a dozen American Wilkeses, who were themselves sincere Wilkites. In my humble judgment the whole proposal illustrates the fundamental fallacy

[1] *Works*, Vol. VII., Letter, March 13, 1768.
[2] *Works*, IV., Novanglus, p. 139.

of political theorising, namely, the idea that organic mischiefs can be remedied by mechanical appliances. The Governor Bernards of every generation have called aloud for the settling of Constitutions in black and white, but experience has shown that under the strain of popular excitement the strongest Constitutions snap like thread, while the weakest 'ties are amply sufficient to bind where goodwill and good humour are present.

Whatever, however, be the rights on this subject, the question of Colonial representation never came within the sphere of practical politics. Instead, the campaign was opened which was to secure for England a revenue, and which lost her an Empire. However difficult it may be, in the face of subsequent events, the attempt must be made to look at the question from the point of view of George Grenville. His character has been once and for all drawn by Burke.[1] "A masculine understanding, a stout and resolute heart, an application undissipated and unwearied," the full measure of his offending is perhaps found in Disraeli's memorable saying, 'Let us rise above Nisi Prius.' Bred to the law, he showed no knowledge of men. The aim of his policy was threefold;[2] to improve and enforce the laws relating to trade with the Colonies, to establish a British Army for their protection, and for this purpose to obtain a settled revenue. With regard to the first branch of this work, Grenville undoubtedly looked upon himself as a Reformer. Much may be said for Free Trade. Something may be said for laws interfering with trade which can be enforced. But one is at a loss to imagine what may be said for laws which interfere with trade but which produce nothing. It is true that Burke declared that "it is the nature of all greatness not to be exact, and great trade will always be attended with considerable abuses. The contraband will always keep pace in some measure with the fair trade. It should stand as a fundamental maxim that no vulgar precaution ought to be

[1] Speech on American taxation, 1774.

[2] See the masterly discussion of the subject in Lecky, Vol. IV., 1892 ed. chap. xi.

employed in the cure of evils which are closely connected with the cause of our prosperity." But perhaps Burke's ingrained conservatism carried him away, as when he found that taxes returned as the rain clouds to water the earth. To Grenville, at least, a state of things did not seem satisfactory,[1] under which it cost between £7000 and £8000 a year to collect a revenue of from £1000 to £2000. The principal cause of this lamentable state of things was said to be the absence in England of the customs officers, and they were promptly ordered back to their posts. An interesting light is thrown on the state of things prevailing by a letter[2] from Lord Holland in the Grenville correspondence. His niece had eloped with an actor O'Brien, and the couple were taking up their residence at New York. Lord Holland calmly proposes that O'Brien should be made Controller of the Customs in that city. Unfortunately Grenville was not content with a stricter enforcement of existing laws; he also endeavoured to strengthen them. Undoubtedly it was the connection[3] between the assertion of abstract rights and their unexpected enforcement which especially alarmed the Colonists. Bernard declared[4] that "the publication of orders for the strict execution of the Molasses Act has caused a greater alarm than the taking of Fort William Henry in 1757." There was force in Knox's remark[5] made in 1769 that it is "this new invention of collecting taxes which makes them burdensome." Nevertheless, the policy of Grenville involved a distinct departure, though its consequences were not at first fully recognised. By an important measure the Sugar Act of George II., which had been at first enacted for five years and had been renewed from time to time, was made perpetual. The amount of duties on various articles was modified and improved and the duty on molasses reduced to threepence per gallon. The preamble of the new Act contained the ominous statement that it "is just and necessary that a

4 G. iii., c. 15.

[1] *Grenville Papers*, Vol. II.
[2] *Ibid.*
[3] Knox, *The Controversy between Great Britain and her Colonies.*
[4] *Select Letters on Trade and Government of America.*
[5] *The Controversy between Great Britain and her Colonies*, 1769.

revenue be raised . . . in America for . . . defending, protecting and securing the same," and "that the Commons of Great Britain . . . desirous to make some provision towards raising the said revenue in America, have resolved to give and grant unto Your Majesty the several rates and duties hereinafter mentioned." This language did not pass without a protest. The Massachusetts Agent[1] was instructed to remonstrate against these measures, and, if possible, to obtain a repeal of the Sugar Act, and prevent the imposition of any further duties or taxes on the Colonies. It was not, however, till the following year that the taxation of the American Colonists was directly enforced. In the March of 1764 Grenville had brought forward fifty-five resolutions with regard to America; one of which stated that for further defraying the expense of protecting the Colonies it may be proper to charge certain stamp duties in the said Colonies. Further measures were put off for a year, in order that the Colonies might have the opportunity themselves to raise the required revenue; thereby rendering unnecessary the interference of Parliament. That Grenville really desired a friendly settlement is attested[2] by good authority, and is not contradicted by the facts. The Colonies, however, were in no yielding mood. They simply considered[3] the proposal to amount to no more than this, that if the Colonies will not tax themselves as they may be directed, the Parliament will tax them. No compromise was therefore arrived at, and in 1765 the Stamp Act was passed, arousing in its passage little interest and less opposition.

5 G. iii., c. 12.

At the same time, it was sought to conciliate the Colonies by a further grant of bounties upon certain exports. In the preceding year a bounty had been granted upon the importation of hemp or undressed flax from the British Plantations, and now further bounties were granted upon the importation of wood from America. The effect of the Stamp Act has been doubtless exaggerated. Macaulay, with characteristic

4 G. iii., c. 26.

5 G. iii., c. 45.

[1] Mauduit, *A short view of the history of the City of Massachusetts Bay.*

[2] See account in *Controversy between Great Britain and her Colonies*, p. 199; and *Annual Register*, 1765.

[3] Tudor's *Life of Otis.*

hyperbole, declared that it found two millions of Americans as loyal as Kent and Sussex, and left them rebels. But, in truth, unless the soil had been got ready by the long preparation of the Trade laws, the plant of dissatisfaction would not have so suddenly burst into full life. If the Stamp Act alone had been of such supreme importance, its repeal must have also been of more consequence than in fact it proved.

About the expediency of an American revenue, if it could be obtained, there would appear little doubt. Its object, it must be remembered, was the maintenance or at least the partial maintenance of a small standing army in America. That such an army was desirable could hardly be doubted by those who had experienced the horrors of the Indian War, which broke out in 1763, and there was a general feeling throughout the Colonies that France would not for any long time acquiesce in the loss of Canada. There is a passage in Franklin, written in 1764, which is of great significance.[1]— "It is very possible that the Crown may think it necessary to keep troops in America thenceforward, to maintain its conquests and defend its colonies, and that the Parliament may establish some revenue arising out of the American trade to be applied towards supporting those troops. It is possible too that we may, after a few years experience, be generally very well satisfied with that measure." Considering the strain which had been put upon the resources of England, considering the dangerous increase of the National Debt, it was obviously fair that the Colonies, rapidly growing as they were in wealth and population, should pay their due proportion of Imperial charges. Nor was this at all denied by the Colonists themselves. The grievance lay in the manner in which payment was required. According to Franklin,[2] the old system had worked perfectly satisfactorily. The Governor, acting on instructions from England, called on the Assemblies to vote the necessary supplies, and the demand was at once cheerfully satisfied. But, in fact, the real state of things had been very different. In the last war,

[1] *Works*, Vol. IV., Cool Thoughts, p. 89.
[2] *Works*, Vol. IV., Evidence before H. of C., 1766.

it is true, the Colony of Massachusetts had especially distinguished itself by the amount and value of its exertions. But Massachusetts could with reason boast that it had done more in proportion for the general service than had any other
1759. colony. "We are told that we are the leading province; we have been so for many years past, and we have been as long unequally burdened. We have borne it patiently, although we have seen our inhabitants leaving us and removing to other Governments to live more free from taxes, and a few years ago, for this reason alone, four of our principal towns refused any longer to submit to our jurisdiction, and another government found a pretence for receiving them, and they are not yet returned to us."[1] Splendid as had been the conduct of Massachusetts, its Assembly always required the most delicate handling. The provisions of the law, which enabled soldiers to leave the service after the expiration of the period for which they had enlisted, and rendered impossible the sending militia outside their own province, led to every kind of difficulty. But if this was so in New England, where there was an intelligent appreciation of the general situation, the case was far worse with respect to the Southern Colonies. Maryland and the two Carolinas practically did nothing; more interested in their petty local squabbles than in the question whether there was to continue an English America. The Governor of haughty Virginia had to confess[2] "our people want a martial spirit," while bitterly complaining that "the proprietary governments have been a great obstruction to conducting the expedition with spirit." The Pennsylvania Legislature would only grant a militia, when the Lieutenant-Governor had yielded the point as to taxing the proprietor's land, even although their delay excited the keen resentment of the inhabitants of Philadelphia and of the districts affected by the Indian attacks.[3] ""Hearing so much concerning privilege and right, we are in the meantime deprived of that most essential right and great first privilege of de-

[1] *P.R.O. Am. and W. Indies Col. Correspondence, from Governors in Am.*, 72.
[2] Dinwiddie, Dec. 1755. *Dinwiddie Papers*, Virg. Hist. So. Public., III. & IV.
[3] *P.R.O. Am. and W. Indies Col. Correspondence, from Governors in Am.*, 70.

fending our lives and protecting our families." After the most cursory perusal of the contemporary records, he would be rash who should agree with Franklin, that the existing state of things was perfectly satisfactory. It was, in every case, far more easy to obtain grants to assist the Mother country than to defend the interests of another colony, and we have already seen how deeply Franklin himself had been possessed with the necessity for some controlling authority over the different Assemblies. The crux of the whole matter was recognized by Grenville when he asked the Colonial agents if they could "agree on the proportion that each Colony should raise." Of course, they were unable, and hence the excuse for the intervention of Parliament. Neither can it be admitted that no practical evil had resulted from the old system. There is good reason to believe that the disasters which ushered in the late war might have been[1] avoided had the Virginian Assembly been willing to vote men and money at the beginning, and there were continual difficulties from the independent and mutinous character of several of the Colonial militias. In truth, the Colonial governors were not so many theoretic constitution-mongers but practical men of business when they unanimously reported to Braddock the necessity of a central fund. "Such a fund 1755.
can never be established in the Colonies without the aid of Parliament. Having found it impracticable to obtain, in their respective governments, the proportion expected by His Majesty towards the expenses of his service in North America, they are unanimously of opinion that it should be proposed to His Majesty's ministers to find out some method of compelling them to do it and of assessing the several governments according to their respective abilities."[2] A more detailed plan had been drafted by Shirley in the following year.[3] "The only effectual way . . . will 1756.
be by an Act of Parliament in which I have great reason to think the people will readily acquiesce. . . . That the

[1] *Dinwiddie Papers.*

[2] *N. Y. Docs.*, Vol. VII.

[3] See *Controversy bet. Gt. B., &c.*

proper method of doing it by Parliament will be to assess each colony in a certain sum proportioned to its abilities. That, for the general satisfaction of the people in each colony, it would be advisable to leave it to their choice to raise the sum assessed upon them, according to their own discretion, whether by a stamp duty, excise upon rum, or any other tax." Who it was that first suggested the imposition of a stamp duty I do not know. The earliest suggestion of it which I have found is in a paper in the Record Office, dated 1726, by Bladen, one of the Board of Trade.[1] The same proposal was put forward by Keith at a later date, when it is said to have elicited from Walpole the
1739. famous answer,[2]—"I will leave that to some of my successors who may have more courage than I have." A Bill,[3] drafted by one MacCulloch, in a trembling handwriting, entitled "Proposals with regard to a Stamp Duty in America," had been submitted to Lord Halifax in 1755. H. Walpole fathers the Stamp Act on Jenkinson, but Pitt stated that proposals of a like nature were made to him when he was Secretary of State. In truth, however, no great originality was required to suggest taxes, the difficulty lay in enforcing them.

The plausibility of the case for American taxation having, it is hoped, been established, there remains the question of its legality, and here the position of its opponents underwent great changes. At first the opposition view was that put forward, in most emphatic language, by Pitt and Camden. Pitt, who had been ill at the time of the enactment of the Stamp Act, poured forth the volume of his eloquence upon the question of its repeal.[3] "It is my opinion that this kingdom has no right to lay a tax upon the colonies. At the same time I assert the authority of this kingdom over the colonies to be sovereign and supreme, in every circumstance of government and legislation whatsoever. . . . Taxation is no part of the governing or legislative power. The

[1] *N. Carolina Records*, Vol. II.

[2] See Coxe's *Life of Sir R. Walpole*. The authority is Lord Hardwicke. See also *Annual Register*, 1765.

[3] *Grenville Papers*, Vol. II.

[4] *Chatham Correspondence*, Vol. II.

taxes are the voluntary gift and grant of the Commons. . . . We may bind their trade, confine their manufactures and exercise every power whatsoever, except that of taking their money out of their pockets without their consent." Camden, out-Heroding Herod, went still further. Taxation and representation were morally inseparable.[1] "This position is founded on the laws of nature, nay more, it is itself an eternal law of nature. For whatever is a man's own is absolutely his own. No man has a right to take it from him without his consent, either expressed by himself or by his representative. Whoever attempts to do it attempts an injury. Whoever does it commits a robbery." The strength of the position rested on the principle of no taxation without representation. But, in fact, when once the bubble of "virtual" representation was pricked, in what sense could the great majority of the tax-payers of 1765 be said to be represented? Even in our own times, in the case of the numerous and important body of unmarried females possessed of property, this form of injury and robbery goes cheerfully on. It was for no such vague and difficult doctrine that Hampden died and the Civil War was fought, but to maintain the very different principle that the Commons are the only channel by which the Crown can approach the people in asking aids. Doubtless, apart from dry legality, the Colonies stood in a different position from unrepresented classes in England, and any attempt to tax them, except under such[2] restrictions as those suggested by Knox, was morally unjustifiable, but we are here dealing with legal and not with moral rights. It will have been noticed that Pitt's and Camden's contention largely depended upon the distinction between external and internal taxation. No one put higher than Pitt the absolute right of England to regulate all matters of trade, but it was soon recognised that, from the Colonial point of view, the important distinction was, not between internal and external taxation, but between taxation for revenue and taxation for trade purposes. The amended doctrine, therefore, became, that duties were legal, if enacted for merely trade purposes,

[1] *Par. Hist.*, Vol. XVI. [2] *Extra-official State Papers.*

but illegal if they intended a revenue. But consider the practical difficulties to which such a contention leads. Lawyers have doubted how far the preamble may be considered in interpreting the clauses of a Statute, but here it may depend upon the terms of the preamble to decide whether or not a Statute should be obeyed. The intention of the original Sugar Act had been prohibitive, to give a bounty to the English West Indies by shutting out the French sugars. The new Act lowered the duty from sixpence to threepence, no longer hoping to exclude French sugar, but intending a revenue. The first Act had been perfectly legal, as regulating trade; so that the absurd position is reached that an Act reducing duties by one half might be *ultra vires* of the English Parliament, and therefore inoperative. As the controversy thickened, and able minds applied themselves to the matter, there seemed more and more to be said for Franklin's position.[1] "The more I have thought and read on the subject the more I find myself confirmed in opinion that no middle doctrine can be well maintained, I mean not clearly with intelligible arguments. Something might be said for either of the extremes, that Parliament has a power to make all laws for us, or that it has a power to make no laws for us . . . supposing this doctrine established, the Colonies would be then so many separate states only subject to the same king, as England and Scotland were before the Union." Dickinson had[2] maintained that "we are as much dependent upon Great Britain as one perfectly free people can be on another." But Franklin very pertinently remarks that he can give this no meaning. "I know not what the Boston people mean by the subordination they acknowledge in their assembly to Parliament, while they deny its powers to make law for them, nor what bounds the farmer sets to the powers he acknowledges in Parliament to regulate the trade of the Colonies; it being difficult to draw a line between duties for regulation of trade and those for revenue, and if the Parliament is to be the judge it seems that establishing such principles of distinction will amount to

[1] *Works*, Vol. VII. Letter, March 10, 1768. [2] *Farmer's Letters.*

very little." To a similar effect wrote John Adams,[1] "Our provincial legislatures are the only supreme authorities in our Colonies. Parliament, notwithstanding this, may be allowed an authority supreme and sovereign over the ocean, which may be limited by the banks of the ocean or the bounds of our charters; our charters give us no authority over the high seas. Here is a line fairly drawn, between the rights of Britain and the rights of the Colonies, namely, the banks of the ocean or low water mark, the line of division between Common law and Civil or Maritime law."

Now, these are express and clear claims with which it is far easier to deal than with the declamation of orators. The answer to the claim must be found in history, and in the history along which we have endeavoured to travel. We have seen that the pretensions of the New Englanders and Virginians of the middle of the seventeenth century were, in fact, the pretensions of their descendants. The language of Franklin and Adams would have seemed very familiar to the men who held that their allegiance did not bind them to the laws of England any longer than while they lived in England, "for the laws of the Parliament of England reach no further." But at the same time, we have seen that this claim was never for an instant allowed; that on this point Kings, Parliaments and Protector were agreed; that however natural it was that Crown lawyers, jealous for the Prerogative, should not have gone out of their way to assert the rights of Parliament, even in those days Colonial matters had not been able to be kept entirely out of the range of the interference of Parliament. We have seen how Penn's Charter, which was granted after the beginning of the new system, had contained express words recognising the independent power of Parliament to tax the Pennsylvanian colonists. Between the times of Winthrop and of Adams there lay the new Charter of William and Mary, which had materially altered the position of Massachusetts. If the sole connection of the Colonies with England lay through the Crown, inasmuch as the title of the Brunswick family to the throne of England rested entirely

[1] *Works*, Vol. IV., Novanglus.

on the force of a British statute, how anomalous must have been that title in Colonies in no ways bound by British statutes. In the case of Scotland before the Union, the difficulty had been met by express enactment, but where were the American statutes regulating the succession to the throne? In order to take away the paramount claim of Parliament, express enactment was necessary; but such enactment was nowhere to be found. There was no evidence of an original contract between England and the Colonies, such as Franklin and Adams pretended. Moreover, if such had really been the legal position, how strange that in the period between the earliest and the latest times it had become so entirely forgotten. As late as 1758 the Massachusetts Assembly, in defending themselves against the charge of ignoring British statutes, said "The authority of all Acts of Parliament which concern the Colonies and extend to them are ever acknowledged in all Courts of Law, and made the rule of all judicial proceedings. There is not a member of the general court, and we know no inhabitant within the bounds of this Government that ever questioned this . . . authority."[1] Surely, with these words before them, English ministers might well have said *habemus confitentem reum.*

The position of the Colonies was not without difficulties and anomalies; but upon the whole the legality of Grenville's proceedings appears tolerably certain. But when the admission has once been made that it was highly desirable to obtain an American revenue, and more than doubtful if it could be obtained except by the intervention of Parliament, there remains the question how far it was wise to persist when once the feeling in America had become clear. When all was said and done, the words of Dummer continued fully to the point: "It's true the Legislative Power is absolute and unaccountable, and Kings, Lords and Commons may do what they please; but the question here is not about power, but about right, and shall not the supreme legislature of all the nation do right? One may say that what the Parliament

[1] *P.R.O. Am. and W. Indies Col. Correspondence, from Governors in Am.*, 71.

can't do justly they can't do at all, *in maximis minima est licentia.*"[1] We have seen that it was said that America was lost through reading the American despatches; but had Grenville read a despatch from Clinton,[2] written in 1744, it might have given him pause. Clarke, the Lieutenant Governor, had shown to Clinton some proposals for establishing by Act of Parliament a duty upon stamp paper and parchment in all the British Colonies. Clinton remarks, "The people of North America are quite strangers to any duty but such as they raise themselves, and was such a scheme to take place without their knowledge it might prove of dangerous consequence to His Majesty's interests." Inconvenient as might be the system under which the English Government had to deal with many separate Colonies, it was at any rate preferable to one which should at last unite them under the bond of a common grievance. To have proposed the Stamp Act may or may not have been a blunder; to persist in it when the feeling in America was once apparent, was, without doubt, politically a crime.

In fact, the very step meant to be conciliatory, the giving a year's notice to the Colonies, greatly aggravated the situation by allowing them the time and opportunity to organise a combined opposition. To anyone who had eyes to read the signs of the times, the Continental Congress of 1765 was the handwriting on the wall, admonishing England to set its house in order. The success of the non-importation agreement revealed a power of acting together which no one hitherto could have believed possible to the different Colonies. Unhappily, Grenville, though possessed of many great gifts, the courage which could welcome the hisses of the mob, the independence which could invade with long lectures the royal closet, was wholly without that intuitive sense of the trend of events, which is, in the last resort, the touchstone of statesmanship. Had he continued in office the struggle with America must in all probability have come about ten years before its actual outbreak. As it was, the unimportance attached to colonial matters afforded a

[1] *Defence of N. England Charters*, 1721. [2] *N. Y. Docs.*, Vol. VI.

welcome breathing space. Had the issue deciding a change of Ministry been the Stamp Act, George III. and his friends would have naturally been on the side of Grenville. The dishonouring and clumsy manner, however, in which the Ministry dealt with the King on the question of the Regency, finally disgusted George III., and in the inability of Pitt to form a Government, there was no course open to the King, except to appeal to that section of the Whig party which was most inclined to favour the American Colonies. That the Rockingham Ministry was weak both in experience and following is doubtless true, but their manner of dealing with the difficulty was, on the whole, wise. After some hesitation, they repealed the Stamp Act, while at the same time they carried through a declaratory act maintaining the rights of England to tax the Colonies. The latter Act was in any case inevitable owing to the exigencies of English politics, but there is every reason to believe that, "it caused no allay of the joy, and was considered a mere naked form."[1] The real seriousness of the situation lay elsewhere. However righteous, and indeed inevitable, may have been the repeal of the Stamp Act, the manner in which it had been effected offered a very dangerous precedent. It had been once for all established that England, great at menace, would yield if seriously resisted, and doubtless the experience of this time had a great influence upon future events. I have already endeavoured to lay stress upon the extreme weakness of the Executive in the Colonies, and the state of mob rule in 1765 ought surely to have brought this home to the consciousness of English statesmen. According to Colden,[2] the opposition in New York had at first been largely fostered by the wealthy merchants and lawyers, who had obtained extravagant grants of land, and were apprehensive of a tax upon land while unimproved. He soon, however, recognised that it was a question "whether the men, who excited this seditious spirit, have it in their power to suppress it." He gives a vivid description how the mob burnt his carriage, while the "gentlemen" of New

6 G. III., c. 11.
6 G. III., c. 12.

[1] Hutchinson, *Hist. of Mass.*, 1749-74.

[2] *N. Y. Docs.*, Vol. VII.

York and the garrison looked complacently on. The burning of Hutchinson's house at Boston, containing valuable papers, is well known, nor were the efforts of English statesmen, to obtain compensation for the sufferers in the riots, attended at the first with much success. It is melancholy to read the letters, both public and private, wherein the colonists were implored to show proper gratitude to their Whig benefactors. Only thus, it was asserted, could English public opinion be satisfied. But in truth what cause had the Colonists to feel gratitude? Whatever may have been the motives prompting Rockingham and Conway, it is clear that it was no goodwill towards the Colonies, but fear[1] of the English merchants trading with America, and of the English manufacturers affected by the non-importation agreement, which influenced the great majority of the House of Commons. In this state of things, the one course advisable would have been, while repealing the Stamp Act, to conciliate the propertied classes by a radical reform of the Trade Laws, and to have made use of the occasion to strengthen the hands of the Executive. Undoubtedly by many in the Colonies, the lesson of mob rule had been taken seriously to heart. A little wisdom might have enlisted openly on the side of England many who remained for years half-hearted till a final decision was forced upon them. Shelburne and Conway seemed to have had a dim recognition of the truth. We find the former writing,[2] "it would be well for the country to be back where it was a year ago. I even despair of repeal effecting that, if it is not accompanied with some circumstances of a firm conduct and some system immediately following such a concession." In the letter, which announced the repeal of the Stamp Act and the enactment of the Declaratory Act, Conway[3] added that a revision of the late American Trade Laws would be the immediate object of Parliament. Some small salutary changes were indeed effected, but not such as to

[1] See H. Walpole's *Memoirs of the reign of Geo. III.*, Vol. II.; and Lord North in *Cavendish Debates*, Vol. I.

[2] *Chatham Corr.*, Vol. II.

[3] *N. Y. Docs.*, Vol. VII.

strike the imagination of the American people.[1] The duty on
6 G. III., c. 52. molasses was lowered to one penny a gallon, and promptly produced a satisfactory revenue. The duties imposed on coffee and pimento from the British Plantations and on foreign cambrics and lawns imported into America were,
Sec. 30. at the same time, lowered. As a set-off, however, under the same Statute, the non-enumerated articles of export were confined to the same lines as were the enumerated.
6 G. III., c. 49, and c. 47. Under other statutes free ports were instituted in the West Indies, and additional duties laid on foreign brandies.

[1] It would appear that the fault did not lie with the Rockingham Ministry. Burke states that Lord Rockingham "scarcely began to open the ground" when "a violent outcry was raised against any alteration."

CHAPTER VIII

THE AMERICAN REVOLUTION

UNHAPPILY, whatever the upright Conway might will, power lay elsewhere—with the King and his Parliamentary myrmidons. The Rockingham administration was an accident, due to the royal disgust at Grenville. As soon as another Ministry could be got together, Rockingham was contemptuously dismissed. It is one of the most melancholy facts of English history that the Ministry, which did more by their incapacity and blindness to ruin England than any Ministry before or since, should have entered office under the mighty wing of Pitt. Grenville was doubtless mistaken; but at least he knew his own mind, and the Stamp Act wears a dignified aspect compared to the patch-work of shilly-shally legislation which finally lost America. It must be remembered, however, that at first the new Ministry appeared as one favourable to the American colonists. Its chief opponent was Grenville, their implacable enemy. In America the fame of Pitt smelt as sweet under the name of Chatham. Conway continued in the Government, though the American department was undertaken by Shelburne. As late as the beginning of 1768 we find Franklin saying that there had been a talk of getting him appointed Under Secretary to Lord Hillsborough.[1] But just in proportion as their intentions were good, was the result insidious. When all is said and done, the most malignant policy is less mischievous probably in its results than a policy of drift. But it was a policy of drift, tempered by royal obstinacy, which ended in the Declaration of Independence. The fountain and origin of all the evil that followed lay in the extraordinary attitude of Chatham. It is impossible, I think, to account for his conduct on any hypothesis, except that he was for the time practically insane,

The Ministry of Chatham and afterwards of Lord North.

[1] *Works*, Vol. VII. Letter, Ju. 9, 1768.

Some remedy, which drove the gout into his system, may well have affected his nerves, so as to make him hardly responsible for his actions. We have already noted his fatal affectation of superiority to the party system. His plan of forming a Ministry has been inimitably described by Burke: "Here a bit of black stone and there a bit of white, patriots and courtiers, king's friends and republicans, Whigs and Tories, treacherous friends and open enemies." With this kind of administration it was obvious that the only bond of union could be the presence of a master mind, and yet this was the moment chosen by Chatham to fly from his colleagues to neglect all business, and, in effect, to insult his King. The consequences could easily be foreseen, and the wretched spectacle was witnessed of Pitt remaining a sleeping partner in a firm which openly avowed that taxation of America, the opposition to which his own eloquence had so greatly inflamed. In January 1767 Charles Townshend, the Chancellor of the Exchequer, one of these dangerous prodigies who conceal by their inexhaustible readiness and brilliancy their total absence of all depth and consistency of thought, surprised the House of Commons and his colleagues by jauntily describing the distinction between external and internal taxation as ridiculous, and by pledging himself to find a revenue in America. It is clear that now, if ever, was the time for the friends of America in the Government to act, and, by insisting on either themselves resigning or on Townshend recanting, they might have forced the hands of the King, and modified subsequent history.

The news, however, from America was serious, and served to complicate the situation. The Quartering Act, as at first drafted, had empowered officers to quarter their soldiers in private houses. This provision was omitted to gratify the colonists, but a clause was substituted, enacting that empty houses, barns, &c. should be hired for the troops in the Colonies, and that the Colonies should pay these expenses and furnish firing, &c. This, of course, presumed that the Colonial Assemblies would pass laws to raise the money. The Pennsylvania Assembly complied, but New York obstinately refused. In

6 G. III., c. 18.

this state of things, even Chatham[1] foresaw that the "torrent of indignation in Parliament would become irresistible." For this reason, or without reason, no attempt was made to check Townshend, and in May he introduced the measures which were to make good his promise. The Act dealing with the particular case of New York requires little comment. It may be doubtful how far, even though Parliament had an absolute and superintending power to take any measures itself, it was within its rights in dictating to the Colonial legislatures the measures to be taken by them. But it was obviously impossible to allow defiance, and the Act for "restraining and prohibiting the Governor, Council, and House of Representatives of New York, until provision shall have been made for furnishing the King's troops with all the necessaries required by law from passing or assenting to any Act of Assembly, vote or resolution, for any other purpose" was justified by its practical success. Something might also be said for the Act establishing a Board of Commissioners in America, with extensive powers for the enforcement of the execution of the laws relating to trade. How lucrative the business of smuggling still continued may be shown by the following case. Colden affirms[2] that his grandson on becoming Surveyor of the Port of New York, was given to understand that if he would not be officious in his duty he might depend upon receiving fifteen hundred a year. It never occurred to English politicians to reflect that, when public opinion is wholly against the enforcement of laws, they will somehow or other be evaded. If, however, the trade laws were to remain upon the statute book, the Ministry can hardly be blamed for yet another attempt to render them effectual; though the measure, by its interference with trial by jury, and its foisting upon the Colonies a new body of civil servants, did almost as much as anything to foster the growth of discontent. Nothing, however, but condemnation is deserved by the Act which purported to secure an American Revenue. Duties were imposed upon glass, red and white lead, painters' colours, and tea imported into the Colonies.

7 G. III., c. 59.

7 G. III., c. 41.

7 G. III., c. 46.

[1] *Chatham Correspondence.*

[2] *N. Y. Docs.* Vol. VIII.

So improvidently were the duties chosen that they were all,
1770. except the duty on tea, afterwards taken off by Lord North, on the ground that they interfered with English manufactures. No greater sum than £40,000 per annum was expected to arise from these duties, which sum was to be devoted primarily to secure the salaries of the Governors and judges, thereby, of course, rendering these officers additionally unpopular. Hutchinson afterwards pointed out that, if these duties had been paid on exportation from England and applied to the same purposes, there would have been no opposition made to them in America.[1] Never from first to last was any business so hopelessly mismanaged. Never was there so striking an illustration of Aristotle's maxim γίγνονται μεν αἱ στάσεις οὐ περὶ μικρῶν ἀλλ' ἐκ μικρῶν, στασιάζουσι δε περὶ μεγαλῶν, than the case of the Boston tea. The duty upon tea had been fixed at threepence per pound, and it was excused the duty of nearly twelvepence a pound paid in England, so that the practical effect of the measure was that people in America drank tea for three shillings a pound for which people in England gave six shillings. Leonard,[2] some years later, stated that a calculation had "been lately made both of the amount of the revenue arising from the duties, with which our trade is at present charged, and of the bounties and encouragements paid out of the British revenue, upon articles of American produce, imported into England, and the latter is found to exceed the former more than fourfold."[3] And yet it was to achieve this amazing result that

[1] *Hist. of Mass.*, 1749-1774. [2] Writing as *Massachuchettensis*.

[3] We have already noted some of these bounties. Additional ones were granted in 1769 upon the importation of raw silk (9 G. III. c. 38) and in 1771 upon the importation of pipes, hogsheads, barrel staves (11 G. III. c. 50). In the matter of 'drawbacks,' the commercial Policy of England compared very favourably with that of other nations. Having assumed the exclusive right of supplying the Colonies with European goods, Great Britain might have forced them to receive such goods loaded with the same duties which they paid in England. 'But, on the contrary, till 1763, the same 'drawbacks' were paid upon the exportation of the greater part of foreign goods to our Colonies as to any independent Foreign Country.' The statute 4 G. III. c. 15, to some extent altered this, but even afterwards A. Smith affirms that some sorts of foreign goods might be bought cheaper in the Colonies than in England.

England estranged her colonists, lost America and well-nigh ceased to exist as a great Power.

Having set the match to the stack, Townshend died in the following September, leaving to his successors to deal with the fire. He was succeeded by Lord North, an able man, but from whose entry into an important office dates the final triumph for fifteen years of George the Third's policy. Within a short time, Conway, Shelburne, and Chatham resigned. In 1768 Lord Hillsborough became Secretary of State for the American department, and the opposition to America in the Ministry was further strengthened by the accession to office of members of that Bedford party, which had always advocated strong measures against the Colonies. A very hostile account is given of Lord Hillsborough by Franklin,[1] but his despatches seem to testify to the substantial accuracy of Franklin's picture. He appears to have belonged to that very numerous class of politicians who seek to disguise their real weakness under a fluttering assumption of firmness. By a curious irony, this time, when the American Colonies were so soon to be a thing of the past, was the time chosen for the definite appointment of a separate Secretary of State for American affairs. We have seen how, from its first inception, the absence of independent authority in the Board of Trade had led to delay and confusion, and we have noticed some complaints on the subject. We have seen also how, in 1752, the difficulty had been partly met by some extension of the functions of the Board of Trade. The settlement of 1752 had been again modified in 1761, and in 1766 the old plan of Colonial authorities, corresponding both with the Secretary of State and the Board of Trade, was once more revived. In that year there had been some question of a separate Secretary of State for America, and we find Lord Chesterfield writing to Lord Dartmouth,[2] "If we have no Secretary of State with full and undisputed powers for America, in a few years we may as well have no America." At the time, however, the King was opposed to such a change.

[1] *Works*, Vol. VII., Letter of Feb. 5, 1771.
[2] Hist. MSS. Com., *Dartmouth Corr.*

Pownall, who, as an ex-Governor, spoke with authority, gives a striking picture[1] of the confusion which resulted from the absence of a separate Colonial department. The military corresponded with the Secretary of State—the Civil, in one part of their office with the Secretary of State, in another, with the Board of Trade; the navy corresponded with the Admiralty in matters not merely naval; the engineers with the Board of Ordnance; and the revenue officers with the several Boards of that Branch. It was no one's business to collect into one view all these matters of information.[2] "Until an effective administration," he writes, "for Colony affairs be established by Government, all plans for the governing of those countries under any regular system of policy will be only matter of speculation and become mere useless opprobious theory. All official information given by those whose duty it is to give it, will, as accidents shall decide, or as the connections of party shall run, be received or not; nay, it may so happen that those officers who should duly report to Government the state of these matters, will, as they find themselves conscientiously or politically disposed, direct that information to those who are in or who are out of administration. Every leader of every little flying squadron will have his own runner, his own proper channel of information, and will hold forth his own importance in public by bringing his *plan* for American affairs before it. All true and regular knowledge of these affairs, being dispersed, will be evaporated. Every administration, even Parliament itself, will be distracted in its Councils by a thousand odds and ends of propositions, by a thousand pieces and parcels of plans, while those surely who are so deeply concerned as the Americans themselves are, will not be excluded from having their plan also . . . if, therefore, we mean to govern the Colonies, we must previously form at home some practical and efficient administration for Colony affairs."

The appointment, then, of a new Secretary of State for American affairs was clearly a right step, though the usual ill-luck of Ministers dogged them in their selection of Lord

[1] *Administration of the Colonies.* [2] *Ibid.*

Hillsborough. I suppose that the years which elapsed between the virtual eclipse of the elder and the rise of the younger Pitt were the most shameful to be found in English history. Abject abroad and insolent at home, the English Government, while it encouraged the House of Commons to wage foolish war against the City of London and the printers, would have blundered, but for the fortunate dismissal of Choiseul, into a war with France and Spain combined. We now know[1] that the momentous decision to retain the duty on tea, whilst repealing the other duties imposed by Charles Townshend, was only arrived at in the Cabinet by a majority of one. For the repeal there voted the Duke of Grafton, Lord Camden, Lord Granby and General Conway; against, Lord Rochford, Lord North, Lord Gower, Lord Weymouth and Lord Hillsborough. The minute of the Cabinet, according to Lord Hillsborough, was to the following effect:—"It is the unanimous opinion of the Lords present . . . that no measures should be taken which can in any way derogate from the Legislative authority of Great Britain over the Colonies, but that the Secretary of State in his correspondence and conversation be permitted to state . . . that it is by no means the intention of Administration, nor do they think it expedient, or for the interest of Great Britain or of America, to propose or consent to the laying of any further taxes upon America, for the purpose of raising a revenue, and that it is at present their intention to propose, in the next Session of Parliament, to take off the duties upon paper, glass and colours imported into America, upon consideration of such duties having been laid contrary to the true principles of commerce." Camden and Lord Grafton objected to the word "unanimous," but a more serious cause of complaint lay in the wording of Lord Hillsborough's circular to the Colonial Governors, founded on the Minute. Although based on that Minute, it displays a note of querulous complaint eminently calculated to undo the good effects of its conciliatory promises. Lord North seems to have held the most extraordinary views as to

[1] *Memoirs of the Duke of Grafton*, ed. by Sir W. Anson, 1898.

the taxation of the Colonies. There had been the old view that duties were imposed for the regulation of trade. There had been the recent view that they might be employed to raise a revenue, but North seems to regard them as methods of rewarding or punishing the Mother country's naughty children.[1] "Would to God," he exclaimed, with marvellous naïveté, "that I could see any reason from the subsequent behaviour of the Americans to grant them further indulgence." Yet more amazing was his cynical avowal of the absence of any system.[2] "We repealed the Act when America was in flames, we laid on a new tax when America was calm. It is easy to see what sort of opinion such conduct must have given the Americans of the wisdom and authority of this Government." Again,[3] "I have seen America punished and I have seen her rewarded, but I have never yet seen the people of Great Britain of one mind."

In this state of things Colonial policy was what one might expect. We have already seen the dangerous weakness of the Executive in the Colonies. In Massachusetts civil government by England was practically a thing of the past.[4] Governor Bernard called urgently for two measures, the forming of a plan of civil government and its support by troops. The Ministry attended to the second part of his proposal while neglecting the first. Troops were sent, but on their arrival they found no magistrates willing to employ them. If the intention was to govern by the aid of military force, the troops sent out were too few, on any other hypothesis they were too many. In this way it was left to a subordinate officer practically to decide the question whether or not there should be civil war. No men should have been placed in the position of these unfortunate soldiers. An officer,[5] who had served in America, afterwards stated

[1] *Cavendish Debates*, Vol. I., p. 485. [2] P. 486. [3] P. 487.

[4] Note the striking language of G. Grenville in the last speech he made in the House of Commons, May 9, 1770, *Cavendish Debates*, Vol. II., p. 35. "Look at Governor Bernard's letter. First he calls for a plan of civil government; then he calls for troops. Is it proper to take only half of a man's plan?"

[5] Col. Mackay, *Cavendish Debates*, Vol. I., p. 493.

that he had known cases of soldiers being sold into slavery. "By the law of that province if any man has committed any felony, the accuser brings his charge for such a sum of money; the man is found guilty, and the decree passes that, if he does not pay the money by a certain day, he is to be sold." It is a curious comment on the alleged tyranny of England that such proceedings were meekly borne. The officers, who wished to be friendly, found themselves subjected to a social boycott. In any case the loose manners and speech of the English soldiery must have caused grave scandal in a community which still remembered its Puritan origin. Upon the whole, considering the inflammable material on both sides, it is a matter for congratulation that nothing more serious happened than the trifling affray, which has come down to posterity under the imposing title of "The Bloody Massacre." It was not the first case or the last, wherein the good sense of Englishmen abroad has covered the blunders of Englishmen at home. March 5, 1770.

Hillsborough's pompous incapacity was especially conspicuous in the case of New York. New York had thrown cold water upon the proposal of the Boston merchants for entering into a combination, concerning the non-importation of British manufactures, and an Assembly had been returned—though not without difficulty—more favourable to the English connection than had been the last. The acting Governor had given his assent to some Bill. Hillsborough remarks:[1] "Although the King considers the preserving the colonies in tranquillity as a very desirable and commendable object, yet his Majesty can never approve of any Governor seeking the attainment of it at the expense of his instructions." The Assembly was strongly in favour of judges not being allowed to serve in the Assemblies. An act to this effect was sent home and promptly disallowed. It has been asserted by Bancroft that New York was naturally anti-English, as being so largely Dutch, but we find Colden expressly stating:[2] "The most active among them (*i.e.*, the opposition) are Independents from New England, and

[1] *N. Y. Docs.*, Vol. VIII.

[2] *N. Y. Docs.*, Vol. VIII.

educated there, and are of republican principles. The friends of the Administration are of the Church of England, Lutherans, and the old Dutch congregation, with several Presbyterians." That the English party did not increase in New York was largely due to the policy of the English Government. For example, Lord Dunmore was appointed Governor with a salary of £2000 a year, secured to him out of the duty upon tea; whose only act, before he was transferred to Virginia, was to claim from the Lieutenant Governor half the salary accruing since the date of his commission; the enforcement of such claim having been generally waived by previous Governors. Everywhere the British Ministry showed itself equally tactless and incapable. We have seen that, from a strictly legal point of view, England was in all probability justified in taxing the Colonies. Indeed, the right is treated as beyond argument by the American historian, Mr Channing. But there is grave doubt how far Lord Hillsborough's circular was constitutional,[1] wherein he instructed the Governors that, unless the Assemblies took certain measures, they should be at once dissolved. The right of dissolution in the Colonies, as in England, of course, lay with the Crown. But a threat of this kind would have been deeply resented by the English House of Commons. Moreover, the threat showed complete ignorance of Colonial ways. In England a General Election was a serious matter, because of the cost. But no Colonial Assembly objected to a new election,[2] and the only result was to return members more deeply pledged to oppose in every way English interference. Another step decided upon, though never put in practice, was to enforce against the Americans the provisions of an obsolete law of Henry VIII., "concerning the trials of treason committed out of His Majesty's dominions." Considering that at the time this statute was passed there had been no Colonies, and that America was certainly part of His Majesty's dominions, it was at least doubtful how far the statute applied. But

[1] See opinion of G. Grenville in speech quoted above.

[2] See paper of Franklin, *Works*, Vol. IV. p. 530.

to threaten and then not to perform was to combine all the disadvantages of a policy of vigour and of conciliation.

Meanwhile, affairs in America went simmering on. In new communities there is always latent a lawless element which comes to the surface in times of trouble, and the riots in North Carolina, and the affair of the Gaspee, in Rhode Island, may, to some extent, be thus accounted for, though the English Attorney-General considered the business of the Gaspee as "five times the magnitude of the Stamp Act."[1] More serious was the step taken in 1772, and repeated in 1773, of appointing committees with a view of mutual correspondence between the various Colonies. Their business was to collect and publish Colonial grievances, and procure authentic information of what measures were intended in England. The idea of such committees had originated with Samuel Adams, but at first it had not been taken up by the other Colonies. The Royal Commission, however, appointed to enquire into the affair of the Gaspee, alarmed the Virginian Assembly, and, under the influence of Patrick Henry and J. Jefferson, they persuaded Massachusetts, Rhode Island, Connecticut, New Hampshire and South Carolina to join in appointing Committees of Correspondents. As early as 1769 the Virginian Assembly had unanimously agreed to resolutions which claimed the sole right of imposing taxes, the right of petition and the illegality of trying accused men elsewhere than in their own Colony. The passage of Burke has often been quoted, wherein he notices the extreme love of liberty shown by the owners of slaves. Perhaps a truer and less paradoxical statement of the case would be that those who are accustomed to domineer are naturally unwilling themselves to be domineered over. In any case, the race between Virginia and New England for pre-eminence in championing the cause of the Colonies, became for England an unpleasant feature in the situation. Upon the whole, however, considering the attitude of the English Parliament, one is struck with the extreme reluctance of the American people

[1] Hist. MSS. Com. *Dartmouth Corr.*

to proceed to extremities. That the dread of Parliamentary taxation was genuine and well-nigh universal is, I think, clear. Tryon reports in 1775: "The American friends of Government are in general beside themselves between Scylla and Charybdis, that is the dread of Parliamentary taxation and the tyranny of their present masters."[1]

In 1772 Lord Hillsborough had resigned, on account of his views with respect to the Ohio Company not being supported by the Cabinet. He was succeeded by Lord Dartmouth. At an earlier date this appointment might have been attended by good results, Lord Dartmouth being much respected by the American colonists. When, however, matters had gone to such lengths, the appointment of an amiable and kind-hearted man like Dartmouth only served to make the situation more impossible. Governor Tryon was doubtless right in condemning "his Lordship's plan of holding out the olive branch in one hand and the rod of chastisement in the other."[2] Half measures would not do. Delay was still more dangerous. Two courses were alone possible, either the "removal of stumbling blocks or vigorous measures."

In the year 1773 an event occurred, on the surface of no great importance, but which proved far-reaching in its consequences. Franklin had been always the determined advocate of the claims of his countrymen. At the same time he was bound to England by the closest ties of intimacy and surroundings, and his influence undoubtedly was one making for peace and compromise. At this time, however, he saw fit to send to America private letters[3] of Hutchinson and Oliver, which had somehow or other come into his possession. His motive even now remains obscure. It is impossible to credit his own story[4] that he wished to render the

[1] *N. Y. Docs.*, Vol. VIII. [2] Hist. MSS. Com., *Dartmouth Corr.*

[3] The letters were published under the title, *Copy of Letters sent to Great Britain by T. Hutchinson, A. Oliver, and others.* The passage which gave the most offence was, "There must be an abridgement of what are called British Liberties. . . . I doubt whether it is possible to project a system of government, in which a Colony 3000 miles distant from the parent State, shall enjoy all the liberty of the parent State." [4] *Works*, Vol. IV., pp. 405-455.

American people kindly disposed to English statesmen by showing them that their real enemies were the authorities in America who misled English Ministers. Probably Franklin, who was conscious of the distrust of him felt in New England, wished to increase his reputation there for energetic "smartness." It is hardly fair to judge Franklin's action by modern notions on the subject. To us the inspection of private letters and the forwarding them to America, even though their publication was never intended, seems dishonourable conduct; but we must remember that Franklin lived at a time when statesmen thought it fair game to open the letters of their political opponents, and Franklin may well have considered that he was therefore justified. Be this, however, as it may, the result was most unfortunate. Franklin, who with all his merits combined a good deal of vanity, and who had been accustomed to bask in the sunshine of popularity, never forgot or forgave that scene in the Privy Council, when he was, for an hour, the object of Wedderburn's violent invective, and of the coarse jeers of English Privy Councillors. To Wedderburn such abuse was part of his day's work, but to Franklin it was bitter earnest. No other American at the time possessed a European reputation, and it is very doubtful if any other American could have carried through successfully the negotiations with France. The episode of the letters caused Franklin to break violently with his past, and threw the most enlightened and clear-sighted of Americans into the arms of the bitter adversaries of England.

Other influences served greatly to complicate the situation. The Colonies had altogether misunderstood the meaning of the repeal of the Stamp Act. They knew that the friends of America in England were important in ability and repute, and did not realise how miserably few they were in number. Americans did not understand that the Rockingham Ministry had been an accident, due to the disgust of the King with George Grenville, and that the return to power of the Whigs was for the time out of the question. In the state of opinion prevailing in England, the great body of moderate Americans were in fact pursuing a shadow, and, in the cir-

cumstances, it is no wonder that the victory lay with the men, who knew what they were aiming at, and how it was to be gained. The destruction of the Boston Tea and the repressive measures taken in consequence, hardly belong to the domain of policy. They were acts of war, and as such, to be judged by their results. The closing of the Port of Boston, the remodelling of the Massachusetts Charter, and the sending for trial to England, of persons indicted for murder or any other capital offence, in cases where it should appear to the Governor that the incriminated act was committed in aiding the magistrates to suppress tumults and riots, and that a fair trial could not be held in the province, may or may not have been necessary measures. They were, in any case, measures which English Ministers should have known would involve war.

14 G. III., c. 19, c. 45, and c. 39.

Temper of the Colonies.

And yet it was with no light heart that the American Colonies entered upon the struggle. No one can have read the learned arguments, by which Massachuchettensis and Novanglus supported the rival causes of the Crown and the Colony, without a feeling of admiration for a community wherein such writings could be popular. The plant that grows to swift luxuriance withers as soon. The Colonies were like trees, whose growth is difficult and reluctant, but whose roots are lodged deep in the past. Consider the instructions to the delegates to the Congress of 1774. The Massachusetts delegates were enjoined "to determine on measures for the restoration of unity and harmony . . . most ardently desired by all good men." The New Hampshire delegates were "to restore that peace, harmony, and mutual confidence, which once happily existed between the parent country and her colonies." The Pennsylvania delegates were "to consult upon the present unhappy state of the colonies . . . for establishing that union and harmony . . . so indispensably necessary for them both. . . ." The Virginian and Maryland delegates were "to procure the return of that harmony and union . . . so indispensably necessary to the welfare and happiness of both." The Congress itself cheerfully consented "to the operation of such Acts of Parliament as are bonâ fide

restrained to the regulation of our external commerce, for the purpose of securing the common advantage of the whole empire to the mother country and the common benefit of its respective members, excluding every idea of taxation, internal or external, for raising a revenue on the subjects of America without their consent."

Such being the attitude of America what was England's reply? It found expression in George III., who may be taken at this time as the exponent of English Colonial policy. "I am not fond,"[1] he writes in December 1774, "of the sending commissioners to examine into the disputes. This looks so like the mother country being more affraid (*sic*) of the continuance of the dispute than the Colonies, and I cannot think it likely to make them reasonable. I do not want to drive them to despair but to submission." The magnitude of the long struggle with Napoleon, which occupied the later years of his reign, the purity of his private life, and the melancholy of his fate have served to drive into the shade the shortcomings of George III.'s Colonial policy. But, from the point of view of this book, he is the worst of English kings. Especially is it to be remembered that his taking upon himself the practical part of kingship was wholly gratuitous. The Stuarts were the inheritors of a difficult, if not impossible, situation, which the extreme tact and ability of the Tudors had deferred; and there is a real sense in which Charles I. may be called a martyr. But, by the time of George III., the English Constitution had settled down into a frame which, if not ideal, served fairly well. The Venetian oligarchy, against whom the loud-voiced patriots could say so much, had not prevailed to keep from power the Minister chosen by God and the people, when the moment of need arrived; and there was something ludicrous in the position that the first act of a king, whose boast it was that he was born and bred a Briton, should have been to plot against the great master-builder of British Empire. George III. aspired to be king, in fact, and not merely in name. For this he sacrificed truth and honesty, con-

Policy of George III.

[1] Donne's *Corr. of Geo. III. and Ld. North*, Vol. I.

descended to double dealing, and spent large sums in debauching the legislature. With the constitutional questions arising we have here nothing to do; our business is merely with the use he made of his power. The story of the American War of Independence is the best commentary on his statesmanship.

It has been often said, and by persons of great authority, that after all the breach with America was, sooner or later, inevitable, and that it was, in fact, a blessing in disguise, because thereby the development of America was secured far earlier than could otherwise have been possible. But surely, however inevitable may have been the final conclusion, the manner of its coming to pass makes all the difference. God forbid that even in thought one should cabin and confine the United States of the future within the four corners of the British Empire. But the parting might have been under very different circumstances. Two kinsmen have lived together. For good reasons they decide to live apart. Surely it makes some difference whether they part in amity and mutual respect, or whether the one leaves the house a flight of stairs at a time, his last tender recollections being of the mark of his kinsman's boot.

It is but too plain that through all the dreary years, from the coming into office of the shadow of Pitt to the final Declaration of Independence, the great obstacle to reconciliation and compromise was the King. He had early recognised the gravity of the situation. Writing to Conway about the repeal of the Stamp Act, he had said,[1] "it is undoubtedly the most serious matter that ever came before Parliament. It requires more deliberation, candour and temper than I fear will be met with." To anyone of sense it must have been clear that the question might end in war. From 1768 onwards, at least, George III. was his own Minister, most ill-advised as we must recognise him. He had a free hand to make the necessary preparations, and yet in 1775 what did Burgoyne find.[2] "After a fatal procrastination, not only of

[1] Albemarle, *Life of Lord Rockingham*, Vol. I.
[2] Hist. MSS. Com., *Sackville Corr.*

vigorous measures but of preparations for such, we took a step as decisive as the passage of the Rubicon, and now find ourselves plunged at once in a most serious war without a single requisition, gunpowder excepted, for carrying it on." It gives a good idea of the wisdom of the general policy to find that the year 1774 was the time chosen for reducing[1] the number of seamen from 20,000 to 16,000.

American feeling.

A striking picture of the state of feeling in America at the time of the outbreak of the war was given by Galloway in his evidence before a Committee of the House of Commons in 1779. He spoke, of course, as a loyalist, and was saying smooth things to an English audience. At the same time, the truth of his statement is shown by independent evidence. He reckoned that at the beginning of the struggle not one-fifth of the people had Independence in view. The great majority of the rebel army were newcomers, mainly Irish. The reason of this state of things, which was also noticed by Tryon,[2] has been already hinted. To secure enthusiasm there must be present a dominating idea, such as stirred the hearts of the American people in the Civil War. But, at first at any rate, there was no idea underlying the action of the American Colonists. What had happened was this, that an active minority of cool-headed and cautious men had come, a few gladly but the most of them reluctantly and with much heart-burnings, to recognise that the way of safety lay in a course other than the one along which the Mother country had been leading them. The note of patriotism was conspicuous by its absence, and so fighting was, to a large extent, left to indented servants, criminals and adventurers. In 1776 J. Adams[3] found the army "a scene of indiscipline, insubordination and confusion." Even so late as the Congress held in 1774, the rival scheme for establishing a British and American Legislature for the administration of American affairs had been on the point of being carried. Although it may be quite true that the separation of the American Colonies could not have been indefinitely delayed, it is, I suppose, also true

[1] Note in George III.'s *Correspondence with Lord North*, quoting Adolphus.
[2] *N. Y. Docs.*, Vol. VIII.
[3] *Works*, Vol. III.

that there was not a moment before the signing of the Treaty with France, which bound America not to make peace without obtaining Independence, at which timely concessions could not have obtained for England some kind of recognition of sovereignty. The disgust with T. Paine, shown in several passages of J. Adams' works, throws a vivid light on the temper of even advanced Americans of the day. Even so clear a critic as Sir Henry Maine[1] has, it would seem, regarded the Declaration of Independence too much in the light of subsequent French experience.

Proper course for England to adopt.

Such being the aspect of affairs, it is surely not difficult to say what should have been the conduct of England. We are here only indirectly concerned with military policy, but it is obvious that if there were a strong body of public opinion in America in sympathy with England, English policy lay in doing its utmost to localise, as far as possible, the disturbed area. Melancholy as should have been the fact to whoever had considered the splendid services to the Empire of Massachusetts, it was none the less true that under the pressure of events New England had become the enemy. The middle States of New York, New Jersey and Pennsylvania were much divided, but the majority appear to have been English in their sympathies. Whatever the feeling in the South, it is doubtful how far rebellion would have persisted after the reduction of New England. In this state of things the policy of England was to act with vigour and full force against New England, whilst doing all in its power to conciliate the Middle States. The high authority of Captain Mahan can be adduced for the proposition that[2] "it seems impossible to doubt that active and capable men wielding the great sea power of England could so have held that river (the Hudson) and Lake Champlain . . . as to have supported a sufficient army moving between the head waters of the Hudson and the Lake, while themselves preventing any intercourse by water between New England and the States West of the River." The effect of this would have been

[1] See criticism of Mr Channing, *The United States of America*, p. 87.

[2] *Influence of sea power upon history*, p. 342.

to reduce New England to the position of an island, when its fall in all probability must have ensued. Instead of this, nothing great was attempted against New England, while the method of carrying on the war deeply alienated the Middle States. A letter from Philadelphia states—[1] "The burning of towns, seizing of ships, with numerous acts of wanton barbarity and cruelty . . . has prepared men's minds for an independency that were shocked at the idea a few weeks ago." But if the conduct of the war was faulty, it was largely due to the temper of the Ministry at home. We know now that Lord North, who seemed to his contemporaries a mere holder of the spoils of office, in his own words—[2] "Year after year entreated the King to be allowed to resign but was not allowed," that Lord Barrington,[3] the Secretary at War, found himself under the hateful alternative of either supporting measures which he disapproved, or of voting with men whom he abhorred. No man was more cordially disliked by the Opposition than Lord George Germaine, and he is reckoned amongst the extreme advocates of an aggressive policy. These are his words, written to an intimate friend on his becoming Secretary for America in January 1776—[4] "I have tried and cannot avoid it. Pity me, encourage me, and I will do my best." What wonder that, starting in this mood, we find him four years later writing[5] "what you hear of confusion in America among the leaders of rebellion is true. What consequence it will have, God knows, for we seem to take no advantage of things which ought to operate in our favour." And yet for this state of things it was Germaine himself who was largely responsible. What would be thought nowadays of a Colonial Minister who presumed to dictate to generals their military operations? In Germaine's case, the result was the more unfortunate as no statesman of his time was so deeply tarred with the brush of party animosities. Probably arrogance rather than cowardice had

[1] Hist. MSS. Com., *Sackville Corr.*
[2] *Corr. of Geo. III. and Lord North.*
[3] *Life of Lord Rockingham*, Vol. II.
[4] Hist. MSS. Com., *Sackville Corr.*
[5] Hist. MSS. Com., *Sackville Corr.*

1759. been the secret of his conduct at Minden, but the fact remained that he had been judged by a Court-martial, and had been condemned. The deciding disaster of the war appears to have been altogether due to him. I gather from the language of Captain Mahan that Burgoyne's expedition was thoroughly justified on one condition, and that on this condition being fulfilled, it would, in all probability, have brought about that isolation of New England, which was especially desirable. The advance of Burgoyne from Canada was a mere act of madness, unless he was to receive the co-operation of Howe from the South. Inasmuch as the
Oct. 17, surrender at Saratoga decided the action of France, and
1777. thus indirectly decided the war, the question why such co-operation was not given is one of the greatest importance. It would seem that the plan of the campaign had been rightly laid in the mind of Germaine, whose faults did not lie in any lack of ability. In fact, however, the instructions never reached Howe. The astounding reason must be given in the words of Lord Shelburne. Lord George [1] "having, among other peculiarities, a particular aversion to be put out of his way on any occasion, had arranged to call at his office, on his way to the country, in order to sign the despatches. But as those addressed to Howe had not been fair-copied, and he was not disposed to be balked of his projected visit into Kent, they were not signed then, and were forgotten on his return to town." At least democracy cannot afford a parallel to the fact that such conduct was rewarded by a seat in the House of Lords.

All this may seem to be concerned with military and not Colonial policy. Colonial policy for better or for worse had done its work, and there was nothing left but the arbitrament of the sword. In truth, however, general and military Policy were so closely interconnected, that it is impossible to deal with the one without the other. We have seen how, with regard to the course to be adopted towards New England, the teaching of scientific strategy is strictly in

[1] Lord E. Fitzmaurice, *Life of Lord Shelbourne*, Vol. I. p. 358.

accord with the conclusions of unaided common sense. The operations in the south were to be severely condemned on both grounds. If there was a strong loyalist party in the south, then, when once New England was reduced, the task of pacification elsewhere would be easy enough. If there was not, then expeditions carried on far from the base of operations were still more unadvisable. Again, considering the circumstances of the struggle, it was in the highest degree inexpedient to occupy towns, which had afterwards to be evacuated. Thus Boston should either have been abandoned at once at the outbreak of the war, or else a far more serious effort should have been made to avert such abandonment. A yet more flagrant blunder was made in the case of Philadelphia. To occupy one year only to abandon the next was to give an object lesson in the weakness of England, which even the most loyal could not but lay to heart. That, in spite of generals like Howe and admirals like Graves, that in spite of the continual neglect by the English generals ever to take advantage of successes, there yet remained a loyalist party, is the best apology that can be made for the mistakes and errors of the past. The behaviour of the English in America could not assuredly have raised the opinion of them, held by thoughtful Americans. The departure of Howe from Philadelphia was made the occasion of a fête, beginning with a tournament of knights who tilted in honour of the Philadelphia beauties.

March 17, 1776. Sept. 26, 1777 and June 1778.

Another capital blunder was made by the English authorities. It is doubtless true that exaggerated stress has been laid on the circumstances relating to the employment of Hessian troops.[1] The lesser German States were really interested that England should not fall under the dominion of France, and with the then population of England the employment of mercenaries may have been inevitable. None the less, however, was it a grave error of tact to use foreigners in the settlement of what was a dispute between English kinsmen. The King, who tried to win popularity at his succession at the expense of his grandfather and great-grand-

[1] See Kingsford, *Hist. of Canada*, Vol. VI., Book xx. ch. I.

father, by boasting himself to be born and bred a Briton, might at least have avoided this mistake.

When, however, full allowance has been made for all the blunders and mistakes of English statesmen, the conviction is borne home upon one, that nothing but the extreme incapacity of Howe could have prevented the success of the British. It is no reflection on the generalship of Washington that he required time to develop his army of raw and ill-disciplined recruits into a fighting machine, but it is just this time which a capable English commander would have denied him. It may be that the resolution of Howe, who was a Whig, was sicklied o'er by doubts as to the justice of his cause. We know how Chatham, patriot, if ever there was one, considered in any case the event as ruin. "Be the victory to which ever host it pleases the Almighty to give it poor England will have fallen upon its own sword."[1] And Fox, with characteristic recklessness considered the announcement of an English victory "as terrible news."[2] If this view were correct, and if the failure of English generalship lay in a sense of guilt, the moral would be a profound one.

> "The gods are just, and of our pleasant vices"
> "Make instruments to plague us."

But, in fact, there was much to be said on the English side, and soldiers are not casuists, but plain men, whose duty it is to obey orders, so that the moral to be learnt from the War of Independence is merely the trite one that there is no advantage which an incapable general cannot throw away. Meanwhile, what is most noticeable in the conduct of the Ministry is the untimely character of each one of its proposals. In February 1775, at least a year too late, Lord North had carried a conciliatory resolution that "when the Governor Council and Assembly shall propose to make provision for contributing their proportion to the common defence . . . and shall engage also to make provision for the support of the civil government and administration of Justice, it will be proper . . . to forbear . . . to levy any

[1] *Grenville Papers*, Vol. IV. [2] *Life of Lord Rockingham*, Vol. II.

duty tax or assessment, except for the regulation of commerce, the net produce of which shall be carried to the account of such province, colony or plantation." In 1778, just when France was embarking on the struggle on the express condition that the Colonies should make no peace which did not recognise their absolute independence, North put forward proposals which, in effect, conceded everything except independence. Commissioners were sent to America with full powers to yield everything save this. At the same time, measures were introduced into Parliament restoring the Massachusetts Constitution and repealing the duty on tea. Parliament further engaged to impose no fresh taxes for the sake of revenue, and undertook to apply such duties as were necessary for the regulation of commerce in the Colonies in which they were levied in such a way as the Colonial Assemblies should determine. The statute appointing Commissioners gave them full powers to grant pardons to all descriptions of persons, and to suspend the operations of all Acts of Parliament relating to the American Colonies which had been passed since February 1763. The Commissioners went even beyond their instructions, inasmuch as they promised that no British troops should be again sent to America without the consent of the local Assemblies, and further offered an American representation in the British Parliament. A majority of the American people would probably have been in favour of accepting such terms, but the engagement with France stood in the way, and Congress was in the hands of the more extreme party. The story of disaster was to run its course, and the surrender of Cornwallis at York Town to be added to the long list of British failure and ignominy.

18 G. III. c. 11, 12, and 13.

Oct. 19, 1781.

The war of 1778 well illustrates a danger to which a world Empire like the British is peculiarly exposed. "England was everywhere outmatched and embarrassed, as she has always been as an Empire by the number of her exposed points."[1] In this state of things the same high authority describes the course which should have been taken. "In the first place, it should have been determined what part of the assailed

[1] *Influence of Sea Power upon History*, p. 392.

Empire was most necessary to be preserved."[1] In the then state of public opinion with regard to the respective advantages of the West Indian and the American Colonies there was doubtless something to be said for the policy suggested by the King.[2] "It might be wise to strengthen the forces in Canada, the Floridas and Nova Scotia, withdraw the rest from North America, and without loss of time employ them in attacking New Orleans and the Spanish and French West Indies . . . at the same time continue destroying the trade and ports of the rebellious Colonies." We are so much accustomed to regard the present United States as one country that we find it difficult to realise that a policy might have been successful which should have aimed at confining the revolted Colonies between a British Canada and a British Florida and Louisiana. Granted that the development of Ohio, Kentucky, Indiana, Illinois and generally of the North-Western States must have fallen to the revolted provinces, Texas, and possibly the States on the western seaboard, might have become British Colonies. It is by no means clear, however, that in 1778 there was any necessity to abandon the attempt to reduce the American Colonies. Under a bold, offensive policy, which should have risked the loss of the West Indies, the nominal superiority of France and Spain would probably have vanished into thin air, as the French superiority did at a later date through Rodney's great victory. The real fear with respect to Colonies is that they should desire independence; but the West Indies are so situated that they must be, in the nature of things, dependent upon one or other of the great sea-powers. Whatever happened in the meantime, after a successful war England must have again obtained her proper share of these islands; whereas, if the general result were unfavourable, captured islands would probably have to be restored. Rodney has been severely blamed for remaining at St Eustatius in 1781. In fact the fault lay in the attempt to achieve the impossible, to stretch "a thin line everywhere inadequate over an immense,

Battle of the Saints, April 12, 1782.

[1] *Influence of Sea Power upon History*, p. 393.
[2] *Corr. of Geo. III. and Ld. North*, Vol. II.

frontier." The one chance of safety lay in boldness, in taking "the great line." Unhappily, these were not the days of great lines, and Nelson was, as yet, an obscure post-captain.[1]

Treaty of Versailles.

However this may be, the negotiations regarding the peace which followed the war of independence more closely concern us.[2] Lord Shelburne was singularly unfortunate in his selection of a negotiator. The foolish Oswald was mere clay in the hands of Franklin. He meekly approved proposals suggesting the cession of Canada and of Nova Scotia to the United States. This precious representative of Great Britain informed Franklin that her "enemies have the ball at their feet, and that the hope was that they would use the power with moderation and magnanimity." He added that in this desperate situation the people of England looked upon Franklin as the means of extraction from ruin. In fact, the situation was by no means a desperate one. It was, of course, gloomy enough, but what had really come to its last gasp was the King's elaborate system of underground government. The war could not be continued, not because the resources of England were exhausted—it is probable that the resources of the Colonies and of their European allies were in a yet more exhausted state—but because the days of Lord North's Ministry were numbered and the masterly statesmanship of George III., aided and abetted as it was by the brilliant recklessness of men like Fox, had brought about that the enemies of Ministers were also the enemies of England. Party government had for the time been killed, and so the Whig leaders, suddenly snatched, after years of irresponsible faction, to ministerial office, were like men whose sight is dazed by long years spent in darkness, and fell the easy victims of the dissensions, doubtless encouraged by the King, between them and the Jesuit[3] of Berkeley Square.

[1] He became a post-captain in June 1779.

[2] The subject is dealt with at length in Kingsford's *Hist. of Canada*, Vol. VII.; and in *Life of Lord Shelburne*, Vol. III, ch. iv. and vi.

[3] The distrust and dislike felt for Lord Shelburne by political men of all parties affords a curious contrast to the esteem in which he was held by men like Bentham. The explanation may be the following. The practical politician is of necessity, for better or worse, the mirror and epitome of his own particular

In justice to Fox we may note that he treated the proposal to cede Canada as outrageous, but the record of Oswald's folly was not to end here. In drawing the boundaries between Canada and the United States he accepted a boundary which would have abandoned to the States the whole south-western portion of the present province of Ontario. In a similar spirit he was willing that the river St. John should be the southern boundary on the North-East. Instead of this, the river St. Croix was substituted at the suggestion of Strachey. The exact meaning of this was not settled till years later. Upon the whole question of boundaries there appeared no recognition of the fact that Canada was a great and growing portion of the Empire, and that it was necessary that her future interests should be carefully safe-guarded. The one aim of the English negotiators was peace at almost any price. Another provision of the Treaty of Versailles proved the source of future trouble. The engagement was entered into that the coast of the Island of Newfoundland should remain unsettled from Cape St John to the Straits of Belle Isle, and thence continuing down the whole west coast of the island, a grievance which was not ended till the Anglo-French Agreement of 1904.

Under the separate Treaty with the United States of November 1782, it was agreed that creditors on either side should meet with no lawful impediment to the recovery of the full value in sterling money of all *bonâ-fide* debts. It was further agreed that Congress should earnestly recommend to the State legislatures to provide for the restitution of the property of British subjects which had been confiscated. A further clause provided that there should be no further confiscations or prosecutions by reason of the part taken in the war. It has been asserted that these provisions were never intended to be carried out. "The American Commissioners," writes Hildreth, "made no secret of the certain futility of all

generation, but Shelburne was, in his views and methods of thought, in advance of his times. Hence the need for a circumspection and an "economy," which puzzled his contemporaries and still puzzles the student. The nickname was given by George III.

such recommendations." It is clear, however, that the English Government intended them seriously, and the long delay to give up the western posts abandoned under the Treaty was occasioned by the non-fulfilment of these conditions. No British minister had been sent to the United States prior to the arrival of J. Adams in England in 1786.

So far as intention was concerned, the statement in the King's speech of 1783 was doubtless made good. "I trust you will agree with me that a due and generous attention ought to be shown to those who have relinquished their properties or their possessions from motives of loyalty to me or attachment to the mother country." Unhappily, however, the wheels of official routine move slowly, and it was not till 1788 that the final report of the Commissioners appointed to enquire into loyalist claims was issued. In any case the work of examining over 2,200 claims must have taken time.

The total amount originally claimed was over £10,000,000 and the sum actually paid nearly £4,000,000.

Under the Treaty of Versailles, both the Floridas were restored to Spain. In the West Indies, England gave up to France St Lucia and Tobago, while France yielded to England Grenada, St Vincent, Dominica, St Christopher's, Nevis and Montserrat.

Lesson of the loss of the American Colonies.

In closing this page, the most shameful in English history, it was for a long time customary to point the moral, which saw in the failure of England the results of despotism. On this point enough has been already said. At the present time, when the average reader, American and English, is, for the most part, shaking himself free from the fumes of the escaping gas of Bancroft's eloquence, the lesson is substituted "behold the consequences of excessive interference." Interference, of course, there was, and assuredly mischievous enough, but it might with equal plausibility be held that the failure was due to careless neglect. In considering carefully the matter, one seems to apprehend a lesson, perhaps as trite but at least more practical, than the one generally drawn. The task of the maintenance of a Colonial Empire must be, in any case, one of danger and difficulty. Not by any means

to every people is reserved this crowning proof of overflowing vitality. But there were special circumstances connected with the origin of the American Colonies, which made the task in their case exceptionally difficult. In these circumstances, the Mother country had need to secure the services and energies of the most able Englishmen. Unhappily the miserable jobbing eighteenth century system confined honours for the most part to second rate men. According to Lord Shelburne,[1] who had good opportunities for knowing. "There was not literally a single office in the kingdom which was not worn out with corruption and intrigue. All the executive offices were sold to the enemy by inferior persons in each department." The brilliant comets, which flashed across the firmament, a Pitt and a Wolfe, only served to make darker the general gloom, and the treatment accorded to Wolfe, in his lifetime, and, after his death, to his mother, strengthens the argument. In this state of things, England was like some man of delicate constitution. In ordinary times things went well enough, but when the strain came there was not the strength to resist it. Some recognition of the truth here hinted at seems to have dawned upon the consciousness of Parliament. Among the most useful of the measures of the short-lived Rockingham Administration of 1782 was an Act "for preventing certain offices in the plantations from being executed by deputy or granted for life." Lord Shelburne[2] asserts that it had been the practice for Secretaries of State to give Colonial offices which produced from £1000 to £3000 a year to their near relatives, who executed such office by deputies, who in turn recouped themselves by means of fees. At the time of the passing of the Act younger sons of Lord Egremont and Lord Sackville were thus provided for.

22 G. III., c. 75.

The judgment of history, it would seem, cares very little for constitutional questions, and turns with a grim indifference from conflicts of principles and parties. In that final Court of Appeal the decision depends upon the answer to the question, has there or has there not prevailed that equality

[1] *Life* by Lord E. Fitzmaurice, Vol. III., p. 332. [2] *Life*, Vol. III. p. 337.

of opportunity, that "carrière ouverte aux talents," the presence of which alone keeps the air of public life fresh and wholesome. The recognition of this principle belongs to no one form of government. None was more faithful to it than the despotism of the first Napoleon, and it is by no means a necessary consequence of popular government. It is because, in the England of to-day, this equality of opportunity prevails under democracy, far more than it ever did under other forms of government, that many, who approach it without predilections and not without misgivings, are still forced to subscribe themselves convinced democrats.

CHAPTER IX

CANADA

Canada after its conquest. 14 G. III., c. 83.

IN the foregoing summary of American affairs, one potent cause of colonial dissatisfaction has been purposely omitted. The Quebec Act of 1774 must be considered in connection with the general question of Canada. We have already noted how the long struggle for pre-eminence between France and England ended in the final triumph of the latter, and how the genius of Pitt and Wolfe decided that whatever might be the political future of North America, at least it should not fall under French dominion. The government of French Canada was a new experiment in British Colonial history. It is true that Jamaica had been acquired by conquest, but Jamaica, so far as settlement was concerned, was a *tabula rasa*, on which England might write what she pleased. The peculiarity of Canada was that it possessed a French population, enjoying French customs and French laws. The total population at the time of the treaty of Paris was about 62,000 and for many years the number of English immigrants was very small. The French were concentrated in the present province of Quebec, there being no French settlers in Ontario. In this state of things, the problem of obtaining both security to the Empire and liberty to the subject was one of no little difficulty. The keynote of British policy was given in Amherst's instructions to Gage[1]—"These newly-acquired subjects, when they have taken the oath, are as much His Majesty's subjects as any of us, and are, so long as they remain deserving of it, entitled to the same protection." The period between 1760 and 1764 is known as the "Règne Militaire," but, in fact, the government introduced had nothing in common with martial law. French Canadian

[1] Kingsford *Hist. of Can.*, Vol. IV., p. 441.

writers have themselves [1] admitted the wisdom and discretion with which the administration was carried on. There was no attempt to introduce English laws. The regimental officers were, it is true, the administrators of the law, but they respected and followed, so far as possible, the ancient laws and customs of the country. On the death of George II. the citizens of Montreal [2] expressed their sense of the protection which they received under the British Government. Amherst had "behaved to us as a father rather than a conqueror." It must be remembered that all this was before the signing of the Treaty of Peace, which secured religious privileges to the Canadians.

There were other considerations which rendered easier the progress of British influence. The French Canadian Government had been a despotism, reaping where it did not sow. In Canada the *ancien régime* had meant government corvées, enforced military service, and the complete absence of all political rights. It is noteworthy that printing was for the first time introduced into Canada after the English conquest. By means of proclamations, full intelligence was given to the people of what was expected from them. An honest effort was made to prevent their simplicity from being taken advantage of. Nor was this wisdom and moderation confined to the English Governors in Canada. The Secretary of State in 1762 expressly [3] approved of the whole language and behaviour of Amherst regarding the Canadians; and the provincial Governors were to receive the most precise and express orders to forbid any insult to be addressed towards the language, dress, fashions, customs or religion of the French inhabitants. With justice Gage was able to boast that [4] "no invasion of 1762.
their property or insult on their persons had gone unpunished. . . . No distinction has been made betwixt the Briton and Canadian, but equally regarded as subjects of the same prince. The soldiers live peaceably with the inhabitants, and they reciprocally acquire an affection for each other."

[1] *Hist. of Can.*, Vol. IV. p. 438. [2] *Ibid.*, p. 445. [3] *Ibid.*, p. 450.
[4] Shortt and Doughty, *Documents relating to the Constitutional History of Canada* 1759-1791, p. 69.

In this state of things the work of conciliation went on
Aug. 25, 1762. apace, and Haldimand[1] was able to assure Amherst that there was nothing the Canadians dreaded so much as the return of French rule. Two causes, however, of discontent remained unsatisfied. The first related to the paper money held by the inhabitants. With regard to this, the action of the English Governors was straightforward. As soon as possible they issued proclamations, cautioning the inhabitants against its use, and when, through the action of British diplomacy, the French in the Treaty of Paris admitted a liability, another proclamation was at once issued, cautioning the people against sacrificing the paper money in their possession at a rate below its proper value. Of course, in such a state of things it was inevitable that bargaining and cheating should go on. But the blame of it cannot be fairly laid on the shoulders of the English administration. The other cause of discontent was of a more serious nature. It arose out of the fear naturally felt by the Canadians for the future of their religion. The Church of Rome has been too generally accustomed to mean by "militant" concerned in the mundane squabbles of national politics. But it has, perhaps, seldom sinned more deeply against what plain men must hold as the spirit of Christianity than in its behaviour in the 17th and 18th centuries in Canada. In the terrible Indian warfare of early days, it had been priests who had hounded the savages on against their fellow-Christians. It was of vital importance that the Canadian Church should not be a mere rallying ground for anti-English sentiment. For this purpose it was necessary that the close alliance between France and the Canadian Church should be severed, and that the bishops and clergy of Canada should be born and bred Canadians, approaching political questions from a Canadian and not a French point of view. Such then was the double task of the English government. To secure for the Roman Catholic Church the full exercise of all its privileges and rights, while at the same time taking due care that such

[1] *Hist. of Can.*, Vol. IV. p. 448.

privileges and rights should not be worked in a manner hostile to British interests. Perhaps the best comment on the success of the attempt is the present attitude of the Canadian Roman Catholic Church towards Imperial interests. In spite of loose and unsubstantiated assertions, it would seem that neither after the conquest nor after the peace was there any very large emigration of Canadians to France. Of course a certain number who held military or civil employments under the French king naturally left. But there can be found no trace of any general exodus of the Canadian upper classes.

Although the Treaty of Paris was signed in the February of 1763, no change in the government of Canada was made for another eighteen months. Murray was appointed Governor in November, and in August 1764 civil government was formally established in Canada. Under the Proclamation of October 7, 1763, four new "distinct and separate governments" were established, namely Quebec, East Florida, West Florida, and Grenada. The Governors, "so soon as the state and circumstances of the said colonies will admit thereof," were to "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. . . . In the meantime and until such Assemblies can be called, as aforesaid all persons inhabiting in or resorting in our said Colonies, may confide in our Royal protection for the enjoyment of the benefit of the laws of our realm of England." Courts of law were to be erected by the Governors, with the advice of their councils, to hear and determine "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

[1] *Hist. of Can.*, Vol. IV. p. 464.

[2] It is set out in Shortt and Doughty, *op. cit.*, p. 119.

appeal in civil cases, "under the usual limitations and restrictions" to the Privy Council. Full powers were given to the Governors and Councils to dispose of the lands "upon such terms and under such moderate quit rents, services, and acknowledgments, as have been appointed and settled in other colonies, and under such conditions, as shall appear to us to be necessary and expedient for the advantage of the grantees, and improvement and settlement of our said Colonies." Grants of land were promised to officers and soldiers who had served in the late war; 5000 acres to field officers, 3000 to captains, 2000 to subalterns, 200 to non-commissioned officers, and 50 to privates. The same privileges were conferred on the officers and seamen of the Royal Navy.

So far, there was nothing in the Proclamation which could excite criticism. But the additional provisions with regard to the Indian lands undoubtedly caused grave dissatisfaction in the American Colonies. We have already seen how urgent it was, both in the interests of the Empire and of the natives themselves, that Indian affairs should not be left in the hands of the Colonial legislatures. Undoubtedly "the cruelty and injustice with which they had been treated with respect to their hunting-ground" was the most active cause of Indian discontent. Probably the lords of Trade were perfectly right, when they asserted in 1761[1] "that the exorbitant grants of land which Governors and others have heretofore made, greatly to the benefit of themselves, but very much to the prejudice of the interests of the Crown and of the people in general, have long been the subject of great complaint." In Johnson's words,[2] "the effectual redressing those complaints strikes at the interests of some of the wealthiest and most leading men in this province (New York), and I fear that that influence, which may be necessary to succeed, will be employed to obstruct." In this state of things, it became necessary, however invidious, for the Home Government to interfere, and instructions were sent to the Governors

Sept. 10, 1756.

[1] *N. Y. Docs.*, Vol. VII. [2] *Ibid.*, Vol. VII.

of Nova Scotia, New Hampshire, New York, Virginia, North and South Carolina and Georgia, forbidding them to grant lands or make settlements, which might interfere with the Indians bordering on their Colonies. The Canadian Proclamation was thus part of a general policy. Under it all the land not included within the limits of the territory granted to the Hudson's Bay Company was reserved to the Crown. "As also all the lands . . . lying to the westward of the sources of the rivers which fall into the sea from the West or North-West," and settlement could not be made without special leave from the Crown. All persons, wilfully or inadvertently settled on such lands, were "forthwith to remove themselves." Under a provision, which cut at the knot of the real difficulty, no private person was allowed to make any purchase of lands from Indians, and the only way that the Indians could dispose of their lands was by sale to the Crown "at some public meeting or assembly of the said Indians, to be held for that purpose." That the proclamation was received with disfavour by those, whose dealings it sought to check is no proof of its want of wisdom. Kingsford is able to boast that[1] "the principle thus laid down has always been acted on in the Queen's dominions. In the North-West at this date it is in force. It is from the observance of this just and righteous provision that tumult and turmoil have been avoided since the Conquest."

From the first beginnings of settled Government under the terms of the Proclamation, a difficulty arose from the behaviour of the small Protestant population. In 1764 they numbered 200, and by the end of 1766 they had not increased beyond 450. Small as they were in number they had inherited the old New England traditions, and looked upon the Roman Catholic population around them as so many hewers of wood and drawers of water. The presentments of the Quebec Grand Jury in 1764 were the first overt sign of their views.[2] In the same year a petition was signed by twenty-one merchants asking for a House of Representatives

[1] Vol. V. p. 140. [2] Set out in Shortt and Doughty, *op. cit.*, p. 153.

to be elected, as in the other Provinces.[1] The effect of this would have been to make it consist of Protestants only; so that four hundred Protestants would have dictated laws to some eighty thousand Catholics. The extravagance of this claim called forth an answer from Murray, which did not err on the side of soft speaking. "Magistrates were to be made and juries composed from 450 contemptible suttlers and traders. It is easy to conceive how the narrow ideas and ignorance of such men must offend any troops, more especially those who had so long governed them and knew the meanness from which they had been elevated. It would be very unreasonable to suppose that such men would not be intoxicated with the unexpected power put into their hands, and that they would not be eager to show how amply they possessed it. As there were no barracks in the country the quartering of the troops furnished perpetual opportunity of displaying their importance and rancour. The Canadian noblesse were hated because their birth and behaviour entitled them to respect, and the peasants were abhorred because they were saved from the oppression they were threatened with."[2] In the face of the feelings aroused by the Quebec Act, and the declamation to which it has given rise, it is necessary to remember what was the real attitude of the new immigrants towards their Canadian fellow-subjects, and how far more liberal, both with regard to the French Canadians and to the Indians, was the British policy, than the policy which would have commended itself to the American colonists.

Upon another point mentioned in Murray's letter it is impossible to feel the same satisfaction. We find him solemnly affirming that "the improper choice and the number of the civil officers sent over from England increased the disquietude of the Colony. Instead of men of genius and untainted morals the reverse were appointed to the most important offices, under whom it was impossible to communicate those impressions of the dignity of Government, by which alone men can be held together in society. The judge, pitched

[1] Set out in Shortt and Doughty, *op. cit.*, p. 168.

[2] Aug. 20, 1766, set out in *Hist. of Can.*, Vol. V. p. 188.

upon to conciliate the minds of 75,000 foreigners to the laws and government of Great Britain, was taken from a gaol, entirely ignorant of civil law and the language of the people. The Attorney-General, with regard to the language, was not better qualified. The offices of the Secretary of the Province, Registrar . . . were given by patent to men of interest in England, who let them out to the best bidders, and so little considered the capacity of their representatives that not one of them understood the language of the natives. As no salary was annexed to these patent places the value of them depended upon the fees, which, by my instructions, I was ordered to establish equal to those in the richest ancient colonies. This heavy task and the rapacity of the English lawyers was severely felt by the poor Canadians, but they patiently submitted; and, though stimulated to dispute by some of the licentious traders from New York, they cheerfully obeyed the Stamp Act."

Murray left Canada for good in 1766 and the government was taken over by Carleton who was formally appointed Governor-General in 1768. The name of Carleton is indissolubly connected with the early history of British Canada, and to his ability and honesty the new Province was more indebted for its prosperous beginning than to any other cause. The question was then greatly exercising men's minds as to whether English or French law should be enforced. The Proclamation of 1763, it has been seen, anticipated the prevalence of English law. But in fact, such a change bore hardly on the French population. In 1766 a Report[1] of the English Attorney and Solicitor General, Yorke and de Grey, affirmed that "there is not a maxim of the common law more certain than that a conquered people retain their ancient customs till the conqueror shall declare new laws . . . Wise conquerors . . . indulge their conquered subjects in all local customs, which are in their own nature indifferent, and which have been received as rules of property or have obtained the force of laws. It is the more material that this policy be pursued in Canada because it is a great and ancient colony, long settled and much cultivated by

[1] Set out in Shortt and Doughty, *op. cit.*, p. 174.

French subjects who now inhabit it to the number of 80,000 or 100,000." They therefore recommended that in all actions on contracts, whether of a mercantile or other nature, and in actions on torts, seeing "that the substantial maxims of law and justice are everywhere the same . . . the judges" . . . should "look to those substantial maxims." They recommended that, in all suits or actions relating to titles to land, the local law and customs should prevail. "To introduce at one stroke the English law" of real property would be "to occasion infinite confusion and injustice." The adoption of the English criminal law was at the same time recommended.

It will thus be seen that three courses were, in fact, possible. The English law might have been enacted *en bloc*. A code of laws, embracing the best part of the English and French systems, might have been drawn up; or lastly, the arrangement, which ultimately prevailed, was possible, under which the French Canadians retained their own French law unchanged. The second course would have been, in the abstract, the best, but the practical difficulties in the way were insurmountable, while the first course would have involved injustice to the French population. The objection to the course finally adopted was that it helped to keep alive that sense of separate nationality, which for so long a time proved an obstacle to Lower Canada becoming really part and parcel of the British Empire. Time, however, has at last vindicated the practical wisdom of the policy which prevailed. Its most powerful advocate in Canada was Carleton. In a letter[1] to Hillsborough he recognised that a feeling of attachment to France must continue, so long as French Canadians were excluded from all employment under the British Government, and he went on to say that to make no mention of "the fees of office and the vexations of the law, we have done nothing to gain one man in the province by making it his private interest to remain the King's subject." At the same time a determined effort was made to improve the administration of the law. It had become a settled prac-

Nov. 20, 1768.

[1] Shortt and Doughty, *op. cit.*, p. 227.

tice for men of broken fortunes to make a living through the enforcement of legal proceedings against the inhabitants. In order to remedy this state of things, an ordinance[1] was enacted, taking away the power of the magistrates in cases affecting property. Inasmuch as "there was not a Protestant butcher or publican that became a bankrupt, who did not apply to be made a justice,"[2] the Ordinance was of course received with indignation by the Protestant colonists. The business of imposing "fines which they turned to their own profit," was too lucrative to be lost without a struggle. Feb. 1, 1770.

Doubtless the existence of this grievance sharpened the appetite for the enjoyment of some form of representative Assembly. Petitions were again set on foot, demanding the fulfilment of the promises held out by the 1763 Proclamation. In order to conciliate the Roman Catholics, the petition put forward in 1773 asked for an Assembly to be "of such constitution and form . . . as in your Royal wisdom shall seem best adapted to secure its peace, welfare, and good government."[3] It was however obvious that, at the time, the strong Protestant feeling prevalent, both in the Mother country and in the American colonies, rendered an Assembly to be composed of Roman Catholics out of the question, and the French Canadians very wisely refused to co-operate in an agitation the success of which would have placed them under the yoke of the aggressive, though small, Protestant minority, It thus appears that all parties were dissatisfied. The Roman Catholics because they were under English law; the Protestants because of the nature of the government. In this state of things some decision was necessary, and that decision was made by the Quebec Act of 1774.[4]

The Quebec Act has been represented as a counterblast to the independent attitude of the American Colonies. But the considerations which inspired it related almost wholly to Canada. It was founded on reports made by Thurlow and Wedderburn, the Attorney and Solicitor-General. Wedderburn dwelt upon the difficulties of establishing a House of Quebec Act.

[1] Set out Shortt and Doughty, *op. cit.*, p. 280. [2] April 1770. [3] *Ibid.*, p. 347.
[4] Set out in Houston's *Constitutional Documents of Canada.*

Assembly. He therefore advised in its stead the institution of a Council, with power, under limitations, to enact laws. He urged that the Roman Catholic religion should be maintained by law. On the question of which law was to prevail, Wedderburn seemed to favour a new code. Thurlow's opinion was less definite. But he advocated as little interference as possible with the existing civil laws.[1] The Quebec Act, introduced late in the session of 1774, was opposed by the Opposition as part of the general arbitrary policy of the ministry, and it is melancholy to find the great Chatham appealing to the basest Protestant prejudices and ranting at the measure as "cruel, oppressive and odious, tearing up justice and every good principle by the roots."[2] It is strange to compare with this language the actual provisions of the Act. After frankly admitting that the Proclamation of 1763 and the measures taken to give it effect had been found to be "inapplicable to the state and circumstances of the said province, the inhabitants whereof amounted at the conquest to about 65,000 persons professing the religion of the Church of Rome, and enjoying an established form of constitution and system of laws," it expressly revoked and rendered null and void such proclamation and measures. The enacting clauses allowed the Roman Catholic inhabitants to profess their religion, subject to the taking of a simple oath of allegiance. Their clergy were also allowed to "hold, receive, and enjoy their accustomed dues and rights, with respect to such persons only as shall profess the said religion." Canadian subjects—"the religious orders and communities only excepted"—were allowed to hold and enjoy their property, "together with all customs and usages relative thereto." In matters of controversy resort was to be made to the laws of Canada. Power was, however, given to alienate property by will, either according to Canadian or English law. The English criminal law, on account of its "certainty and lenity," was continued in the province.

14 G. III., c. 83.

With regard to the political Constitution, a Council, to consist of not more than twenty-three or less than seventeen

[1] The original of these Reports is lost, but extracts were published by Christie in his *History of Lower Canada*, Vol. I., and are reprinted in Shortt and Doughty, *op. cit.*, pp. 296 and 305.

[2] *Parl. Hist.*, Vol. XVII. p. 1402.

members, was to be appointed by the Crown, with power to "make Ordinances for the peace, welfare and good government" of the province. The Council was not to be empowered to levy taxes, "such rates and taxes only excepted as the inhabitants of any town or district may be authorised by the said Council to . . . levy . . . for the purpose of making roads, erecting and repairing public buildings, or for any other purpose respecting the local convenience and economy of any such town or district." Ordinances were to be laid before the Privy Council within six months of their enactment, and, if disallowed, were "to cease and be void." Ordinances touching religion, or by which any punishment might be inflicted greater than fine or imprisonment for three months, were not to come into force until they had received the Royal approbation. Looking at these provisions, it is obvious how benighted they must have appeared to the American claimants for full Parliamentary privileges. At the same time, given the peculiar circumstances of Canada, they were probably the wisest possible at that date. After all, it was the Canadian people which was mainly interested, and in Canada the Quebec Act was received with gratitude.

Another provision of the Act was far more questionable. It extended the province of Quebec to include the whole country west of the boundaries of Pennsylvania and Virginia; so that it was bounded on the north by the territory of the Hudson's Bay Company, on the south by the Ohio, and on the west by the Mississippi. Whatever may have been the moral claims of England to the Western country—and, undoubtedly, they were great—it was obviously both inexpedient and unjust to apply the provisions of an Act, the reason for which lay in the prevalence of the Roman Catholic population, to territories wholly outside French Canada. There can be no question but that this proceeding excited great indignation in the American Colonies. In the address to the people of England by the delegates in 1774, it is said, "The Dominion of Canada is to be so extended, modelled and governed as that by being disunited from us, detached from our interests, by civil as well as religious prejudices, by their

number swelling with Catholic emigrants from Europe, they might be fit instruments in the hands of power to reduce the ancient free Protestant colonies to the same state of slavery as themselves." In similar language, the Declaration of Independence speaks of, "Enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies." Canada, and the opening out of the country west of the American Colonies, were two separate questions, and no good could result from mixing the two together. When so much has been said, however, there is little to be opposed on its merits to the English contention. So far as their own boundaries were concerned, the men of New England had toiled valiantly and strenuously on their own behalf. But with regard to the opening of the West, it was the Mother country and not the adjoining Colonies which had borne the heat and burden of the day. Even after Forbes' brilliant capture of Fort Duquesne, all that the Pennsylvania Assembly could recognise was "the disagreeable necessity of representing that the teemsters were unpaid for their services, and the owners of the waggons and horses remained unsatisfied for their loss." When the Indian War broke out in 1763, Bouquet, the Commander of the English troops, reported himself as "utterly abandoned by the very people I am ordered to protect."[1] In these circumstances, an effort might well have been made to preserve for England the lands opened out by English blood and money, and the territory westward towards the Ohio might have been constituted a separate Government under English law. It is pretty certain, however, considering the class of people who colonized Illinois and Ohio, that such a province would have thrown in its lot with the other American Colonies rather than with Canada. In any case, the provision of the Quebec Act was the least expedient method of dealing with the subject.

Attitude of Canadians.

Whatever its incidental failures, the main efficiency of the Quebec Act for its purpose—the conciliation of the Canadians—was soon to be put to the test. The Congress

[1] Quoted by Kingsford, Vol. V. p. 53

of 1774 issued a direct appeal to the Canadian people. This elaborate document, with its copious citations from Montesquieu, appears, considering the intellectual condition of those whom it addressed, ludicrous enough. It is noteworthy, however, that it did not venture to ask them to commence hostilities "against the government of our common Sovereign— . . . we only invite you . . . to unite with us in one social compact, formed on the generous principles of equal liberty, and cemented by such interchange of beneficial and endearing offices as to render it perpetual. In order to complete this highly desirable union we submit it to your consideration whether it may not be expedient for you to meet together in your several towns and districts and elect deputies, who after meeting in a provincial congress may choose delegates to represent your province in the Continental Congress to be held in Philadelphia on the tenth day of May 1775." Considering the extreme ignorance of the French inhabitants, and that the revolting Colonies had so many unpaid agents in the Protestant traders in Canada, the wonder is that this Proclamation did not have a greater effect. The determination however of the great majority of the French Canadians was to remain inactive and to watch the course of events. Most of the upper classes and of the clergy, who were clever enough to see through the bland professions of goodwill, sympathised with England. At the same time the putting into force the provisions of the Militia Act caused natural dissatisfaction, and it soon became clear that the Canadians would not rally for the protection of their homes or for the maintenance of those institutions which Great Britain had preserved for them. Carleton's disappointment was great, but he recognised the facts of the case, and wrote home urging that the British force in Canada should be greatly strengthened. Meanwhile Lord Dartmouth was writing, cheerfully urging the raising of a body of 3000 or 6000 Canadians to co-operate with General Gage. Reinforcements from England being thus out of the question, Carleton applied to Gage. Howe, who had succeeded

Gage, would have furnished troops, but the incompetent Admiral Graves declined to lend the necessary vessels. The expedition against Canada in 1775, which was only repulsed by the ability and wisdom of Carleton, was altogether due to the neglect by the English Government of the necessary measures again and again urged by Carleton. Probably it was owing to the manner in which the first invasion was met by Carleton that Canada was not again invaded, even after the surrender of Burgoyne in 1777.

Resignation of Carleton.

Nowhere, unfortunately, was the influence of Lord George Germaine, as Colonial Secretary, more disastrous than in Canadian affairs. He had an old grudge against Carleton, who had given evidence against him on the occasion of his court-martial. Carleton considered that the provision of the Quebec Act, which revoked the commissions of the judges, gave him no moral right to turn out any official "who had executed the duties of his office with integrity and honour."[1] Appointments were, however, made by Lord George Germaine, cancelling those of Carleton. An adventurer named Livius, who understood "neither the laws, manners, customs, nor the language of the Canadians," turned "out of his place as Chief Justice, a gentleman who had held it with reputation for many years, well allied in the province, and who had suffered considerably for his attachment to his duty, both as a magistrate and loyal subject."

Oct. 15, 1777.

In the face of the difficulties placed in his way by the enmity of Germaine, Carleton saw that his only course was to resign. In a dignified letter[2] of remonstrance he pointed out the inevitable consequences of Germaine's policy. "If the power of the crown within the province must be trampled down to exalt the sway of the inferior servants and scribblers, and, while callous to the merit of old and faithful servants, all places disposed of like private property to friends and followers, no matter how unqualified, or whom they thrust out . . . if, unconcerned for the King, our master, his authority must be here destroyed, that the rapine and dirt of office may find no restraint, I will venture to prognosticate that,

June 25, 1778.

[1] Brymner, *Report on Canadian Archives*, 1885. [2] *Ibid.*

instead of subordination, tranquillity and obedience, your lordship will soon perceive faction and sedition among both troops and people. . . . To prevent these evils I early wished to retire from before your Lordships' high displeasure, lest the King's service and the public tranquillity, intrusted in my hands, should be destroyed thereby; I have long and impatiently looked out for the arrival of a successor, happy at last to learn his near approach, that into hands less obnoxious to your Lordship I may resign the important commands with which I have been honoured."

Canada after Am. War of Independence.

It was thus painfully apparent that England had failed to profit by the lesson of the American rebellion. The circumstances of Canada did not render the Navigation Acts a grievance but the old canker of jobbery, the besetting fault of an aristocratic system, was still busily at work. Happily, with regard to the chief appointments the case was different. Haldimand continued, with resolution and ability, the policy, at once firm and conciliatory, of Carleton. In an indirect manner Canada profited greatly by the War of Independence. As early as 1778, American loyalists took refuge within its borders, and the provincial regiments were to some extent recruited from these. By 1783 there were more than 3000 "unincorporated loyalists," receiving rations from the Canadian Government. The first settlement of loyalists in what is now the province of Ontario took place in 1784; and during the next ten years the population steadily increased. The greater number of royalists had sought refuge in Nova Scotia. Kingsford[1] estimates that the first movement of loyalists amounted to about 45,000, and that in 1806 there were from 70,000 to 80,000 of this kind of immigrants. Their immigration was greatly encouraged by the promulgation of the constitution in 1793, in accordance with the Act of 1791. Many had held back through the fear of falling under the rule of arbitrary government. According to an order in Council of 1789, all loyalists who had joined the cause of Great Britain before the Treaty of 1783 and their children were to be distinguished by the

[1] Vol. VII. p. 223.

letters "U.E. (United Empire)," and were to receive grants of land of 200 acres for every child of either sex. The title U.E. became and has continued to be "a badge of honour and dignity, treasured by all, who then enjoyed it, as it is now proudly clung to by their descendants."

Constitutional Act of 1791.

It is obvious that the presence of a new element in Canada rendered some modification of the Quebec Act urgently necessary. The wisdom of that Act lay in the special circumstances of the French Canadians, and its provisions were altogether unsuited to men brought up under English popular government. After much hesitation the English Ministry decided to introduce an Act[1] dividing Upper from Lower Canada. "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."[2] It was considered that this purpose would be best fulfilled by the English and French provinces receiving separate legislatures. At the time Chief Justice Smith[3] advocated the establishment of a Dominion Parliament such as was nearly eighty years after set on foot. He ascribed the condition of things, which had obtained in America, to the absence of a controlling power over the separate petty legislatures. He therefore recommended a legislative Assembly and Council for the whole of British North America, south of the Hudson's Bay, and north of Bermuda: such Assembly to be elected by the provincial Assemblies of each province, and to be summoned once in two years. The Canada Act was opposed by the Protestant minority in Quebec, but it was probably the fairest solution

[1] The Constitutional Act is set out in Houston's *op. cit.* [2] Grenville to Dorchester, 20th Oct. 1789, Shortt and Doughty, *op. cit.*, p. 662. [3] *Ibid.*, p. 685.

of the difficulty possible at the time. Ontario was, by this means, able peacefully to abrogate the ancient laws of Canada, and to establish trial by Jury in civil causes, while the Quebec legislature could maintain the complete equality of the French with the English language before the law.

Under the Act of 1791, power was given to the Crown to set on foot in Canada a hereditary aristocracy. No attempt, however, was ever made to put this provision into force. In one respect the system of confederation was already anticipated. Carleton, now Lord Dorchester, who had returned as Governor-General in 1786, was also Governor of Nova Scotia, including Cape Breton, and of New Brunswick, established as a separate province in 1784. In connection with Carleton's second term of office, which lasted ten years, there is only one incident which calls for remark here. Speaking to the Indians in 1794, under the strong pressure of American aggressions, he said, "From the manner in which the people in the States push on and act and talk on this side, and from what I learn of their conduct towards the sea, I shall not be surprised if we were at war with them in the course of the present year."[1] Under the circumstances, and considering the hostile attitude of Genet, the French envoy, and the encouragement which he had received in the States, Dorchester's language was natural enough, but at the time, at which the speech reached England, the negotiations between the English Ministry and Jay were making favourable progress, so that it was equally natural that Dundas should consider the occasion warranted a gentle rebuke. In reality, Dorchester knew his own business. "The plan of the States was to urge their claims to the utmost extent, short of hostilities, and his fear was that trusting to a meek acquiescence under every act of aggression the United States might have been hurried too far. In his view it had been necessary to quicken their apprehensions of their own danger."[2] April 25, 1795.

The period which intervened between the passing of the Act of 1791, and the rebellion of 1837 may be roughly divided into Period after Canada Act.

[1] Kingsford, *Hist. of Can.*, Vol. VII. p. 391.

[2] Vol. VII. p. 404.

three periods. At first, there was a time of calm. The French Canadians, wholly ignorant and untrained in political matters, did not for the time realise their power under the new Constitution. Disputes, indeed, early arose between the Assembly, representing the French agricultural interest, and the English mercantile community of the towns, but the beginnings of what was to follow did not show themselves till 1806, when a French newspaper *Le Canadien* was started. From this date begins the campaign of national antipathies. The motto, "Nos institutions, notre langue et nos lois" was the flag under which an attack was make on everything English. In a British province, British immigrants were described as "étrangers et intrus." Doubtless there were faults on the other side. The English official class may have been pompous and forbidding, while the English settlers were probably ill-mannered and unattractive; but these things did not make the danger the less. Meanwhile, a popular Assembly provided precisely the engine which the Canadians desired. It is to be remembered that until 1818 the Canadian revenue did not meet the expenditure. As early as 1800 the Governor-General, Milnes, had seen the importance of this. [1] "While a due preponderance on the side of government is so manifestly wanting in the Assembly, it is considered by the well-wishers of Government as a fortunate circumstance that the revenue is not equal to the expenditure, and your Grace will immediately see the necessity on this account of preserving, in appearance at least, that disposition in a greater or less degree, as there is [2] reason to apprehend that, in case the province could be induced to tax itself in a degree equal to the calls of the Executive Government, the right of regulation and control would probably be aspired to by the Assembly, which could not fail of producing the most injurious consequences to the Colonial Government, rendering it from that moment dependent on the will of a popular Assembly." From the point of view of the day, Milnes was doubtless right. The alternative remedy of responsible government was still in the clouds. Meanwhile, the same conclusion was

[1] Brymner, *Report on Canadian Archives*, 1892, Note B.

[2] "No reason" in text.

forcing itself upon the minds of others, and from 1810 to 1818 we find a period, during which the Colonial Assembly was agitating to be allowed to defray all the necessary expenses of the civil government. The war of 1812, however, served to draw closer the ties between Canada and Great Britain. Whatever his feelings towards England, the French Canadian greatly preferred England to the United States. The cordial feelings thus engendered may have helped to bring about the decision of 1818, which sanctioned the proposal of the Assembly, thus opening out the third period which was to close in confusion and the complete overthrow of the Constitution.

Something has been already said of the dangerous character of the Constitution given to the British Colonies. They were imitations of the English Constitution, but of the English Constitution under the Stuarts, before the coming into being of responsible government. The Council of necessity was the palest shadow of the House of Lords. The Assembly represented the electors more genuinely than did the English House of Commons; so that you had on the one side a really democratic Parliament, and on the other an executive which was the mere creature of the Crown. In this state of things deadlock and anarchy were inevitable, but there were special circumstances why these evils should take an aggravated form in Lower Canada. The French Canadian had had no preliminary training in local or church government. He was mere clay in the hands of the demagogue. But the Canadian demagogue had such opportunities as could not be found elsewhere. A notary with little or no practice, he was only separated from the ordinary habitant by having received a better education. Of the ignorance of the common people it is impossible to say too much.[1] "Go where you will," wrote some years later the Assistant Commissioner appointed by Lord Durham, "you will scarcely find a trace of education among the peasantry." In this way the political leaders of the people were their own kith and kin. In 1810 we are told that not one person coming under the description of a Cana-

[1] Appendix to Lord Durham's *Report*, 1839.

dian gentleman was found in the Assembly. When such an Assembly obtained control of supply without any attempt being made to render the legislative and executive councils more popular, chaos was come again. The Assembly insisted on passing an amended civil list and passing it item by item. The Council rejected the Bill as an interference with the province of the executive. In 1827 Lord Dalhousie, when proroguing the Assembly,[1] declared that he had seen seven years pass away "without any conclusive adjustment of the public account." Meanwhile the Home Government, weak in act, was, through its agents, provoking in speech. The Duke
1819. of Richmond, Lord Dalhousie's predecessor,[2] informed the Legislature, "It is of the utmost importance that you should fully understand your constitutional rights, that privilege may not come into question with prerogative." The English Ministry, in despair of finding a way out of the imbroglio, proposed in 1822 a legislative union between Upper and Lower Canada. When, however, their proposal was fiercely opposed, they did not persevere with it. The quarrel was still about the revenue. Part of this was raised under the authority of the British Parliament, and appropriated to the discharge of certain expenses. The House of Assembly persisted in the claim of an unlimited right to dispose of the whole of the revenue. The situation was complicated by the physical position of Upper Canada with respect to Lower. The interference of the Imperial Legislature became thus necessary to protect the former against unfair dues imposed
3 G. IV., c. 119. by the latter. The Canada Trade Act was therefore passed, which continued permanently all duties payable under Acts of the Legislature of Lower Canada at the time of the expiration of the last agreement between the provinces, and which disabled the legislature of Lower Canada from imposing new duties on articles imported by sea, unless the sanction of the Upper Canada Legislature had been first obtained or the Bill assented to by the English Government. In 1828 the affairs of Lower Canada were considered by a Committee

[1] Christie, *Hist. of Lower Canada*, Vol. III. p. 127.
[2] Christie, Vol. II. p. 318.

of the House of Commons. Although the policy hitherto had been not "to compromise the integrity of the revenue known by the name of the permanent revenue,"[1] their report, while "strongly impressed with the advantages of rendering the Governor, the members of the Executive Council and the judges independent of the annual votes of the House of Assembly for their respective salaries," recommended the placing of the receipts and expenditure of the whole public revenue under the superintendence and control of the Assembly. In accordance with this recommendation, an Act was passed repealing to this extent the original provisions of the Canada Act. That these conciliatory measures had no effect whatever in Canada is strong to show the real character of the agitation.

[1] *Parl. Pap.*, 1828.

CHAPTER X

COLONIAL POLICY AFTER THE LOSS OF THE AMERICAN PROVINCES — AUSTRALIA AND CAPE COLONY — THE SLAVE TRADE AND SLAVERY.

Fiscal Policy of Huskisson.

IN tracing the history of Colonial policy, the years which elapsed between the recognition of American independence and the attempt to develop colonization on systematic lines must be dealt with somewhat summarily. It must be noted that both the American Secretary and the Board of Trade had been swept away in 1782 by Burke's Act. In that Act, however, provision was made for Colonial business to be carried on by a Committee of the Privy Council for Trade and Plantations. Such a Committee was formed in 1784, and placed on a definite footing two years later, when Colonial business, which had in the interval been transacted in the Plantations Branch of the Home Office, was transferred to this new Committee. In 1794 the new Secretary of State for War became also nominally Secretary for the Colonies; and in 1801 the departments were regularly united. From 1794 the Committee for Trade and Plantations, now known as the Board of Trade, gradually ceased to have any connection with Colonial affairs, until, as we shall see at a later date, its machinery was again put in motion at the instance of Lord Grey. In fact, so far as opinions were concerned, the period was one of extreme depression. The result of the American War had, in truth, to use a vulgar expression, knocked the bottom out of the much vaunted Mercantile system. Of course, this was not at the time recognised. Lord Sheffield's book[1] doubtless reflected the popular opinions of the day, and when the far-seeing Pitt proposed, in the Bill of 1783, to put the American States on a footing of perfect equality with British possessions in trade matters, he was compelled to withdraw his measure. The economic circumstances of Canada were, however, such that the Mercantile system

22 G. III., c. 82.

[1] *Observations on Am. Commerce.*

only presented itself in the form of welcome bounties, and the chief sufferers by it were the West Indian Islands. To meet their case, however, modifications were made in the system. The West Indian sugar planters had been for many years granted a monopoly in the English distilleries. Free intercourse was allowed between any countries in America and British Colonies in the ships of those countries, or in British ships so far as certain enumerated articles were concerned; while a direct trade was allowed from the Colonies in articles of their growth or production to the ports of foreign Europe, provided that the goods were carried in British ships.[1] In 1825 Mr Huskisson opened the commerce of the Colonies to all friendly States, which, having Colonial possessions, granted the same privileges to British ships. "All intercourse between the mother country and the Colonies (whether direct or circuitous), and all intercourse of the Colonies with each other," was "considered as a coasting trade, and reserved entirely and absolutely to Great Britain."[2] With the further view of encouraging the Colonial trade, the benefits and regulations of the Imperial warehousing system were extended to certain ports in the Colonies. Goods from all parts of the world were allowed to be bonded and deposited in warehouses without payment of duty till proper opportunities of exporting and selling them to advantage should occur. Another reform effected by Huskisson was the abolition of the large fees which were levied in almost all the Colonial ports. Salaries were assigned to all the officers in the Customs, who continued to be paid out of the duties which they would have to collect. In addition to these general measures, an Act was passed allowing Canadian corn to be admitted to British ports upon the payment of five shillings a quarter. The operation of this Bill was, however, limited to a period of two years. Full credit must be given to Huskisson for these excellent measures. At the same time, the whole Mercantile system was so complicated that it was impossible to fore-

3 G. IV., c. 43, 44, and 45.

6 G. IV., c. 114.

6 G. IV., c. 114.

6 G. IV., c. 73.

6 G. IV., c. 87.

6 G. IV., c. 64.

[1] See Huskisson's *Speeches*, Vol. II. p. 314.

[2] Huskisson's *Speeches* at p. 317, Vol. II.

see the effect of particular enactments. For instance, the provision which confined foreign shipping to goods of the growth or manufacture of the country owning the ships, in effect, caused the exclusion of the important Hanseatic trade, because the free cities were mere traders, and did not either grow or manufacture articles of commerce. Amidst the confusion, however, of particular enactments, we note a general tendency. For the theory of monopoly a new theory has been substituted, that of reciprocity, to be ever connected with the name of Huskisson. The shadow of the Mercantile system, it is true, long survived to amuse politicians, so that the final repeal of the Navigation Laws did not take place till the year 1849. Nevertheless, it may still be asserted that the real end of the Mercantile system began, with the recognition by England of American independence.

Feeling of the time with regard to Colonies.

But if there could be at the time little desire for Colonies on grounds of trade, what other reasons were there to promote colonial development? It could not have been expected that the men of that time should have deduced from recent events the various lessons which have been already discussed. They merely saw in what had taken place the inevitable outcome of colonial development. *Sic vos non vobis* appeared to them a fixed historical law. In this state of thought, a tone of depression was inevitable. So far as acts could insure it, English statesmen were resolved to maintain, as long as possible, the connection with Canada. But note the language of Huskisson in 1828. He does not doubt that our Colonies will be "one day or other themselves free nations, the communicators of freedom to other nations. . . . Whether Canada is to remain for ever dependent on England or to become an independent State . . . it is still the duty and interest of this country to imbue it with English feeling and benefit it with English laws and English institutions."[1] We may note that these words were spoken not very long after Canning had uttered, amidst loud cheering, his memorable hyperbole, about calling a new world into

[1] See Christie, Vol. III., p. 174. The report is fuller than in Hansard or in *Speeches*, Vol. III.

existence to redress the balance of the old. A generation, which despaired of the Empire, indulged in dreams strange enough to us about the future of the South American Republics.

In this connection observe the language held by Lord Castlereagh when explaining the provisions of the Treaty of Paris. Under the Treaty, England ceded to France all the West Indian Islands conquered by her with the exception of Tobago and St Lucia.[1] Lord Castlereagh[2] explained that "It was expedient freely to open to France the means of peaceful occupation and that it was not the interest of this country to make her a military and conquering, instead of a commercial and pacific nation." In the same spirit, Mauritius remained British, not because of its own positive importance as a colonial possession but because of its harbour, and of the mischief it had caused, when in the hands of France. With respect to the Newfoundland Fisheries, Lord Castlereagh[3] explained that it would have been "invidious and would only have excited a feeling of jealousy to have tried to exclude France from the share in that fishery which had been secured to her by her two preceding Treaties with Great Britain."

Moreover, American experience not only killed enthusiasm; it also paralysed efficiency. The vivid picture drawn afterwards by Lord Durham[4] applies to the whole period. "Instead of selecting a Governor with an entire confidence in his ability to use his local knowledge of the real state of affairs in the Colony in a manner which local observation and practical experience best prescribe to him, it has been the policy of the Colonial department, not only at the outset to instruct a Governor as to the general policy which he was to carry into effect, but to direct him by instructions, sometimes very precise, as to the course which he is to pursue in every important particular of his administration." Theoretically irresponsible, the Gover-

[1] Trinidad was also retained, but it had been a Spanish possession.

[2] Hans. N.S., Vol. 28, p. 462. [3] Hans, N.S., Vol. 28, 463.

[4] *Rep. on the State of Canada*, 1839, reprinted 1902.

nor, in fact, could easily be represented at home in an unfavourable light, so that it became inevitably his policy "to endeavour to throw responsibility, as much as possible, on the Home Government." Thus "the real vigour of the Executive has been essentially impaired, distance and delay have weakened the force of its decisions; and the Colony has, in every crisis of danger and almost every detail of local government, felt the mischief of having its executive authority exercised on the other side of the Atlantic."

In 1801 a Secretary of State was again appointed for the Colonies, along with the War Department; but the changes in the holders of this office were so frequent that power inevitably more and more fell into the hands of the permanent officials. Moreover, though in each particular case there were good grounds justifying it,[1] it is still significant that, whereas until the commencement of the nineteenth century the almost invariable practice in the case of British Colonies was to establish a local legislature, consisting of three estates, in no one of the sixteen Colonies acquired by cession or occupation in the beginning of the nineteenth century was this system introduced. In the conquered Colonies the ancient system of government at first remained, except that, by Letters Patent under the Great Seal, a Governor and Council appointed by the Crown were in each of them authorised to make local laws. In the Colonies acquired by occupation the same system was introduced by authority of Parliament. As a matter of fact the particular circumstances of each one of these Colonies rendered them unfavourable for the introduction of popular government. But it may be doubted whether, in any case, at that period popular Assemblies would have been allowed. Even so late as the time of the Reform Bill, a Secretary of State[2] could assert that the effect of allowing a popular Assembly in the projected colony of South Australia would be "to create within the British monarchy a Government purely republican."

[1] See report of Committee of Pr. C. for Trade and Plantations, 1849, set out in Lord Grey's *Colonial Policy*, Vol. II. App. A.

[2] Gibbon Wakefield's evidence before H. of C. Com., 1841, on S. Australia.

Still there was no desire to curtail Canadian liberties,[1] and Craig's suggestions to that effect were not favoured. In the case of the Canadians the trouble lay partly in the form of Government, which was popular but not responsible. But even waiving the question of responsible government, the Canadian Executive was singularly weak. The Executive Council were the advisers of the Governor, but there was no division into departments, no individual responsibility, and no individual superintendence. Each member of the Council took an equal part in all the business brought before it. The power of removing Councillors was rarely executed, so that the Governor was obliged either to consult advisers, in whom he had no confidence, or to make use of only a portion of the Council. The secrecy of its proceedings added to its irresponsibility. Upon the whole, no more unfit instrument could have been imagined with which to oppose a demagogic Assembly. In reading the history of Canada during this period, on the surface the old story of Colonial emancipation appears about to be acted. In fact, however, the circumstances were very different. The love of self-government in the New England Colonies had grown with their growth, and been prepared in the township and the Church. The French Canadians had known nothing of self-government, local or political. While they employed the political weapons put into their hands, they cared little for them as ends in themselves. Many will remember Lord Durham's words: "I expected to find a contest between a government and a people. I found two nations warring in the bosom of a single state. I found a struggle not of principles but of races." In Lower Canada, however, the Church of Rome stood loyally by the British connection; and in Upper Canada whatever might be the objections of English settlers to the "family compact," a name given to a body of men who possessed almost all the highest public offices, by means of which, and of their influence in the Executive Council, they wielded all the powers of govern-

[1] See the curious account of Mr Ryland's mission to England in 1810 in Vol. VI. of Christie's *Hist. of Lower Canada.*

ment, there could be no question as to the fixed determination of the great majority of the people to maintain the connection with Great Britain. Upon the whole, then, melancholy as was in many ways the state of things which culminated in the rebellions of 1837 and 1838, it cannot be said that it seriously endangered the future of the Empire.

Foundation of Australian Colonies.

In contrast to the note of depression we have remarked in colonial matters, it may be urged that the period in question witnessed the foundation of Australia and the acquisition of Cape Colony. But, in truth, these examples well illustrate the argument. Cape Colony was originally taken for military purposes, as a fortress half-way on the road to the east, and to prevent its falling into the hands of France, and its retrocession to the Netherlands by the Treaty of Amiens, shews that its value was not, at the time, reckoned great. Indeed, it was not till 1818 that it began to be seriously considered, from the point of view of British colonization. The case of Australia is even more instructive. It may be that the memorial, which first definitely urged the importance of effecting a settlement in New South Wales contains[1] no reference to the question of transportation. Nevertheless, but for the question of transportation, the memorial would have addressed deaf ears. We have seen how the system[2] of transporting prisoners to the American colonies had from the first prevailed. The system was very popular with the English Government, who instead of being obliged to maintain the convicts, could obtain five pounds for them from contractors, who in turn disposed of them in the colonial markets at about ten pounds a head; with the colonists, who were "assigned" efficient labour at a cheap rate; and with the prisoners who were able to work their way to independence. At the time of the Declaration of Independence the annual export of prisoners averaged about 500, nearly all of whom went to the Southern Colonies of North America. An enquiry was instituted in 1779 before

[1] Jenks' *Hist. of Australasian Cols.*, 1895, p. 25.

[2] The statutes regulating the system were—4 G. I. c. 11; 6 G. I. c. 23; 16 G. II. c. 15; and 20 G. II. c. 46.

a Parliamentary Committee on the whole subject. The result of which was the statute of 1783, which authorised the King in Council to fix places, either within or without the British Dominions, to which offenders might be transported. Botany Bay had been mentioned before the Committee as a suitable place, and Lord Sydney suggested that the establishment of a convict Colony might be included in the scheme of a settlement in New South Wales. In 1786 Orders in Council definitely fixed upon the East Coast of Australia as a place to which convicts might be transported under the Act. If we compare the high hopes with which Virginia was started, with this crude avowal of a convict colony, we can recognise the measure of England's disappointment and disillusion. At the same time, it is quite clear that, with Canada and the States comparatively near at hand, and no pressure of surplus population, any attempt to colonize Australia, at the time, by free immigrants must have been foredoomed to failure. But if the settlement of Australia was a desirable thing, and who now will contest it, it is unfair to condemn the only means by which it became possible. There was, surely, much exaggeration in the language used by Whately and the theorists of the Gibbon Wakefield School. Undoubtedly, from the point of view of the Mother country, transportation was an economical measure, while from the Colonial point of view it rendered possible those "preparatory works," (roads, &c.), without which free settlement would remain impossible. It has been said that the fear of associating with convicts deterred respectable people from emigrating; but on the other hand, it would seem that the system encouraged free emigration by providing the settler with markets, and above all by "assigning" him cheap and efficient labour. It is reckoned that, in the first thirty-four years of Australia, more than ten million pounds were expended in it by the British Government. Can anyone suppose that the spending of this money was not of advantage to the free colonists? From the moral point of view, it must be remembered that the criminal code of that day was more cruel than that of

24 G. III., c. 65.

our time, and that the convicts were by no means that separate class, diminishing in number, but less and less capable of reformation, which puzzles the sociologist of to-day. Of course there is a limit to the extent to which any colony can absorb this kind of emigrant. Lord Hobart
1802. himself admitted, "if you continually send thieves to one place, it must in time be supersaturated. Sydney now I think is completely saturated. We must let it rest and purify for a few years, till it begins to be in a condition again to receive." Equally, of course, there comes a time in the development of a colony when, to use it as a dumping ground for criminals, would be an act of foolish insolence, but that transportation may up to a certain stage play a most useful part in economic development, without generating counterbalancing moral ills, is a conclusion supported by experience, and by the authority of the shrewd Merivale, and the capable foreign economist, M. Paul Leroy-Beaulieu. Probably the truth of the matter was stated by Darwin:—
"On the whole, as a plan of punishment, transportation has failed. As a real system of reform it has failed, as perhaps would every other plan. But as a means of making men outwardly honest, of converting vagabonds, most useless in one country, into active citizens of another, and thus giving birth to a new and splendid country, a grand centre of civilization, it has succeeded to a degree perhaps unparalleled in history."

Be this as it may, the kind of colony dictated the form of government. No one out of Bedlam would advise a popular Assembly for a Colony of convicts. The only free settlers were government officials and soldiers, whose duty it was to obey the orders of the Governor. For the first twenty-five or thirty years the form of government was purely military: the first Governors being for the most part naval officers. The first emigrants to Australia started in May 1787 and reached Botany Bay in the January of 1788. The Governor was Captain Phillip; the expedition consisting of about 750 convicts and about 200 marines. Phillip at once recognised the unsuitability of Botany Bay as a site for a Colony, and

removed to Port Jackson. When leaving Botany Bay, Phillip noticed two French ships in the offing. What their object was is not clear, but there would seem to be "some justification for the saying that England won Australia by six days."[1] Phillip's commission defined New South Wales as including the whole East coast of Australia from Torres Strait in the North to South Cape in the South. (It is to be noted that Tasmania was at the time believed to be part of the mainland.) The inland boundary was the 135th degree of longitude east. New South Wales also included all the islands in the Pacific, within the same degrees of latitude as the mainland. The Colony thus comprised the present Colonies of New South Wales, Queensland, Victoria, Tasmania, a portion of South Australia, the bulk of New Zealand, the New Hebrides, Fiji, &c. &c. At first, however, the only attempt to colonize, outside the settlement of Port Jackson, was the occupation of Norfolk Island. In fact, the struggle with nature was a severe one. With roads to make, and houses, barracks, and wharves to build, the progress of agriculture was necessarily slow. Meanwhile, with communication with England or other countries infrequent and doubtful, there was serious risk of famine. Phillip, whose capacity well justified his appointment, called out for free emigrants. "If fifty farmers were sent out with their families, they would do more in one year in rendering the Colony independent of the mother country, as to provisions, than a thousand convicts." In 1789 Phillip was authorised to make grants of land to non-commissioned officers, marines, and free emigrants, also to assign to any grantee the services of any number of convicts he might judge sufficient: the settlers being bound to maintain and feed the convicts, and to pay an annual quit rent for the land, after five years' occupation. Convicts, at the expiration of their term of service, had already been allotted grants of land, from thirty acres upwards. We are not able here to pursue the fortunes of the Colony. The circumnavigation of Tasmania, the discovery of Queensland, together with the finding of coal at Newcastle,

1798. 1799. 1797.

[1] Jenks' *History of Aust. Colonies*, p. 30.

1797. and the introduction of merino sheep, were perhaps the events of most far-reaching importance in the early years of the Colony. Hunter succeeded Phillip, and King Hunter. King's successor Bligh was solemnly deposed, but, even in the time of Bligh's successor, M^cQuarie, the founder of schools and churches, the devoted friend of the "emancipists," who, on their behalf, waged war with the society of the Colony, we find martial law still so prevalent that the Governor could coolly order trespassers to be flogged without trial and then justify himself to the Secretary of State on the ground "that I was legally authorised in my capacity as Governor-in-Chief . . . to direct them to be punished in this summary manner without any regular trial."[1]

It is an interesting study to trace from such beginnings the growth of constitutional government. From the first, the Governors had been assisted in their public duties by civil and military officers appointed and paid by the Home Government. Towards the end of the period under review, the Governors were in their commissions directed to summon certain of the officials as an Executive Council and to consider their advice, when given collectively. This tentative proceeding prepared the way for the Executive Council of a later date. With respect to judicial arrangements, the administration of justice was, from the nature of the case, at first frankly military. The absence of any express provision for the creation of civil courts was met by the Judge Advocate's commission empowering him to decide in civil cases. Supreme courts were established in 1814 in New South Wales and Tasmania for the hearing of all cases involving more than £50, and Governor's courts for the hearings of minor cases. In 1823, civilian judges were substituted for the military jurisdiction of the Judge Advocate, and trial by jury tentatively introduced. In another direction, the Act of 1823 is a land mark in Australian history. It provided for the establishment of a Legislative Council, to consist of five, six, or seven members, to be appointed by the Crown. The Governor retained the initia-

4 G. IV., c. 96.

Sec. 24.

[1] Quoted by Rusden, *Hist of Aust.* Vol. I. p. 546.

tive in legislation, and in urgent cases where essential to the peace and safety of the Colony, the Governor could legislate in spite of all its members dissenting, but no ordinance could be made without being submitted to the Council. Where an ordinance was rejected by the Council, the dissentient members were to record the grounds of their dissent on the minutes. No ordinance could be laid before the Council or passed, unless the Chief Justice had previously certified that its terms were consistent with the laws of England "so far as the circumstances of the Colony will admit." Under Sec. 44. the same statute, power was given to erect Van Diemen's Land into a separate Colony. A Legislative Council of this kind may not seem of much importance, but it was explained that the new Council was intended to represent, to some extent at least, the views of the non-official colonists, and three independent members were, in fact, appointed in 1825. Moreover, as the British Government ceased in 1827 furnishing money for the civil as opposed to the penal establishments of the Colony, the Council, being entrusted with the power of levying taxes, obtained the control of finance. The subsequent Statute in 1828 enlarged the provisions of the earlier one. The Legislative Councils were increased in size and importance. They were to consist of not more than fifteen members or less than ten, and to have the control and expenditure of the customs revenue. The power of the Governor to legislate against the opinion of the Council was taken away, and the absolute veto of the Chief Justice abrogated. 9 G. IV., c. 83.

The Statute of 1823 is notable on other than constitutional grounds. It legalised the practice of indentured service, and Sec. 41. provided for the enforcement of such arrangements, both against the parties to them, and against third parties who Sec. 42. attempted to break them. It gave legal sanction to the Sec. 34. practice of Governors in remitting to convicts of good behaviour, portions of their sentences, and empowered the Sec. 38. Governor to create separate settlements for convicts, who had been convicted of fresh felonies since their arrival. By all these means it endeavoured to encourage and

develop that tendency to emigrate, which followed the close of the great war. So long as the war continued, there was no need for emigration. The time when a statesman like Pitt preferred to promote a population of paupers rather than not to encourage population at all, was not a time for schemes of emigration. But with the Peace, and with the distress which ensued, the advantage of colonies for the disposal of surplus labour began again to be recognized. It was during these years that the population of Upper Canada increased by leaps and bounds, and, though the distance of Australia and the cost of the passage were great deterrents, still free emigration thither began to take head. For the years 1815 to 1825 the average emigration was about 300 a year. From 1825 to 1830 it was about 1000. It was in 1828 that the disastrous Swan River Settlement was set on foot, and the contrast between it and South Australia, started after the labours of the theorists of 1830, justifies, I think, the present division of our subject. Explorations conducted on the Western Coast of Australia determined the British Government to attempt a settlement there. It was intended that the Colony should be from the first self-supporting; the Government expressly announcing that they intended to contribute nothing either towards the cost of transit or of maintenance after arrival. Parties, containing a proportion of not less than five females to six males, were promised free grants of land, at the rate of forty acres for every three pounds of capital, invested in public or private objects in the Colony to the satisfaction of the Government. Before, however, these terms had been made public, certain private capitalists entered into negotiation with the Government, with a view, in return for certain grants of land, to arrange for the emigration of at least 10,000 persons within four years. In the end, the Government offered to allot Mr Peel five hundred thousand acres immediately on the arrival of the first batch of four hundred emigrants conveyed by him. The Governor and other individuals had grants of a very large extent.[1] "The

[1] Wakefield, *View of the art of Colonization*, 1849, p. 433.

first grantee took his principality at the landing place; and the second, of course, could only choose his, outside of this vast property. Then the property of the second grantee compelled the third to go further off for land, and the fourth again was driven still further into the wilderness. At length, though by a very brief process, an immense territory was appropriated by a few settlers, who were so effectually dispersed that, as there were no roads or maps, scarcely one of them knew where he was." Meanwhile the nominal price charged for land rendered it impossible to obtain men to work for wages, and Mr Peel found himself abandoned by the emigrants whom he had brought out. It was the object lesson of the Swan River settlement which lent force to the theories of the school of Gibbon Wakefield.

The foundation of Western Australia closes the present period. Australia was generally in a transition state, moulting the feathers of a mere penal settlement, but not yet ready for the plumage of complete self-government. Upon the whole, if, in the foundation of Western Australia, England had erred, it had been in ignorance, and no act of the Mother country during these years laid the seed of future trouble in these Colonies.

Cape Colony.

In turning to Cape Colony, we are approaching a subject which has been for a hundred years the most serious crux of British Colonial Policy. From the first, the difficulty arose from the presence within the Colony of the Dutch settlers and the native Bantu, and the occasions of friction which thence ensued. Had the problem merely involved the Dutch, the history of New York is clear to show that the task of conciliation would have been tolerably simple. The Dutch Colonist was closely related by blood to the Englishman, and had not fared so well under the Dutch East India Company as to hold sentimental views adverse to English rule. The Dutch and English might be expected to form a friendly amalgam, and, so far as private relations are concerned, this has taken place. How comes it, then, that in political matters there has been so much trouble and friction? The answer is to be found in the respective attitudes of the Dutch Colonists

and of the English Government towards the natives. The attitude of the Dutch has been that instinctively held by most men of superior races towards savages. They have sternly refused to regard them as fit for any kind of social or political equality. They have treated them much as the New Englanders treated the American Aborigines. Unfortunately for the British Empire, if not for humanity, the African Kaffir is made of stouter stuff than are savages generally, and instead of becoming extinct before the march of civilization, surpasses the European in the work of propagating his species. In fairness to the Dutch, it must be remembered that the Kaffir in Cape Colony was as much an intruder as was the European. While such, however, was the attitude of the Dutch, and, indeed, of the English settler, when face to face with the native, the English Government took a wholly different view. We have already seen that in the American Colonies the Home Government had made honourable exertions to secure fair treatment to the Indians; but, in the latter half of the eighteenth century there were special causes at work on behalf of the native races. The philanthropic movement, which culminated later in the emancipation of the slaves throughout the Empire, represented a power which was both socially and politically strong, and which could bring pressure to bear on English Ministries. Of the good intentions of the English philanthropists there can be no question. Unhappily, their zeal was not always tempered with knowledge. They adopted certain definite theories, and it may be said without unfairness that if the facts would not accommodate themselves to these theories, so much the worse for the facts. The full consequences of this difference of view belong to a later period, and are, indeed, still at work; but already before 1830 the leaven was in motion. The English missionaries were the chief inspirers of British policy. A certain Dr Philip, the Secretary of the London Missionary Society, and a man of great determination and ability, was the most influential among them, and a book of his, published in 1828, unfair and inaccurate as it appears to have been proved in the Colonial law-courts,

played an important part in moulding English public opinion. That the native question has been at the bottom of all the troubles at the Cape must be recognised by anyone who attentively considers the Colony's history.

Nothing could have been more conciliatory than the tone adopted by the British General after the first conquest. "The monopoly and oppression hitherto practised . . . is at an end . . . no new taxes will be levied." The form of government remained practically unchanged. It was virtually a despotism, pure and simple. The Governor could make laws unrestrained by any Council. He could fix prices for produce required by the army, and assess the quantity each farmer was required to deliver. He could suspend or dismiss any official appointed in the Colony, except the President of the High Court of Justice. In 1809 the anomalous system under which the Hottentots were regarded as a free and independent people, paying no taxes, and not amenable to the jurisdiction of the Colonial courts, except in cases where the interests of Europeans were concerned, was abolished. Henceforth every Hottentot was to have a fixed place of abode, properly registered. When moving, he was required to obtain a new certificate, without which he was liable to be treated as a vagrant. Hottentots going about the country were required to be furnished with a pass. They were treated as ordinary subjects, were taxed, and might be called upon to perform public services.

The first instance of that conflict between Colonial and missionary opinion, which was to have such lamentable results, occurred in 1811. Complaints were made to the Secretary of State that white settlers had been guilty of cruel and inhuman behaviour towards the Hottentots. It was stated that upwards of one hundred had been murdered in the district of Uitenhage alone. A searching enquiry was held by the newly-appointed circuit court. The result proved the missionaries to have been, for the most part, the dupes of idle story-tellers. Nevertheless, the fact that these stories had been so easily believed, and that such extraordinary efforts had been made to conduct the prose-

cution, caused great irritation among the Colonists. From this time "the missionaries of the London society were held by the frontier colonists to be slanderers and public enemies . . . whose dealings with the coloured races could only be productive of evil."[1]

The first regular emigration of British settlers to South Africa dates from 1817, in which year some two hundred Scotch mechanics were introduced. At the same time some seven hundred or eight hundred time-expired soldiers and sailors were discharged in South Africa and readily found employment. A more ambitious scheme of settlement was afterwards undertaken. In 1819 the English ministry proposed to devote £50,000 to the purpose of conveying emigrants to Cape Colony. Every settler of means was offered a hundred acres and another hundred for every male labourer he should bring out. Groups of not less than ten families could combine, and elect their leader and representative, and thus become each entitled to a hundred acres. The land was to be surveyed without charge, and to be free of taxation for ten years. Numerous applications were received, and the main bulk of the emigrants, consisting of over three thousand persons, arrived at Table Bay in March 1820. The great majority of them proceeded to Albany, near Port Elizabeth, and thus became the founders of the Eastern or specially English portion of the Colony. This emigration is noteworthy as having more nearly realised the ideal of the theorists on colonization than has emigration generally. It consisted of men of all classes. Retired military officers, doctors and other professional men, were found by the side of tradesmen, clerks, and mechanics. At first the weak point in the settlement was the scarcity of skilled agricultural labourers. The Colony, however, made up in energy what it lacked in experience, and, though the experiment proved a more costly one to the British Government than had been originally anticipated, upon the whole it may be said to have been justified by its results. In later years English states-

[1] Theal, *Hist. of S. Africa*, 1795-1834.

men, sick to death with the continuous troubles in South Africa, and at their wits' end between the hammer and the anvil of Boer and Kaffir, regretted that Great Britain[1] had not severely limited herself to Capetown and Simon's Bay, and pointed to the 1820 Emigration as the origin of subsequent misfortune. In fact, however, the Dutch Colony, conquered by England, already contained the outlying districts of Stellenbosch, Swellendam, and Graff-Reinet, so that even then the necessity was present of either tolerating an independent European community, or else of accepting the responsibilities which annexation might involve.

The distrust of the Dutch, instilled into the minds of the English Government, perhaps accounts for the determination in 1822 to issue all documents from the Colonial Secretary's office in English. After six months' time all other official acts and documents were to be issued both in English and Dutch until January 1st, 1825, after which they were to be issued in English exclusively. The terms of this proclamation were subsequently modified, and it was not until 1828 that the exclusive use of English was enforced in the law Courts. Unhappily the reforms in the administration of justice carried out in 1827 wore the same unfriendly appearance to the Dutch Colonist. They provided for the establishment of a Supreme Court, to be independent of the Governor, and trial by jury in criminal cases was secured. But, at the same time, the whole Dutch system with regard to local government and the lower Courts was swept away, and Civil Commissioners and resident Magistrates appointed in their stead. In the year 1828 an Ordinance was passed relieving Hottentots, Bushmen, and other free people of colour from the operation of the laws concerning passes and the apprenticeship of children, thus placing them on a level of equality with Europeans. The Missionary party in England was now actively at work, and in 1828 Mr Fowell Buxton moved in the House of Commons that such instructions should be sent to the Colony[2] "as should most effectually secure to all the natives of South Africa the same freedom and protection as are enjoyed by

July 15.

[1] Lord Grey, *Colonial Policy*, Vol. II., p. 248. [2] Hans. N.S., Vol. XIX.

other free people of that Colony, whether English or Dutch. The resolution was accepted by the Colonial Secretary and passed with general agreement. In forwarding it, Sir George Murray expressed his strong approval. When it is considered, that the evidence on which this action was taken were the statements in Dr Philip's book, which, in fact, amounted to a general indictment of the Dutch Colonists, the causes of bitterness are not far to seek.

Abolition of the Slave Trade and Slave Emancipation.

In another direction, during the period in question, the conscience of Englishmen began to be seriously disturbed. The agitation with regard to the Slave Trade left many traces on Colonial policy. In 1791 a Society of philanthropic adventurers formed a project for the establishment of a Colony at Sierra Leone, with the object of cultivating by means of free African labour a tract of land which they purchased. Their hope was that Africa might be "civilised and become more lucrative as a vent for manufactures than as a nursery for slaves."[1] The Society obtained a Charter of Incorporation, in spite of the fierce opposition of the West Indian planters, and money was, year after year, voted by Parliament, to assist this most unsuccessful though praiseworthy undertaking. But more was required than a measure of this sort to satisfy the newly-awakened conscience of the English nation. That awakening had indeed been tardy. We have seen how the Slave Trade had been the special favourite of kings and of Parliaments; how it had been one of the best prized fruits of long wars; and how jealously it had been protected against any interference from colonial legislators. During the ministry of the elder Pitt, the preamble of a Statute ran:[2] "Whereas the trade to and from America is very advantageous to Great Britain, and necessary for supplying the plantations thereunto belonging, with a sufficient number of negroes at reasonable prices;" and as late as 1775 the Board of Trade disallowed a Jamaica Act laying an additional duty on imported slaves. They could not[3] "allow the colonies to check or discourage in any

[1] *Annual Register*, 1791. [2] Lecky, *History of England in the 18th Century*, Vol. II. p. 247. [3] Quoted in Bridges' *Annals of Jamaica*.

degree a traffic so beneficial to the nation." But beneficial or not, there was growing up a power, which neither King, Parliament, nor State Departments could in the long run resist. It is impossible not to feel for the hard case of the West India Planters. By every means in its power, the Mother country had fostered and encouraged the growth of their staple product sugar. An Act of George II. had endeavoured to give it the monopoly of the Home market; and although, in accordance with the Mercantile system, the erection of distilleries in the Colonies was strictly forbidden, the practical grievance from this restriction was not great. At the time, however, with which we are now concerned, the West Indian interest saw itself attacked from two sides; from the side of morality, and from the side of economic theory. Could the British Parliament have found courage at once to say that the Slave Trade was an abomination in the sight of God and man, and must at whatever cost be abolished; that the system of slavery itself was an iniquity, only differing in degree from the Slave Trade; that its abolition was therefore necessary, but that, considering the position held for so long by England on the subject, adequate compensation should be paid, the planters' interests would have suffered probably less than what they did in the sequel. Instead of this, they were amused and cheated by false hopes and imaginary consolations. Thus, in Brougham's book on *Colonial Policy* (published in 1803), they were told that the effect of the abolition of the Slave Trade would be greatly to enhance the value of their property in slaves. After ineffectual efforts to tinker with the Slave Trade, its abolition, so far as England was concerned, was enacted in 1807. Unfortunately the condition of things in the West Indies was not such, as to make the bringing into force of a new system an easy matter. The House of Commons Committee, which sat in 1807,[1] found that, since 1799 there had been a progressive deterioration in the situation of the planters, resulting from a progressive deterioration in the price of sugar, although at the same

6 G. II., c. 13.

47 G. III., c. 36.

[1] *Parl. Pap.*, 1807.

time the duty and all the expenses attending its cultivation had been increasing. The main reason for this, as found by the Committee, is very striking. It was "the facility of intercourse between the hostile Colonies and Europe, under the American neutral flag." But the rule, requiring all goods to be imported into America in British ships, had, in fact, been relaxed to some extent in the interests of the West Indian Islands. It was in great measure due to such relaxation that the American shipping industry had developed, so that the suggestive picture was seen of an Act of Parliament issuing in the precisely opposite result from what had been intended. When in 1832 a Parliamentary Committee again[1] considered the case of the West Indian planters, they found (as might reasonably have been expected) that the abolition of the Slave Trade had greatly increased the cost of production, by rendering necessary the maintenance of an increased number of non-effective women and children. The hard case of the West Indian Planter is put very powerfully in the Report. He "not only feels, with any other proprietor of land, the difficulty of altering the application of his capital . . . he is subject to a burden peculiar to himself, that of maintaining, be his profits what they may, the whole body of labourers and of their families, existing upon his land. He is compelled, by a law, of which public considerations forbid the repeal, to maintain them in industrious employment, and is thus under the necessity of producing and reproducing the very article, of which the superabundance depresses him." A striking picture of the feeling of distrust and uncertainty prevalent is given in the evidence of Mr Douglas, a leading West Indian proprietor. He expressly states, with regard to trade regulations, that partial alterations of the law were of no use to the colonists, and were employed as an argument against them; they thus appearing to obtain benefits which, in fact, they did not receive. Meanwhile the difficulty with regard to slavery did not grow less by delay. The movement in favour of its complete abolition grew in volume and importance

[1] *Parl. Pap.*, 1831-2.

Statesmen were at their wits' end what to do. Let any one, who doubts this, read the confused and self-contradictory speech [1] made by Canning, on Mr Fowell Buxton's Resolutions of 1823. The resolutions substituted by the Government well reflected the uncertainty and confusion. In accordance with them, Regulations were sent to the Colonies, prescribing a limitation of the hours of work, the payment of Sunday time, Sunday holidays, &c. But, inasmuch as the enforcement of these regulations lay with Colonial legislatures, who were profoundly out of sympathy with them, their effect was not great. The Colony, where they were most strictly enforced, was most probably the Cape, under its autocratic government. But in the Cape they appear to have been least required, and their most important effect was to promote Dutch dissatisfaction with the English Government. These regulations, following as they did earlier regulations with regard to the registration of slaves, &c., only served to keep in a ferment the minds of both masters and men, and to render more inevitable the final measure of 1833. That measure, strictly speaking, does not belong to the present period, but it may be dealt with here. That Emancipation was inevitable is, of course, now clear enough, but the prophecies of its advocates, that free negro labour would prove more efficient than slave labour, were soon proved woefully false, and much might be said on the question of compensation. It might, of course, be maintained, that the idea of property in one's fellow man is too revolting to natural justice to allow of any sort of compensation for its compulsory abolition. Considering, however, the past conduct of the English legislature, it hardly lay with it to use this argument. But if compensation was once allowed, one fails to see why it should not have been adequate. At first it was proposed merely to grant the planters a loan. Then it was decided that they should receive £20,000,000 in compensation. At this time it was intended that the masters should retain the services of the slaves, for three-fourths of their time, for twelve years. Finally, the twelve years were

3 and 4 Wil. IV., c. 73.

[1] Hans. N. S., Vol. IX. p. 275.

reduced to seven, and in the end the whole arrangement as to apprenticeship broke down. The property compulsorily taken away was worth at least from £40,000,000 to £50,000,000. In other words, amidst loud self-laudations and congratulations, the nation paid up conscience money to the extent of something less than ten shillings in the pound.

BOOK III

THE PERIOD OF SYSTEMATIC COLONIZATION AND OF THE GRANTING OF RESPONSIBLE GOVERNMENT

1831-1860

"Planting of Countries is like planting of woods"

"New Majesties of mighty States"

CHAPTER I

THE INFLUENCE OF THE IDEAS OF GIBBON WAKEFIELD

Revival of interest in Colonization

THE year 1831 may well be considered a landmark in the history of Colonial policy. We have seen that the distress which followed upon the exhaustion of the years after the Peace caused men's minds to consider once more emigration and colonization as possible cures for social ills. A Committee of the House of Commons, which considered the subject in 1826-7, strongly recommended emigration by local authorities. In the order of nature, they affirm,[1] food must precede population, and colonization—that is, an emigration where the labourers are aided by capital—provides that food. In an unrestricted and disproportioned emigration of labourers, no such provision being made, population, contrary to the order of nature, precedes food.

It had been the intention of Huskisson,[2] when Colonial Secretary, to establish a Land Board in London for the management of the Colonial Crown lands. It has incidentally been noted how lamentably this source of Imperial wealth had been wasted[3] by improvident Governors and greedy Councils. Rules restricting the amount of grants had been ignored or ingeniously evaded. In 1831, however, Instructions with reference to the Colonial lands were issued by the Colonial Secretary, Lord Goderich, which opened out a new policy with regard to the question. The credit of this new policy belongs undoubtedly to Gibbon Wakefield. The Colonization Society had been founded in 1830, the object of which was to substitute systematic colonization for mere emigration. Hitherto there had been practice without theory. The aim of the reformers of 1830 was to insist that practice should be carried out in accordance with definite theory.

[1] *Parl. Pap.*, 1827. [2] Col. Torrens, Ev. before H. of C. Com. of 1836.
[3] The whole of Prince Edward's Island was alienated in one day.

Wakefield theory.

An immense amount of literature and controversy has centred round what is known as the Wakefield system.[1] But although his theory as a whole had never a fair trial, certain of its attendant features have borne abundant fruit. That Colonial lands should be sold and not given away, and that the proceeds of such sales should be applied, at least in part, as an Emigration fund, are propositions, which, at the present day, may seem simple enough, but which, at the time, effected a complete revolution in both practice and theory. The three necessities of every community are, of course, land, capital, and labour. New Colonies are amply dowered with the first, but the capital, through which alone land becomes valuable, is frightened away by the scarcity of labour. No scheme of assisted emigration can insure to the capitalist labourers so long as, in the neighbourhood, land can be obtained for a nominal price. The land, then, according to Wakefield, must not only be sold, but sold at a "sufficient" price. The amount of such sufficient price varies in time and place, but can be roughly defined as that price which will ensure that labourers shall remain workmen for hire for a reasonable time. Wakefield was always very careful to avoid defining the price actually sufficient in any particular case; but it could be arrived at by noting the rate of wages, and the time during which it was necessary, with such a rate of wages, for labourers to work for hire before becoming land-owners. The regulations of 1831 owe their origin to the influence exercised by Wakefield upon the mind of Lord Howick,[2] the Under Secretary for the Colonies. They required that all lands should be disposed of by auction at a minimum upset price, and

Its influence.

[1] The best statement of Wakefield's views is in his *View of the Art of Colonization*, 1849. See also his evidence before the H. of C. Committees of 1826, 1836, 1840 and 1841. Canterbury and Otago in N. Zealand were the settlements in which the system received the fairest trials, and in these the result obtained is thus stated by Mr Rusden, *Hist. of N. Zealand*, Vol. III. p. 124: "Out of 11,915,393 acres sold from the foundation of the Colony till 31st Oct. 1876 for £8,101,859, the enormous proportion of £5,395,000 had been received by Canterbury and Otago for less than 4,500,000 acres. For about the same land as that sold by Auckland, Canterbury had received thirteen times as much money."

[2] Afterwards Lord Grey.

for ready money only. Afterwards, Wakefield inveighed strongly against the mode of selling by auction,[1] and insisted upon the necessity of a single uniform price. But it must be confessed that such a practice led to absurdity, where, as in South Australia, town lots were surveyed and laid out by the Government for sale, and it would certainly appear that, so far as the main advantages of the plan were concerned, the question was one of detail rather than of principle. The net revenue arising from the sale of colonial lands was to be applied to the encouragement of the emigration of females. The need for women was especially felt in the Australian Colonies; a sum of over £42,000 was expended for this purpose between 1832 and 1836, and nearly 3000 females were sent out. Some assistance was also given to the emigration of married artisans. Emigration commissioners were appointed in 1831, to superintend generally matters relating to emigration. The annual exodus to Canada after the Peace attained great proportions. The average annual emigration for some years was twenty thousand, and in one year as many as fifty thousand persons emigrated to Canada. Terrible revelations as to the treatment endured by emigrants on board ship had been made, and Government officers were appointed in the different ports for their protection. It would appear, however, from Lord Durham's Report that the measures taken were not very successful. 1839.

In this state of things, when the theories of Wakefield were already beginning to bear fruit, the whole subject was carefully considered by a strong Parliamentary Committee. The Report[2] was evidently framed under the influence of Wakefield's convincing evidence. It advised that the whole of the arrangements connected with the sale of land should be placed under the charge of a central land Board, resident in London, and made responsible either to some existing department of Government or to Parliament directly. That this Board, acting through Local Boards in the Colonies, should be charged both with the superintendence of the surveying department and with the duty of "so directing the

[1] See Letters L. LI. of *View of the Art of Colon.*

[2] *Parl. Pap.*, 1836.

stream of emigration as to proportion in each case the supply of labour to the demand." The net proceeds of the land sales should be employed as an emigration fund; each Colony being furnished with emigrant labour in exact proportion to the amount of its own land sales. The Committee considered that it would be "perfectly practicable to raise, upon the security of the future land sales, the funds necessary to set on foot a plan of systematic emigration, upon a scale sufficiently large to meet the exigencies of the Colonies and of the mother country." In accordance with these recommendations, Lord John Russell [1] appointed a Land and Emigration Commission, prescribing the nature of their duties in instructions, which, as Charles Buller afterwards asserted,[2] contained "an admirable view of the general duties of a Government with regard to colonization." Lord John Russell was, however, unsuccessful in the attempt to introduce the system of sale, at the uniform price of £1 an acre, into the Port Phillip district of New South Wales. The Governor, Sir G. Gipps, a singularly strong man, was no believer in the Wakefield system, and against his combined knowledge and obstinacy the despatches of ministers knocked in vain.

Views as to Colonial lands.

With regard to the general view of the Colonial lands, as being an heritage held in trust for the common purposes of the Empire, there was at the time no division of opinion among English statesmen. The most eloquent statement of this view is to be found in Lord Durham's Report.[3] "The country which has founded and maintained these Colonies at a vast expenditure of blood and treasure, may justly expect its compensation in turning their unappropriated resources to the account of its own redundant population; they are the rightful patrimony of the English people, the ample appanage, which God and nature have set aside in the New World, for those whose lot has assigned them an insufficient portion in the old. . . . Under wise and free institutions these great advantages may yet be secured to your Majesty's subjects,

[1] *Parl. Pap.*, 1840.

[2] "Speech on Colonization," 1843, republished in Wakefield's *View*, etc.

[3] *Report on the State of Canada*, p. 5.

and a connection, secured by the link of kindred origin and mutual benefits, may continue to bind to the British Empire the ample territories of its North American Provinces, and the large and flourishing population by which they will assuredly be filled." Equally strong is the language of a despatch written by Lord Grey to Governor FitzRoy at a much later date.[1] "The waste lands of the vast Colonial possessions of the British Empire are held by the Crown, as Trustee for the inhabitants of that Empire at large, and not for the inhabitants of the particular province, divided by arbitrary geographical limits, in which any such waste land happens to be situate. Otherwise the consequence would follow, that the first inhabitants of any of these vast provinces (if possessing those representative institutions which arise as of right in ordinary British colonies) are indefeasibly entitled to administer all the lands and land revenue of the great unexplored tract called a Province, of which they may occupy an extremity, wholly without regard to the nation which has founded the settlement, perhaps at great expense, in order to serve as a home for her own emigrants and a market for her own industry." Jan. 23, 1852.

It was, however, when it became necessary to translate these admirable theories into practice that the real difficulties began. In the case of Canada these difficulties proved insurmountable. Two special causes were at work. On the one hand the reckless disposal of the public lands, which had taken place in the past, rendered almost hopeless the introduction of any new system. On the other hand, there was not the same practical need for an emigration fund in the case of Canada as in that of the Australian Colonies; the spontaneous immigration being on so great a scale. But, whatever may have been Wakefield's own opinion, there can be no question but that the furnishing of an emigration fund was, with practical men, the reason for adopting so much of his theory, as was in a confused and bungling fashion actually adopted.

With regard to Australia, the Act introduced by Lord 5 and 6 Vic., c. 36.

[1] *Colonial Policy*, Vol. II., Appendix A.

Stanley in 1842 was an honest attempt to deal with the question. Under it all Crown lands were to be sold by auction, the minimum upset price being 20s. per acre. Subject to a charge for cost of survey, half of the gross proceeds were to be spent on immigration to the Colony in which the Revenue accrued. Power was given to the Governors to raise the upset price, and a distinction was to be drawn in fixing upset prices between town, suburban, and country lots. The Act applied to Van Diemen's Land and New Zealand. So far, the Act, which merely gave Parliamentary authority to the practice of successive Secretaries of State, seemed fair enough. It did not, of course, satisfy the claim of the colonists that the land belonged to them to deal with as they liked. But against this contention all English statesmen were combined. The real difficulty of the Australian land question arose out of the peculiar position of the "squatters." The penetrating mind of Wakefield had, from the first, seen to the roots of the question. He recognised[1] that the theory of a sufficient price could in no wise apply to the use of natural pasturage. The prosperity of New South Wales was wholly dependent on such use of vast tracts. The putting of a price on this use he regarded as a most unwise and oppressive tax—unwise because it was a tax on the article of primest necessity in New South Wales, oppressive, inasmuch as it was imposed and maintained in spite of every kind of complaint from the colonists. It was one thing to maintain the abstract position that the regulation of the land was the prerogative of the Crown. It was quite another to find that the Governor was thus able, without consulting his legislative council, to impose[2] "arbitrary and unlimited imposts for the occupation of Crown lands." The excitement over Sir G. Gipps' proceedings joined all classes

[1] *View of the art of Colonization*, Letter LXIV.

[2] See Rusden's *Hist. of Australia*, Vol. II., p. 328. The words quoted were used by Wentworth at a public meeting in Sydney. The date of the Regulations complained of was April 2, 1844. As Mr Rusden says, "their sting was more in the underlying principle than in the amount of the additional burdens proposed."

in opposition, and thus served to render easy the alterations in the law which were to give rise to the fierce class dissensions of later times. The Bill introduced by the Conservative Government in 1845 merely legalised the practice of squatting by allowing leases to the occupiers, and by introducing, in certain cases, compensation for improvements. Lord Grey's Australian Waste Lands Act 1846, while effecting this, went further, and mentioned among the subjects, on which rules and regulations were to be made by Orders in Council, "any right of pre-emption which it may be proper to give to the holders of any such demise or such licence." The enforcement of this power in New South Wales was the *fons et origo* of the troubles which afterwards ensued. It tended to [1] "exasperate the remainder of the community against the squatters because it 'locked up the land.' . . . and in the end was to squander a magnificent territory which might have yielded untold millions for the construction of public works and the promotion of the public good." So little, however, was Lord Grey aware of the effect of his proceedings that he asserts that the regulations under the Act in the Australian Colonies were "different in form but the same in principle." [2] Now in South Australia, the rule as drafted in the Colony and accepted by the Crown, was "Nothing in these regulations . . . shall prevent the said Governor from selling any land comprised in such Lease." The New South Wales Order ran:—"During the continuance of any lease of lands, occupied as a run, the same shall not be open to purchase by any person except the lessee thereof, but it shall be lawful to sell to such lessee any of the lands comprised in the lease." That a man of the ability of Lord Grey should have really thought that these clearly contradictory rules were the same in principle, affords a strong argument to show how unfitted a London office was to deal with the details of Australian land laws, and to vindicate the subsequent abandonment of the whole matter to the Colonial legislatures. The peculiar differences between the land

9 and 10 Vic. c. 104.

[1] Rusden, *Hist. of Australia*, Vol. II. p. 420. [2] *Col. Pol.*, Vol. I. p. 305.

questions in New South Wales and Victoria were, naturally, without the ken of English statesmen. Hence the able suggestions[1] of Mr Latrobe, the Superintendent of Port Phillip, were neglected, and the seed sown of future troubles. So late as 1852 we have seen that Lord Grey maintained the old view as to the Crown lands, but already politicians of more teachable disposition were beginning to recognise that the discovery of gold and the consequent influx of immigrants had entirely altered the situation. The shrewd Wakefield[2] had from the first recognised that the time must come when the Colonies must be allowed to legislate with regard to the land as with regard to all other domestic questions, and in his dislike of the Colonial Office, looked forward with pleasure to that time. Sir J. Pakington was then probably wise in arriving[3] "after full consideration at the conclusion that, under the new and altered circumstances of New South Wales, the time is come at which . . . the administration of these lands should be transferred to the Colonial Legislatures." The subsequent Acts passed by the Whigs in 1855 were the formal embodiment of this policy.

18 and 19 Vic. c. 55 and 56.

S. Australia.

But it was not merely on the land question that the new leaven worked. The foundation of the new Colonies of South Australia and New Zealand were due to the same influence. The Colony of South Australia, as at first projected, contemplated a Chartered Company such as those of the 17th century. It would have differed, however, from the Virginia Company, in not being started with a view of making profits, and the transfer of the government, after a certain period, to the Crown was from the first proposed. Mention has already been made of the intention that there should be a popular representative Assembly. The idea of a Chartered Company did not commend itself to the English Ministers; so, instead, the Act was introduced which created a divided authority, leaving to the Governor and Council the executive and

4 and 5 Wil. IV., c. 95.

[1] *Parl. Pap.*, 1852-3. [2] Evidence before Parl. Com. of 1836.
[3] *Parl. Pap.*, 1852-53.

legislative power and the levying of taxes, but vesting in a Board of Commissioners the disposal of the public lands and the employment of the emigration fund raised thereby, along with the raising and the application of the revenue required for defraying, in the first instance, the colonial expenditure. In the words of the Parliamentary Committee of 1841,[1] "the powers of administration were so parted between the two that they could not be effectually exercised by either." As Wakefield well put it,[2] "according to the manner, I will not say the system, in which South Australia has been governed and colonized, everybody seems to have been relieved from responsibility to anybody." The Commissioners, having deposited with the Government the sum of £20,000, might then sell land within the Colony at a uniform price, which was not to be lower than twelve shillings an acre. The whole proceeds were to be devoted to the emigration of persons under thirty, as nearly as possible in equal proportion of sexes. After the sum of £35,000 had been received as proceeds of land sales, the Commissioners were empowered to borrow £50,000 as an Emigration Fund, to be charged upon future land sales, and a further sum of £200,000 for the general purposes of Government, to be charged on the general revenue. A further statute amended the former by enabling the Commissioners to obtain money on more economical terms. Unhappily, upon a change of Ministry, the Commissioners who had been decided upon refused to serve, and a weaker body consisting of ten members under the chairmanship of Colonel Torrens, was appointed. The Commissioners remained in office from 1835 until January 1840 when their duties were transferred to the new Land and Emigration Board. At first, the Colony was a scene of strife between the Governor and the Resident Commissioners. A party defended either side, and the result was deadlock. This evil was remedied by the appointment of a new Governor who was also resident Commissioner. Fresh difficulties, however,

1 and 2 Vic. c. 60.

[1] *Parl. Pap.*, 1841. [2] Evidence before Com

soon became apparent. It was clear that no proper estimate had been made of the probable expenses of government. The Company had taken its rise in an atmosphere of borrowing, and no serious attempt appears to have been made to limit expenditure by means in hand. The British Government was compelled to interfere, and under the firm hand of the new Governor, Captain Grey, the Colony gradually returned into the paths of solvency. Whatever may have been the mistakes and mismanagement which attended the foundation of South Australia, they furnish no argument to the enemies of the Wakefield theory. The South Australia Act had been the result of compromise. The Government had been at first half-hearted, and but for the help of the Duke of Wellington,[1] the Bill would have been defeated in the House of Lords. Wakefield himself was strongly opposed to many of its provisions. When all however has been said, the fact remains that under it a population of 15,000 persons were, within a few years, settled in a new country without any of those attendant misfortunes and failures which have generally waited upon new Colonies. From the point of view of the moment, South Australia may have been a failure, but from the point of view of history it was no less certainly a success.

N. Zealand. In approaching the subject of the colonization of New Zealand, the student is treading on ground which is still hot with the ashes of controversy. A copious literature has arisen about the wrongs and rights of the New Zealand Company, the English settlers, and the Maoris. For present purposes we must be content with bare outlines. New Zealand had been discovered by Captain Cook, and claimed as British territory. Although the greater part of the Islands were included in the original commission of Captain Phillip as Governor of New South Wales, no steps had been taken to enforce such claim, and it therefore remained inoperative from the standpoint of international law. In process of time, the North Island, from its situation, became more and more the resort of the lowest kind

[1] Acc. to Wakefield in *View of Colon.*, p. 48.

of European trader; and a Statute was therefore passed in 1817 giving the New South Wales Court the power to try offences committed in New Zealand. In 1832 a British Resident was appointed. As, however, his instructions expressly admitted, "You are aware that you cannot be clothed with any legal power, by virtue of which you might be able to arrest British subjects offending against British or colonial laws in New Zealand," not much good could be expected from his appointment. Meanwhile, as we have seen, colonization was in the air. "We are going, I think,"[1] Wakefield said in 1836, "to colonize New Zealand, though we are doing so in a most slovenly and scrambling and disgraceful manner. New Zealand is coming under the dominion of the English Crown. Adventurers go . . . and make a treaty with the native Chief, the poor Chief not understanding a word of it . . . for a few trinkets and a little gunpowder, they obtain land. After a time, in these cases, after some persons have settled, the Government at home begins to receive hints that there is a regular settlement of English people . . . and has been generally actuated by a wish to appoint a Governor and says, 'this spot belongs to England, we will send out a Governor.'" At the time, cross currents were at work. On the one hand there was the movement in favour of colonization. As a result of Wakefield's evidence before the Parliamentary Committee, Mr F. Baring was induced to found, along with Wakefield and others, in 1837, the New Zealand Association. But at this stage, the other current meets us. Another Parliamentary Committee had considered[2] the general question of the Aborigines, and had strongly urged the iniquity of ousting native proprietors from their land. The statute of 1817 had declared that New Zealand was "not within His Majesty's Dominion," and Secretaries of State[3] persisted, as late as 1839, in regarding it as "a sovereign and independent State." When, therefore, the New Zealand Association approached the Government, they found themselves confronted with a powerful opposition.

57 G. III., c. 53, see also 4 G. IV., c. 96 and 9 G. IV., c. 83.

[1] Evidence before Parl. Com.

[2] *Parl. Pap.*, 1836-1837.

[3] *e.g.*, Lord Normanby.

The Church Missionary Society at home was against British annexation, though the missionaries on the spot recognised that some such measure had become inevitable. In addition to other causes of difficulty there were those connected with Lord Glenelg's general incapacity and weakness. It was not until 1839 that he was "turned out"[1] of the Ministry by his colleagues for his "incompetence to administer colonial affairs." As a pillar of the Church Missionary Society, he may have felt distrust of the New Zealand Association; but as a Minister he mumbled that[2] "the jealousy of foreign Powers might be excited by the extension of British Colonies, and that we had Colonies enough. They were very expensive to govern and manage, and not of sufficient value to make it worth while to increase their number." The New Zealand Association was disappointed, as, apparently, they had at first won the sympathies of the energetic and capable Under Secretary, Lord Howick. The grievance, which he considered he had against Lord Howick, embittered Gibbon Wakefield, and seriously diminished his power for good. Meanwhile, the Association proceeded with its Bill in Parliament, which ran on the lines of the South Australian measure, except that it proposed to delegate all powers to specially appointed Commissioners for a limited term of years. The Bill was referred to a Committee of the House of Lords, the terms[3] of whose report were significant. They carefully refrained from comment on the New Zealand Association; merely contenting themselves with affirming that the extension of the colonial possessions of the Crown was a question of public policy, which belonged to the decision of Her Majesty's Government. They considered, however, that "support . . . of the exertions, which have already effected the rapid advancement of the religious and social conditions of the Aborigines of New Zealand, affords the best present hope of their future progress in civilisation." All this time the New Zealand Association was being tantalised, and led from pillar to post by the Colonial Office. They were offered a

[1] *Greville Memoirs*, 2nd Series, Vol. I., Oct. 10, 1839.
[2] Wakefield, evidence before Parl. Com. 1840. [3] *Parl. Pap.*, 1838.

charter,[1] if they would become a joint stock company trading for profit. At last, when it was seen that nothing was to be gained from the Government, they decided to found a company, and form Colonies without the assistance of the Crown. It is only fair to remember that they only adopted the course of purchasing land direct from natives[2] "because the conduct of the Government precluded them from taking the course which they had in their original plan proposed, that no individuals should be allowed to purchase land from the natives, but that it should be acquired from them only by a responsible officer of state." Had this course been adopted from the first, much future trouble and bloodshed would have been spared. There can be little question, but that the action of the New Zealand Company, in announcing the despatch of a large body of emigrants, forced the hands of the Government, and compelled them to adopt measures "for establishing some British authority in New Zealand." Under Lord Normanby's instructions of August 1839, the newly appointed Lieutenant Governor was to treat with the natives for "the recognition of Her Majesty's sovereign authority over the whole or any parts of these islands, which they may be willing to place under Her Majesty's dominion."

Treaty of Waitangi.

The Treaty of Waitangi, signed February 6th, 1840, was the result of these instructions. Under it, the chiefs of the Confederation of the United tribes of New Zealand, and the independent chiefs, ceded to the Queen "absolutely and without reservation" all rights and powers of sovereignty. On the other hand the Queen "confirms and guarantees . . . the full, exclusive and undisturbed possession of their lands and estates, forests, fisheries, and other properties, which they may collectively or individually possess, so long as it is their wish and power to retain the same in their possession, but the chiefs . . . yield to her Majesty the exclusive right of pre-emption over such lands, as the proprietors thereof may be disposed to alienate." The natives of New Zealand were henceforth to enjoy "all the rights and privileges of

[1] Wakefield, Ev. before Parl. Com., 1840. [2] *Ibid.*

British subjects." It would seem that the action of the New Zealand Company was probably the means of saving New Zealand to the British Empire.[1] In 1839 there were negotiations between a French Company and the Government. A war vessel was put at the disposition of the Company: the intention being "Fonder et occuper les premiers établissements, qui y seront créés par la campagnie, après qu'elle aura acquis les terrains, sur lesquels elle s'établira." The Company in return "livrera a l'Etat le quart de terrains qu'elle pourra acquérir." In this respect, at any rate, the new Zealand Company deserved well of the future New Zealand nation.

In considering the controversy between the British Government and the New Zealand Company, it would seem that all parties were to blame. If the New Zealand Company descended more and more from being an Association, commanding the support of some of the best men of the day, into a mere joint stock affair, which, as such, managed badly its financial concerns, it was, in great measure, due to the fact that it was impossible to carry on the work of colonization on a large sound and liberal scale," "without the cordial co-operation"[2] of the British Government. The situation, from the first, was an impossible one. A private company tried to force, and did force the hands of the Colonial Office. The intention of the English Government and of its colonial officers, in the Treaty of Waitangi, and in the annexation, was to preserve the rights of the Maoris. The intention of the New Zealand Association, and of the settlers, was to throw open to British colonization a new and fruitful portion of the earth. In this state of things, friction and disputes were inevitable. Under the convenient land law of the Maoris, it appeared that property lay with the male members of the tribe, so that alienation by individuals was inoperative. Hence the title of the Company to the lands, which they claimed to have bought, appeared

[1] See Rusden, *Hist. of New Zealand*, Vol. I., p. 241. The annexes quoted by Mr Rusden appear omitted in the English Blue Book. *Parl. Pap.* 1845.

[2] *Parl. Pap.* 1844. Rep. of Com. on N. Zealand.

bad to the Commissioner, appointed to investigate titles. On the other hand, Lord John Russell had agreed that, in consideration of the Company surrendering its lands to the Government, it should receive as many acres as should be "equal to four times the number of pounds sterling," expended in purchasing lands, despatch of ships, buildings, &c.

What was the meaning of this agreement? Lord Stanley strenuously maintained that it only referred to such lands as the Company could show a just title to. But, in any case, it was hardly possible to allow settlers, who had bonâ fide paid for their lands to the company, to be dispossessed, and a compromise was assented to by Lord Stanley. The conviction is forced home to one that, in the interests of the Maories themselves, it was desirable, that some modification should be made in the Treaty of Waitangi, to prevent the deadlock which was its natural outcome. Meanwhile, such deadlock was well illustrated by the action of the House of Commons Committee of 1840,[1] wherein the majority, disagreeing with the proposed Report of the chairman, which was to some extent in favour of the New Zealand Company, put forward no rival Report, but merely reported the evidence to the House of Commons. Four years later, another Committee[2] arrived at more definite results. Their Report, drafted by the Chairman, Lord Howick, contained nineteen resolutions. After sacrificing to law and order, by a condemnation of the Company, in sending out settlers, "not only without the sanction, but in direct defiance of the authority of the Crown," it went on to condemn the Treaty of Waitangi, to declare that under the treaty there was no acknowledgment of property "in all wild lands," and that the British Government ought to claim all lands "not actually occupied and enjoyed by natives." It further admitted the right of the New Zealand Company to the lands awarded them by the accountant, who had investigated their expenditure. It is one of the ironies of party government that the confused affairs of the

[1] *Parl. Pap.*, 1840. [2] *Parl. Pap.*, 1844.

New Zealand Company fell under its sway, so that, for the most part, Whigs were found voting in its favour, and Tories against it. When Lord Howick became Colonial Secretary he secured from Parliament better terms for the Company than some considered that it deserved. Lord Howick also endeavoured by instructions to enforce his view of the Treaty of Waitangi, but the tide of opposition was too strong for him, and he discreetly yielded. But even with the assistance of the English Government, the New Zealand Company was unable to prosper, and finally, in 1850, it resigned its Charter into the hands of the Crown.

10 and 11 Vic. c. 112.

The story of the Colonization of New Zealand has aroused keen interest. It has been written under the indignation excited by the wrongs of a singularly interesting and romantic race. It has been written under the smart of financial jealousies. The case of the Crown versus the New Zealand Company had its colonial counterpart in the case of Auckland versus Wellington. All this, however, cannot detain us here. For us the moral of the story lies in the danger of not knowing one's own mind, of being afraid to take in hand a definite policy. The Colonial Office wanted to be just to the natives, wanted in a mild way to develop British colonization, but it never took the trouble to work out how the two objects were to be reconciled.

The Gibbon-Wakefield School.

Nor were other consequences of this controversy of trifling importance. It was not well that the reformers of 1830 should have become alienated and embittered, and have declared that never again, after their experiences at the Colonial Office, would they take in hand the work of colonization. Whatever their failings, they were not the mere land sharks which they have too often been represented. There was some truth as well as much bitterness in the powerful pictures of the Colonial Office drawn by Gibbon Wakefield and C. Buller. "Our colonial system of government,"[1] wrote the former, "is the bureaucratic, spoiled by being grafted on to free institutions . . . it is like a tree without roots, all stem and branches apt to be bent any way.

[1] *View of the Art of Colonization*, p. 235.

. . . It sets off in one direction, and takes another the moment some interest or clique or association strongly objects to the first course. At one time the West Indian body in England suggests what it shall do, at another the Anti-Slavery society impels it . . . conscious of feebleness arising from the want of a public on the spot to sustain it in doing right and prevent it from doing wrong,—fully aware of its own unpopularity as a bureaucratic institution in a free country,—well acquainted with the facilities which the free press and the free institutions of this country afford for pressing it disagreeably, the Colonial Office but faintly resists anybody who may choose to make a business of pressing it." (Such, however, had hardly been the experience of the New Zealand Company in its dealings with Mr Stephen.)

C. Buller's description of Mr Mother Country is famous.[1] "In some back room . . . you will find all the Mother country which really exercises supremacy, and really maintains connection with the vast and widely scattered Colonies of Britain. We know not the name, the history or the functions of the individual, into the narrow limits of whose person we find the Mother country shrunk . . . he has a modest home in the outskirts of London, with an equally modest establishment, and the colonist, who is on his road to the office, little imagines that it is the real ruler of the Colonies that he sees walking over one of the bridges, or driving his one horse shay or riding cheek by jowl with him on the top of the short coach, as he comes into town of a morning." (When the Secretary of State was a cypher like Lord Glenelg there may have been truth in this picture; but C. Buller had himself good reason to know that when strong men were in the saddle it made a difference whether one had to deal with a Lord Stanley or a Lord Grey.) Again, "There are rooms in the Colonial Office with old and meagre furniture, book-cases crammed with colonial gazettes and newspapers, tables covered with baize, and some old and faded chairs scattered about, in which those who have personal applications to make are doomed to wait until the interview

[1] Reprinted in Wakefield's *View of the Art of Colonization*, pp. 279-296.

can be obtained. Here, if perchance you shall some day be forced to tarry, you will find strange, anxious looking beings, who pace to and fro in feverish impatience or sit dejected at the table, unable in the agitation of their thoughts to find any occupation to while away their hours, and starting every time that the door opens, in hopes that the messenger is come to announce that their turn is arrived. Those are men with colonial grievances. The very messengers know them, their business and its hopelessness, and eye them with pity as they bid them wait their long and habitual period of attendance. No experienced eye can mistake their faces, once expressive of health and energy, now worn by hopes deferred and the listlessness of prolonged dependence. One is a recalled Governor, boiling over with a sense of mortified pride and frustrated policy; another a judge, recalled for daring to resist the compact of his Colony; another a merchant, whose whole property has been destroyed by some job or oversight; another the organ of the remonstrances of some colonial Parliament; another a widow, struggling for some pension, on which her hopes of existence hang; and perhaps another is a man, whose project is under consideration. Everyone of these has passed hours in that dull but anxious attendance, and knows every nook and corner of this scene of his sufferings . . . and, if by chance you should see one of them at last receive the long-desired summons, you will be struck with the nervous reluctance with which he avails himself of the permission. After a short conference you will generally see him return, with disappointment stamped on his brow, and, quitting the Office, wend his lonely way home to despair, or perhaps to return to his Colony and rebel. These chambers of woe are called *The Sighing Rooms*, and those who recoil from the sight of human suffering should shun the ill-omened precincts."

It must of course be remembered that these are the words of a partisan, but in their general indictment of bureaucratic government, and in their desire that, so far as internal questions were concerned, Colonies should be as far as possible independent self-governing communities, time has abundantly

justified the wisdom of the views held by Wakefield and Buller. In fairness to Wakefield, we must remember that his theory consisted of two branches, and that the part connected with municipal government appeared to him no less important than the part relating to the disposal of public lands. In another direction, the efforts of the school were noteworthy. Recognising that in the past, the most successful emigration had been closely allied with religious influences, they sought to enlist the aid of the churches in their undertakings. In founding Otago, they co-operated with the General Assembly of the Free Church of Scotland, and they settled Canterbury under the auspices of the leading English churchmen of the day. By this means, a better class of emigrant was obtained than the kind of people who had, for the most part, emigrated since the New England Colonies were founded by non-conformity. Upon the whole, taking into consideration the founding of South Australia and New Zealand, and the influence exercised by it upon public opinion on such questions as the disposal of the Crown lands, responsible government, transportation, &c., the importance of the movement of 1830 can hardly be exaggerated. Even if, judging by tangible results, its immediate effect was limited, the ideas underlying it were big with the promise of a better day.[1]

Responsible government.

The period with which we are here dealing is remarkable on various grounds. Not only did it initiate a new mode of dealing with Crown lands, and witness some attempt at colonization on systematic lines, it also solved the question what was to be the future mode of government in the British Colonies. Moreover, to it belongs the final victory of Free Trade in the British Legislature.

It has been often said that responsible government

[1] As an example of how little the true moral of the loss of the American Colonies had been laid to heart under bureaucratic government, we may cite the well-known letter of O'Connell to one of his "tail," who had got himself banished from decent society in this country, saying in effect, "Though I can do nothing for you here, if you will retire from Parliament for the sake of the credit of our party, I will get you a place in the Colonies." Wakefield, *View*, etc. p. 145.

was conferred upon the British Colonies as a half-way house to peaceful separation, but much may be said against this view. The earliest and ablest advocate among British statesmen, of full responsible government, was Lord Durham, through every page of whose famous Report there breathes a passion of Imperial patriotism, strange enough at the time. It so happens that the Minister who was mainly concerned with the granting to the Colonies of responsible government, has left behind him (a rare case with English politicians) his considered opinions on the relations between the Mother country and the Colonies. In Lord John Russell's great speech[1] in 1850 may be found the refutation of any such charge, though it must be admitted that there was a sting in the tail of Lord John's otherwise admirable speech. After dealing in the most satisfactory manner with present questions, he most unnecessarily concluded with predictions about the remote future which, as we know from Lord Elgin,[2] deeply disturbed the mind of Imperial patriots. That the generation with which we are here dealing had much confidence in the permanence of the colonial connection is not pretended, but it does not follow that statesmen were not therefore anxious to postpone as long as possible what they believed to be ultimately inevitable.

So far as Lord Durham and the Wakefield school were concerned, it seems something of a paradox, as pointed out by Merivale,[3] that the same men should have been strongly in favour of preserving to the Empire the benefit of the colonial lands, and should also have been the strenuous advocates of granting to the Colonies full powers of government, amongst which it would be difficult to withhold the control of the public lands. But there can be no question of the honesty and intensity with which both opinions were held. Listen to the language of Lord Durham: "I cannot

[1] Hans. N.S., Vol. CVIII., p. 535.

[2] *Letters and Journals of Lord Elgin*, ed. by T. Walrond, p. 115. "Alas for that sting in the tail!"

[3] Note at p. 435 of *Lectures on Colonisation and Colonies*. 1861 ed.

participate in the notion that it is the part either of prudence or honour to abandon our countrymen when our government of them has plunged them into disorder, or our territory, when we discover that we have not turned it to proper account. The experiment of keeping Colonies, and governing them well, ought at least to have a trial ere we abandon for ever the vast dominion, which might supply the wants of our surplus population, and raise up millions of fresh consumers of our manufactures, and producers of a supply for our wants."[1] Note, too, the language of Lord John Russell in the Despatch[2] conveying the Queen's assent to the new Australian constitutions: "The colonists . . . by their avowed desire to assimilate their institutions as far as possible to those of the Mother country, have proved that this sympathy was not merely the expression of a common sentiment arising from common origin, but connected with a deliberate attachment to the ancient laws of the community from which their own was sprung. Whilst continuing, therefore, to pursue their present independent course of progress and prosperity, I have the fullest confidence that they will combine with it the jealous maintenance of ties thus cemented alike by feeling and principle."

[1] *Report on Can.*, p. 244.

[2] *Parl. Pap.*, 1855.

CHAPTER II

THE INTRODUCTION OF RESPONSIBLE GOVERNMENT

Canada. RETURNING to the history of Canada, it has been already seen in what circumstances of gloom the period opened. In Lower Canada the long conflict between the Assembly and the Executive was hastening to a crisis. The ultimate aim of the Assembly was doubtless to assert a Canadian nationality against the progressive intrusion of the English race, but the unhappy condition of the Constitution enabled it to fight at an advantage. "Having no responsible Ministers to deal with, it entered upon that system of long enquiries, 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 on merely political grounds, and seeing almost every office in 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 enquiries and consequent impeachments, not always conducted with even the appearance of a due regard to justice; and when nothing else would attain its end of altering the policy or 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 machinery of government by a general refusal of the supplies."[1] The practice of passing the most important laws in a temporary form was reduced to a general system, so that by "tacking" their own proposals to necessary measures, the majority might compel the Governor and

[1] Lord Durham, *Rep. on Can.*, p. 57.

Council to agree to the former. Another provision of the Constitution led to calamitous results. It was not necessary, as in Parliament, to obtain the previous consent of the Crown to money votes. Hence ensued a perfect scramble among the members of the Assembly to get as much as possible of the public funds for their respective constituents. The revenue was dispensed by Commissioners named by the Legislature, and this patronage was turned by the Assemblies to their own account. In Upper Canada the same constitutional difficulties were at work, although not aggravated by race distinctions. The "family compact" was opposed by a party of reformers, while, in addition, there was a very numerous body of British new-comers, whose sympathies swayed about according to their view of the principle at stake.

In this state of things, Lord Gosford, Sir C. Grey, and 1835.
Sir G. Gipps were appointed Commissioners to settle matters, Lord Gosford being appointed Governor. The Commissioners' instructions were of a most conciliatory character, and Lord Glenelg was able to affirm in the following year 1836.
that "no single complaint has been alleged which has not been either promptly removed or made the subject of impartial enquiry." Some difficulty[1] arose from the behaviour of William IV., who had not taken to heart the moral of his father's proceedings. Death, however, intervened before it could be known how far his obstinacy would have carried him. In spite, however, of conciliatory measures no good resulted. The ignorant and easily-led Lower Canadian people had thrown themselves into the arms of the vain and shallow Papineau, and in 1837 rebellion broke out. In Upper Canada the rebellion was a very small affair, and even in Lower Canada it was easily quelled. But the more difficult question remained what was to be done.

In 1838 the Canadian Constitution was suspended, and Lord Durham appointed "High Commissioner for the adjustment of certain important questions. . . . respecting the form and future government" of the two Provinces. I have

[1] See *Melbourne Papers*, p. 349.

already freely quoted from the pages of his Report.[1] Its extreme ability surprised the London world, which had hitherto seen in Lord Durham only the *enfant terrible* of the Whig party. It is hardly too much to say that this Report is the most valuable document in the English language on the subject of Colonial Policy. Its final recommendations involved the union of the two Canadas, the constitution of a plan of Local Government by elected bodies, and the establishment of a general Executive on improved principles. "The responsibility[2] 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 . . . 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." Other important recommendations dealt with the Legislative Council, the Public Revenue, the securing the independence of the Judges, and the adoption of the rule that no money votes should be allowed to originate without the previous consent of the Crown. On the disposal of the Crown lands and on emigration, Lord Durham put forward the views to be expected from a powerful supporter of the Wakefield theory. That Lord Durham's mission was a brilliant success few Canadians have ever doubted. Unhappily, however, in the measures he took after the rebellion, while doing substantial justice and satisfying Canadian public opinion, he went beyond the letter of the law, and so, under the party system, could be pounced upon by his adversaries. Attacked by Lord Lyndhurst, by Lord Brougham, and by the Duke of Wellington, who for once seems to have preferred party

[1] I am aware that contemporary gossip credited C. Buller with the authorship of it, but the conclusive answer to this is that the style is quite different from that of C. Buller's own Report as assistant Commissioner. See also Buller's own account in Lord Durham *Life* by Stuart Reid, Vol. II.

[2] p. 241. The expression "responsible government" first occurred, I believe, in a petition from Upper Canada presented to Parliament by Mr Stanley in 1829. See MacMullen's *Hist. of Canada.*

to British interests, he was practically deserted by the Government, and threw up his office in a huff. In any case he had done the work entrusted to him, and it was by a happy decision of fate that his own son-in-law should have been the Governor, who, by his success in working out fairly Lord Durham's views of government, should have made "the real and effective vindication of Lord Durham's memory and proceedings."[1] Meanwhile, at the time of his resignation, matters were far from clear. The House of Commons had added to the difficulty by passing a resolution[2] in 1837, at the instance of Lord John Russell himself, which denied to Canada responsible government on the English model. That Minister now adopted a kind of half-measure. In his instructions to Poulett Thomson,[3] Lord Durham's successor, he wrote:—"You will understand, and will cause it to be generally known, that hereafter the tenure of Colonial offices, held during Her Majesty's pleasure, will not be regarded as equivalent to a tenure during good behaviour."[4] On this question nothing can be more instructive than to compare the different views of Lord Sydenham, Lord Metcalfe, and Lord Elgin, all men of first-rate ability. The difficulty for Poulett Thomson, who had been an active member of Parliament, to adopt the role of a Governor, who reigns but who does not directly govern, was immense.[5] "I have told the people plainly," he wrote, "that, as I cannot get rid of my responsibility to the Home Government, I will place no responsibility on the Council; that they are a *Council* for the Governor to consult, but no more. Either the Governor is the Sovereign or the Minister. If the first, he may have Ministers, but he cannot be responsible to the Government at home, and all colonial government becomes impossible. He must, therefore, be the Minister, in which case he cannot be under the control of men in the Colonies." Lord Sydenham's own way out of the difficulty was to plunge

[1] *Letters and Journals of Lord Elgin*, p. 41.
[2] *Hans. N. S.*, Vol. 36, p. 1305.
[3] Afterwards Lord Sydenham.
[4] *Parl. Pap.*, 1839.
[5] *Memoir of Life of Lord Sydenham*, by G. P. Scrope.

boldly into the strife of politics, and by dint of his own powerful personality, to carry one side to victory. In his own opinion his success was complete, but shrewd [1] onlookers were of opinion that, had he lived, his system must very soon have broken down. Under the short government of of his successor, Sir C. Bagot, responsible government obtained fairer play, but difficulties again arose with the appointment of Sir C. Metcalfe.[2] In spite of his great ability and high character, it may be doubted whether Metcalfe was quite the right man in the right place as Governor General of Canada. His Indian experience weighed too heavily on him. He was wont to compare his position to that of an Indian Governor,[3] who should have to rule through the agency of a Mahometan Ministry and Parliament, a strange comparison in the mouth of the Governor of a free British Colony. In his mind the conflict was not between rival parties, but between loyalist and rebel. He did not foresee the saving virtue which attends the sense of responsibility. The period of his government was a heroic struggle with disease and death; yet, with all his greatness of character, as a colonial statesman, he must be classed amongst those of little faith.

Very different was the case of his successor, Lord Elgin. Frankly and freely adopting responsible government, he yet clearly demonstrated that, under responsible government, there was still a great part, which a Governor might play.[4] "Incessant watchfulness and some dexterity" were needed to prevent Governors "from falling into the *néant* of mock sovereignty or into the dirt and confusion of local factions," but he showed in his own person that it could be done. He was the first great colonial Governor who realised the Governor's special business, as the missioner of the Greater England idea. "You must renounce the habit,"[5] he declared, "of telling the Colonies that the colonial is a provisional existence. You must allow them

[1] Pamphlet by (?) Wakefield, *A View of Sir C. Metcalfe's Government*, 1844.
[2] Afterwards Lord Metcalfe.
[3] *Life of Metcalfe*, by Kaye.
[4] *Letters and Journals*, p. 41.
[5] March 23, 1850, p. 116.

to believe that, without severing the bonds, which unite them to Great Britain, they may attain a degree of perfection and of social and political development, to which organized communities of free men have a right to aspire." Again,[1] "I have been possessed (I use the word advisedly, for I fear most persons in England still consider it a case of *Possession*) with the idea that it is possible to maintain, on this soil of North America, and in the face of a Republican America, British connection and British institutions, when you give the latter freely and trustingly. Faith, when it is sincere, is always catching, and I have imparted this faith, more or less thoroughly, to all Canadian statesmen, with whom I have been in official relationship, since 1848, and to all intelligent Englishmen, with whom I have come in contact since 1850." "I believe it is equally an error to imagine with one old fashioned party, that you can govern such dependencies as this, on the antiquated bureaucratic principle, by means of rescripts from Downing Street, in defiance of the popular legislatures, and on the hypothesis that one local faction monopolises all the loyalty of the Colony; and to suppose with the Radicals that all is done when you have simply told the colonists to go to the devil their own way." He recognised[2] that, after that the bonds formed by commercial protection, and the disposal of local offices, were severed, it was especially desirable that the prerogative of the Crown, as the fountain of honour, should be employed, as a means of attaching the outlying parts of the Empire to the throne. It is not the least of Lord Grey's services to his country that he should have selected Lord Elgin,[3] at the time, a political opponent, for the government of Canada.

In dealing with the question of responsible government

[1] Sept. 1852, p. 126. [2] Despatch, Feb. 18, 1853, p. 114.

[3] Carlyle's language as to Colonies in "The New Downing Street" *Latter Day Pamphlets*, illustrates in a remarkable manner both his strength and his weakness. On the one hand he recognises to the full the value of Colonies: "we propose through Heaven's blessing to retain them a while yet!" On the other hand, through ignorance of the facts, he is most unfair to Lord Elgin: "Majesty's Chief Governor in fact seldom appearing on the scene at all, except to receive

we have travelled ahead, but must return to the immediate measures, taken in consequence of Lord Durham's Report. The Union Act,[1] passed in 1840, came into force in February 1841. At the time there seemed good reason for the view that, in the long run, either Lower Canada must be converted into a British Colony, or else it would be lost to England; and on this assumption the Reunion Act was a necessary measure. Indeed, from any point of view, it appeared, for the time being, necessary. At the same time, it would seem that, here again, the true view was that put forward by Lord Elgin:[2]—"Let them feel that their religion, their habits, their prepossessions, their prejudices if you will, are more considered and respected here than in other portions of this vast continent, and who will venture to say that the last hand which waves the British flag on American ground may not be that of a French Canadian?" These things, however, were on the knees of the gods. The immediate necessity was to secure for the combined provinces such an Assembly, as might be trusted not to intrigue against the English connection. With regard to the Legislative Council, the Act of 1840 proceeded on the old lines. It remained nominated, and no attempt was made to revive the idea of creating a hereditary aristocracy. With the passage of this measure, and the granting by a subsequent statute to the Canadian Legislature the complete control over the whole expenditure of the Colony, Colonial policy with regard to Canada entered upon a new phase. Henceforth the old régime of bureaucratic interference was at an end, and under responsible government the Colony was to work out, to its own great advantage, its own salvation. The Act of 1867, which established the Confederate Dominion, was the fit consummation of the labours of the men of an

3 and 4 Vic. c. 35.

the impact of a few rotten eggs on occasion, and then duck in again to his private contemplations." In truth, Lord Elgin's was just the character Carlyle should have admired, but the prophet could seldom see good in a contemporary until he had offered incense at the Chelsea shrine.

[1] Set out in Houston, *op. cit.*

[2] *Letters and Journals*, p. 54.

earlier day. Lord Durham and Lord Elgin would have rejoiced to have seen this realization of their own best hopes.

In closing the chapter of Canadian history, which deals with the working of the Union, it will be well to recall the emphatic language[1] of Sir Edmund Head written in 1857. The inestimable value of the Union appeared to him to lie in the moral discipline it had given. "If it is difficult for any statesmen to steer their way amid the mingled interests and conflicting opinions of Catholic and Protestant, Upper and Lower Canadian, French and English, Scotch and Irish, constantly crossing and thwarting one another, it is probably to the action of these very cross interests and these conflicting opinions that the whole united Province will, under Providence, in the end, owe its liberal policy and its final success. In such circumstances, constitutional and Parliamentary government cannot be carried on except by a vigorous attention to the reasonable demands of all races and of all religious interests." We thus see how that Union, which, as at first adopted, was a mere counsel of despair, proved an indispensable training ground, in the practice of tolerance, and of those qualities, in the absence of which free government either results in anarchy or in a veiled despotism.

It is not proposed here to deal with the boundary questions, settled by the Ashburton Treaty or by the Oregon Agreement. Directly as those questions affected Canadian interests, it was foreign policy not colonial policy, which dictated the action of England. One cannot help noting, however, the extreme inconvenience of such questions being settled, without the party most affected having a word to say in the matter. The American States, interested in the boundary question, were represented by their own Commissioners, and received a money compensation for the territory of which they were deprived. But no such vigilance was shown on behalf of Canadian interests. The consequences might have been foreseen. To this day, there is no Canadian, who does not honestly believe that Lord

[1] *Parl. Pap.* 1857-8.

Ashburton shamefully gave away Canadian rights. Had Canada been herself represented, the case would have been different. It is at least unfortunate that the Mother country did not anticipate, when Canada was comparatively weak, the course she afterwards adopted, when the Colony had become of much account.

Hudson's Bay Company.

Mention has already been made of the Charter to the Hudson's Bay Company, and of the recognition of its rights in the Treaty of Utrecht. As, however, we find so generally to have been the case, no attempt was made to fix the exact boundaries between Canada and the territories of the Company. A distinction has to be drawn between the trading and the territorial rights of the Hudson's Bay Company. With regard to the trade monopoly, the general opinion of the highest legal authorities appeared to be that however wrong the original grant may have been, as against the statute forbidding monopolies, the long acquiescence of the English Parliament rendered it practically impossible to question the grant. With regard to the other question,—did or did not Ruperts land include the fertile belt from the Lake of the Woods to the Rocky Mountains?—the law officers of the Crown carefully refrained from expressing an opinion. Upon the whole it would appear that whatever may have been the original intentions of the French, English law regarded Canada as bounded on the West by the Mississippi, or a line drawn extending it, so that, to whomsoever this district belonged, it hardly belonged to Canada. It was not, however, on dry legal rights that the question came up ultimately for settlement. While the monopoly of the Hudson's Bay Company may be defended, as on the whole favourable to peace, and to the interests of the Indians, it was, from the nature of things, opposed to the opening out and settlement of the country. A new departure had indeed been made in 1811, when a vast tract of land was sold to Lord Selkirk for the purposes of the Red River settlement. But this experiment was for the time a failure, and in 1838 the Company repurchased the land. So far as trading rights were concerned, the Hudson's Bay Company was able to fortify its position

by amalgamating with the powerful North-West Company 1821.
which had been formed as its rival. A grant of right of 1805.
exclusive trade over practically the whole North-West was obtained for twenty-one years, and renewed in 1838 for a second term. As time went on, however, and the settled provinces of Canada grew in population and importance, it became more and more recognized that a state of things, under which vast tracts of land were practically sealed up, could not be much longer endured. In 1857 the whole subject was carefully considered[1] by a Parliamentary Committee. Observe the tone of the Company's witnesses. The Red River Settlement had been "an unwise speculation" and "had failed." "The climate is not favourable." The Saskatchewan was a country capable of settlement only "when the population of America became so dense that they are forced into situations less fit for settlement than those they occupy now." The Report of the Committee proved a colourless document, and, in effect, postponed the decision of the question. A more practical way of dealing with the matter had been proposed by Mr Gladstone, and only lost by the casting vote of the Chairman. He proposed that the country capable of colonization should be withdrawn from the jurisdiction of the Hudson's Bay Company, and that its rights should rest henceforth on the basis of statute.

The Report of the Committee, at least, showed the direction in which opinion was moving, and when in 1858 the discovery of gold caused an influx of settlers into "certain wild and unoccupied territories . . . commonly known as New Caledonia, henceforth to be known as British Columbia," the greatest care was taken that the new Colony should be free of any claims to monopoly from the Hudson's Bay Company.[2] "All claims and interests," wrote Sir E. B. Lytton, "must be subordinated to that policy which is to be found in the peopling and opening up of the new country, with the intention of consolidating it, as an integral and important part of the British Empire." "You will keep steadily in view," he added, "that it is the desire of

[1] *Parl. Pap.*, 1857. [2] *Parl. Pap.*, 1859.

this country that representative institutions and self-government should prevail in British Colonies, when by the growth of a fixed population, materials for those institutions shall be known to exist; and to that object you must, from the commencement, aim and shape your policy." When one compares this action of Sir E. B. Lytton with the ready acquiescence with which a few years earlier Lord Grey had conferred Vancouver Island on the Hudson's Bay Company, one recognizes the importance of the growth of opinion in moulding policy.

Australia. In turning to Australia, we note the same tendency to progress. Whatever may have been the fears of the generation which witnessed the American Revolution, and of their immediate successors, such fears were now a thing of the past. Lord John Russell and Lord Grey, the special inheritors of the Whig tradition, could hardly advocate England playing the autocrat towards her own Colonies; and the Tory statesman, who in his stalwart old age was to dish the Whigs, was not the man to be guilty of political timidity. It is a curious coincidence that the Minister, who, under the influence of Disraeli, was twenty-five years later to launch England on the stream of democracy, was also the creator in Australia of those popular institutions which have gone so far. The 5 and 6 Vic. c. 76. measure introduced by Lord Stanley, and passed by both Houses of Parliament without a dissentient voice, created a new legislative council for New South Wales. It was to consist of thirty-six members; of whom twenty-four were to be elected, and twelve to be appointed by the Crown. Not more than half of the nominated members were to be officials. Electors were to be freeholders in land, or tenements of the value of £200, or householders occupying houses of the value of £20. An unfortunate provision sought to force local government down the throats of the colonists, by empowering the Governor to incorporate the inhabitants for purposes of local government and to appoint the first local bodies. Half of the expense of the police establishment of the Colony was thrown on the district rates, and powers of distress and sale were conferred on the central authority as against a

defaulting district; and thus a measure which was intended as a boon became a cause of heartburning and of struggle, in which the colonists resisted, with ultimate success, the resolute Gipps. Here again a sermon was preached on the difficulty of settling internal colonial affairs in Downing Street. Van Diemen's Land was included in the title of the Act, but no attempt was made to introduce representative institutions in a community where convicts and ex-convicts still outnumbered the rest.

Another Act dealt with the case of South Australia. Its provisions were partly financial, settling, to a great extent, the liabilities of the Colony; but, by a curious clause, power was given to establish any one of three different forms of government. The legislature was to consist either of the Governor, a nominated Council, and an Assembly, to be elected by the freeholders and other inhabitants, or of the Governor and a mixed Council, as in New South Wales, or else—which was the course adopted—of a Governor and a nominated Council. Lord Stanley not unnaturally considered that, before introducing the element of popular representation, it[1] "should be made evident that the internal resources of the Colony are fully adequate to provide for its own expenditure, and also that permanent provision should be made for certain fixed and definite expenses, on account of the civil government of the Colony." 5 and 6 Vic. c. 61.

The case of Western Australia was met by a short bill continuing the existing Act for its government. An elaborate and ambitious scheme for the government of New Zealand was put forward by Lord Grey in 1846. New Zealand was to be divided into two provinces, each having a Lieutenant Governor and provincial Assembly. The provincial Assemblies were to consist of nominated Councils and representatives elected by municipalities, which were now to be created. A general Assembly for the Colony was to consist of a nominated Council and of representatives elected by the provincial Assemblies. The Maories were practically excluded from the franchise for municipalities, by a provision which obliged

[1] *Parl. Pap.*, 1842.

electors to be able to read and write English. It is not worth while to waste time over this statute, as in fact its provisions were never put in force. Luckily, a strong man was at the helm in New Zealand, and Captain Grey, in effect, reported that the Statute was unworkable. Lord Grey at once yielded, and a Bill was passed suspending the Constitution for five years, and practically enabling the Governor to deal with the matter as might seem best to him. The idea of making municipalities the constituent bodies for the representative Assemblies appears to have been a favourite one with Lord Grey. In 1847 we find him proposing so to act in the case of the Australian Colonies. He was, however, met with such a storm of disapproval that he at once withdrew the proposal. He "had no wish to impose upon the inhabitants . . . a form of government not in their judgment suited to their wants."[1]

Warned by past failures, Lord Grey proceeded circumspectly. He revived the ancient practice of calling upon the Committee of the Privy Council for Trade and Plantations to act as a deliberative body (its functions having for a long time become merely nominal so far as colonial questions were concerned). With this object the Colonial Committee was strengthened by the addition of Lord Campbell, Sir E. Ryan and Sir J. Stephen. The Report[2] was drafted by Stephen, and set out the lines on which the Constitution Act of 1850 was based. It recommended the establishment of Port Phillip as a separate Colony. On the question of a single or bi-cameral legislature, it pronounced in the abstract strongly in favour of the latter. At the same time, the single chamber system held the field in New South Wales. Custom appeared to have attached the colonists to it. All, therefore, that could reasonably be done was "to leave to the Legislatures now to be established the power of amending their own constitutions by resolving either of these single Houses of Legislature into two Houses." The Legislatures should be entrusted "with the power of making any other amendments in their own constitution, which time and experience may

April 4, 1849.

[1] *Parl. Pap.*, 1847.

[2] Ld. Grey's *Col. Pol.*, Appendix A, Vol. II.

show to be requisite." At the same time, no Act in any way enlarging, retrenching, or altering the constitution of that Legislature ought to be valid, until expressly confirmed and enacted by the Queen in Council. The Committee were strongly convinced of the necessity of municipal bodies. In order to induce the Colonies to establish them, they recommended that a portion of the Land Fund should be placed at the disposal of the District Councils for subjects of local concern. On the question of the tariff, they foresaw grave inconvenience if there should be various distinct tariffs within Australia, and they therefore recommended the establishment of one tariff, common to them all. This should, in the first instance, be fixed by the Imperial Parliament, and afterwards should be one of the ten subjects[1] reserved for the decision of a General Assembly to be elected by the Legislatures of the different Australian Colonies. (It is very significant of the tone of thought of the day that among these ten subjects the question of common defence is not mentioned.) In advocating a Federal Australia, the Committee were in advance of public opinion, whether English or Australian. The clauses dealing with this subject were withdrawn from the Bill. In other respects, the measure, as passed, gave substantial effect to the recommendations of the Report. Port Phillip was constituted a separate Colony under the name of Victoria, and the Act applied to all the Australian Colonies. Its effect was undoubtedly greatly

13 and 14 Vic. c. 59.

[1] The ten subjects were :—

1. The imposition of duties.
2. The conveyance of letters.
3. The formation of railways, etc., traversing more than one colony.
4. Erection and maintenance of beacons.
5. Shipping charges.
6. Establishment of a Supreme Court.
7. Determining its jurisdiction.
8. Regulation of weights and measures.
9. The enactment of laws affecting Colonies represented on any other subject on which the General Assembly should be desired to legislate by addresses 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 raised in all the Australian Colonies, in virtue of any enactments of the General Assembly.

to enlarge the powers of the New South Wales Legislative
Sec. 14. Council. The appropriation of the whole of the colonial revenue, with the exception of the proceeds of land sales, was henceforth placed under the local Government, and full
Sec. 27. power was given to impose custom duties, provided they were not of a differential nature. All salaries, except those of the Governor and Judges, were placed under the ordinary control of the Legislature. In the words of its Parliamentary draftsman, "The Bill, in effect, proposed one resolution, viz., that it was expedient to leave the form of their institutions to be dealt with by the Colonial Legislatures." [1]

In spite of all this, the measure was met by the New South Wales Legislative Council with an address of indignant remonstrance, in which, under the guise of constitutional objections, they perhaps concealed their chagrin at
Sec. 32. the loss of the rich district of Port Phillip. The provision of the measure which invested the Legislative Councils with the most ample power of amending their own constitutions, was of far-reaching importance. Under it, when the time was ripe for responsible government, its introduction came to pass without friction, and with no opposition from English statesmen.

N. Zealand 15 and 16 Vic. c. 72. The question of the constitution of New Zealand was settled in 1852 by an Act introduced by Sir J. Pakington. The measure adopted the recommendations of Governor Grey. Six Provinces were created, each of which was to have a Superintendent, chosen by election, and a Provincial Council, consisting of not less than nine members. The qualification of members and of voters was the same, viz., the possession of freehold of the value of £50, or of leasehold of the annual value of £10, or the occupation of a house of the annual value of £10 in a town or of £5 in country districts. The District Councils were restricted from legislating on thirteen specified subjects, and power was given to the Governor to disallow Bills passed by the Provincial Councils. The General Assembly was to consist of the Governor, a Legislative Council and House of Representatives. The members

[1] Mr Coulson in *Parl. Pap.*, 1850.

of the Legislative Council, consisting of not less than ten members, were to hold their seats for life. The qualification of voters for the House of Representatives was to be the same as for the Provincial Councils. "Whereas it may be Sec. 71. expedient that the laws, customs and usages," of the Maoris, "should for the present be maintained for the government of themselves . . . and that particular districts should be set apart within which such laws, usages and customs shall be preserved," power was given to the Crown to make provision for the purposes aforesaid, "any repugnancy of any such native laws . . . to the law of England . . . notwithstanding"; and this power was delegated to Governor Grey. For the first time in Australasia the right was conferred by Statute Sec. 72. upon the colonial authorities to deal with the public lands as they might see fit.

In another respect, the New Zealand Statute had important consequences. Wakefield was now a New Zealand colonist, and at his instigation the Assembly claimed from the acting Governor the full grant of responsible government. Application was made to England, whence, in December 1854, the answer came that the Ministry "had no objection whatever to offer to the establishment of the system known as responsible government."[1] The Imperial Government had "no desire to propose terms, or lay down restrictions, except . . . the making provision for certain officers who have accepted offices on the equitable understanding of their permanence." Legislation was not necessary, except for the purpose of securing the pension of retiring officers. This reply has been severely handled,[2] upon the ground that it amounted to a virtual betrayal of the Maoris; and it is certainly strange that the despatch contained no reminder of the rights of the natives under the Treaty of Waitangi. At the same time, any attempt to keep native affairs out of the hands of the Colonial Executive must have ended in constant friction; and on the dry, constitutional aspect of the question, it is difficult to show that the Home Government were in the

[1] *Parl. Pap.*, 1855. Sir G. Grey was the Secretary of State.
[2] See Rusden's *Hist. of N. Zealand*, Vol. II. ch. ix.

wrong, although the New Zealand Act did not on its face contemplate responsible government.

Removal of colonial questions from party arena.

There is one pleasant feature in connection with the history of the question of Australian self-government. Both the great English political parties were agreed on a policy of liberal concession. It is true that Mr Gladstone has asserted[1] that Liberal Administrations gave the Colonies "popular and responsible government," but this assertion is, at best, most misleading. In fact, so far as the harmony between the Mother country and the Australian Colonies was, at the time disturbed, it was through the action of the Whig Minister, Lord Grey. With all his great gifts both of head and heart, Lord Grey proved singularly unhappy in his management of the Colonies. At the slightest pretext he would discharge a constitutional homily, which, whatever its merits as literature, did not tend to promote good feeling. No one, I think, can have read carefully his history, without, while recognising the excellence of his intentions, also recognising something of the reason, why those good intentions had often such unhappy results.[2] Shortlived as was Sir John Pakington's connection with the Colonial office, it was long enough for the New South Wales Legislative Council to date from it the commencement of "a new and auspicious era" in the government of the Australian Colonies.[3] The remonstrances which had been met by Lord Grey with didactic snubbings received a friendly treatment. The revenue from the gold fields was at once yielded to the colonial legislatures. While "unable to concede the claim advanced on behalf of the administration of the waste land as one of absolute right" Sir J. Pakington agreed,[4] "that

[1] Midlothian Address, 1880.

[2] "Lord Grey was possessed with the idea that it was practicable to give representative institutions, and then to stop without giving responsible government—something like the English Constitution under Elizabeth and the Stuarts. He did not understand either the vigorous independence of an Anglo-Saxon community, or the weakness of an executive, which represents a democracy. So events took their course and left his theories behind." — Lord Blachford (writing in 1885). *The Letters of Lord Blachford*, ed. by G. Marindin, p. 297.

[3] *Parl. Pap.*, 1854.

[4] *Parl. Pap.*, 1852-3.

under the new and rapidly changing circumstances of New South Wales, the time is come at which . . . the administration of those lands should be transferred to the colonial legislatures, after those changes in the Constitution, which are adverted to in the Petition." On the question of the Constitution, the Conservative Government recognised 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." No direct mention is made of responsible government, but, in expressing agreement with the view that the new Constitution should be in its outlines similar to that of Canada, Sir John Pakington in effect foreshadowed such government. It was reserved for later times to find in these transactions the material for party boastings; when the Duke of Newcastle succeeded to the Colonial Office, he was content[1] "cordially" to adopt the conclusions of his Tory predecessor.

What is especially striking in the English statesmen of the day is their attitude of caution. The Statute of 1850 had very wisely left it to the colonial legislatures, to make or mar their own constitutional future, and it was generally recognised that the less England meddled in the matter the better for all parties. When the colonial Bills dealing with the question arrived in England, it was found that only the Bill from Van Diemen's Land could be assented to at once: the New South Wales and Victoria Bills requiring the omission of clauses entrenching on the prerogatives of the Crown. The English Parliament, however, while making the necessary omissions, was careful in all other respects to retain the *ipsissima verba* of the colonial measures. When Sir R. MacDonell, the much-contriving Governor of South Australia, suggested a new scheme of constitution, with only a single chamber and without responsible government, the Secretary of State, Mr Labouchere, was[2] "anxious to place it on record, that Her Majesty's Government are themselves no parties to such a

18 and 19 Vic. c. 54 and 55.

[1] *Parl. Pap.*, 1852-3.

[2] *Parl. Pap.*, 1856.

deviation from what was originally intended." At the same time, "if the legislative Council were of opinion that responsible government was not in accordance with the wants or sentiments of the South Australian community, they were no doubt at liberty to take such steps as might have the effect of postponing or rejecting it." The keynote of English policy is found in the wise words[1] of the Duke of Newcastle, "it appears to me therefore that, while public expectation is as yet but little excited on the subject of responsible government, it is very desirable that we should prepare ourselves to regard its introduction as a change, which cannot be long delayed and for which the way should be smoothed as far as possible."

Victoria. No one, I think, can doubt, who has studied the history of the early years of Victoria, but that, had English statesmen shown less sagacity, the consequences to the Empire might have been serious. A community, largely recruited from the most restless and lawless classes of Europe and America, found itself working out its own salvation under the solemn shelter of English constitutional precedent. Who can doubt but that, had not the most prescient anticipation of the Governor Sir Charles Hotham been verified, and "the popular anger directed, not against the connection with the old country, or against the Governor, but against their own chosen Government, and their disputes and political animosities exclusively confined to themselves,"[2] the English people might have woke one morning to hear that a Victorian republic had been proclaimed. In no community was it more necessary that the Queen's representative should be above and beyond parties. As it was, the abortive insurrection at the gold fields, which had been merely directed against the payment for licences, was not succeeded by a more dangerous kind of constitutional sedition; and the battle of political faction, it must be admitted fierce enough, was carried on in the broad light of day, and with the check, which the possibility of attaining to power, must always impose on the most reckless demagogue.

[1] *Parl. Pap.*, 1854. [2] *Parl. Pap.*, 1856.

New Constitutions.

In this state of things, and when the moulding of their constitution had been wisely left to the colonists themselves, it scarcely belongs to the story of British Policy to deal with the constitutions thus created. It is strange to read in the Report of the Committee of the New South Wales Legislature drafted by Wentworth, perhaps the most interesting and powerful personality which Australian political life has yet produced, the words, "They have no wish to sow the seeds of a future democracy."[1] It was proposed to establish a hereditary order of baronets, from whom might be chosen the members of the Legislative Council. It was not, however, given to Wentworth to succeed where Pitt had failed, and the proposals to this effect were abandoned in deference to a general public opinion. The Bill, however, as sent to England, contained a more workable conservative provision, which it is strange to find eliminated at the instance of English statesmen. It proposed that a majority of two-thirds of both Houses should be necessary to sanction any alteration in the constitution. It is unnecessary to criticise the involved reasoning[2] by which Lord John Russell arrived at the result, but the fact remains that by the Imperial Act it was, in effect, enacted that the provision with regard to a two-thirds majority should be abandoned whenever a bare majority of the New South Wales Legislature so demanded. In these circumstances, considering the state of English public opinion at the time on political questions, there was considerable force in Wentworth's[3] "surprise and regret that the loyalty and attachment of the inhabitants of New South Wales to the institutions of their forefathers should be met by what appears a general desire to force upon them . . . new and untried forms of democracy. . . . I sincerely hope that these experimental democracies may not prove reactionary on British institutions, and that the unsettled masses . . . may not come to the conclusion, sooner or later, that forms of government which are thought good enough for

[1] *Parl. Pap.*, 1854.
[2] *Parl. Pap.*, 1856.
[3] See Rusden, *Hist. of Aust.*, Vol. III. p. 105.

Englishmen abroad might be introduced with advantage at home." Whatever may be thought of Wentworth's fears, it is yet strange that years before English politicians had undergone education on the question, they were content with a light heart to see their colonial kinsmen "shoot Niagara." Probably the explanation is to be sought in that determination not to meddle, which, on the whole, was attended with such happy results.

Transportation.

Closely connected with the subjects of constitutional government and the disposal of the waste lands, was the burning question of transportation. If the Australian Colonies were to receive genuine self-government, it was clear that the convict element could not be indefinitely increased, while if this artificial source of labour was to be stopped, some other means must be devised to furnish the colonists with the necessary hands. Naturally, therefore, the three causes were closely intertwined, and the same men were found advocating responsible government, the Wakefield system for the disposal of lands, and the abandonment of transportation. When Sir William Molesworth, a leading member of the party of colonial reformers, was appointed chairman of the Committee which considered the subject of transportation in 1837 and 1838, the battle was virtually won. It was impossible that the system should long survive an enquiry initiated under such auspices. The Report[1] freely admitted the advantages of the system in the past so far as economic considerations were concerned. "As slave Colonies have more rapidly and generally increased in wealth on account of the forced combination of labour . . . so in these Colonies of criminals and bondage, where the free settlers were not only provided with slaves free of expense but likewise with an excellent market, a larger amount of wealth has been accumulated in a shorter space of time than perhaps in any other community of the same size in the world." Granting, however, all this, there was force in the next sentence of the Report, "But will this prosperity con-

[1] *Parl. Pap.*, 1838, republished in volume of *Selected Speeches*, 1903.

tinue?" It was becoming altogether impossible to send convicts in proportion to the expanding demand for labour in the Colonies. The only remedy for the dearth of labour lay in the adoption of the Wakefield system. "If . . . transportation be discontinued, it would be absolutely necessary to raise the minimum price of land to at least one pound an acre, and eventually it would probably be found advantageous to carry it considerably higher still, for it is obvious that by raising the price of land, the tendency of population to an undue dispersion over an almost unlimited territory, which is the cause of the want of labour, may be checked." The Report recommended that transportation to New South Wales and the settled districts of Van Diemen's Land should be discontinued as soon as possible, and that convicts punished abroad should be compelled to leave the settlement within a limited time after the expiration of their term of punishment. It is curious, in view of present colonial opinion on the subject, to find the recommendation that convicts who had been punished in England and had given proofs of good behaviour should be encouraged to emigrate to the Colonies.

In truth, apart from the Reports of Select Committees, and the prejudices of statesmen, the transportation question was rapidly settling itself. The theory that the Australian Colonies were merely convict settlements, that, as to the free emigrant, "que diable voulait il faire dans cette galère," the theory, which breathed in the despatches of Governors, and especially in the behaviour of MacQuarie, was fast yielding to the logic of facts. It was becoming clear that Australia was reserved for better things than to be a kind of vast penitentiary. Here and there a voice, such as that of the very able Governor, Sir W. Denison,[1] might be heard, sounding the note of the past, but nothing could avail against the stream of tendency. New forces were at work among the settlers. So long as the immigrants were merely land-owners, their interests were of course bound up with a system, which gave them an abundance of cheap

[1] See *Varieties of Vicereg! Life*, by Sir W. Denison.

labour, but, with the growth of towns and the introduction of a mechanic and artisan class, cheap labour no longer appeared so unmixed a blessing. Already in the forties were heard faint murmurs of the cry which was subsequently to attain such volume, directed against immigration, so far as it might affect the local rate of wages. In these circumstances, it was clear that however convenient the system of transportation might have been in the past, some other mode of dealing with criminals must now be substituted. The British Government proceeded to give partial effect to the recommendations of the Committee. In 1840 an Order in Council made Van Diemen's Land and Norfolk Island the only places in the South Seas, to which convicts might be sent. Lord J. Russell declared that in "August 1840 transportation to New South Wales would cease for ever." Meanwhile it had previously been announced that "settlers must be prepared for the immediate diminution of assignment and the speedy discontinuance of it altogether."

It might reasonably have been expected that such a change would subject the Colony for a time to grave economic difficulties. Unfortunately, just when the Colony was beginning to accommodate itself to its new circumstances, the question was again re-opened by Mr Gladstone in 1846. A vote of the House of Commons in 1841 had urged that the change of policy should not be continued, and that a large number of the convicts who had been detained in England should be sent abroad. In consequence of this vote, the resources of Van Diemen's Land, as a receptacle for convicts, had been severely strained. Between 1840 and 1844 more than 20,000 convicts were landed in that Colony. Negotiations for a new convict Colony to be called North Australia had come to nothing, and in this state of things Mr Gladstone invited the Legislative Council of New South Wales "to concur in the opinion that a modified and carefully regulated introduction of convict labourers . . . may under the present circumstances be advisable." A Committee of the New South Wales Legislature recom-

mended the Council, upon terms, to agree with Mr Gladstone's proposals. "If it were placed at the option of the colonists whether they would at once and for ever free themselves and their posterity from the further taint of the convict system, doubtless a large majority would give the proposal for renewed transportation an unhesitating veto."[1] As, however, it was clearly the intention of the Home Government not to discontinue transportation altogether, the question was whether New South Wales should receive convicts, directly and on equitable terms, or whether they should come indirectly through other Colonies, and without any attendant compensation. The conditions under which the revival of transportation might be accepted were that a free emigrant should be sent out at the same time for every convict transported, and that for every male convict, a female, whether convict or free, should be also sent. Although the Report of the Committee was not at the time formally adopted by the Legislative Council, a despatch was sent from England announcing that transportation would be renewed under conditions which substantially followed the Committee's recommendations. The Local Government assented to this course. Unfortunately, however, these conditions were not fulfilled. Lord Grey's explanations,[2] while they established the goodness of his intentions, also proved how completely he was out of touch with the feelings of the colonists on this question. The English Ministry appear to have been under the impression that a thorn under another name would cease to prick, and that by splitting punishments into three stages,[3]—a limited period of separate imprisonment; a term of employment on public works, either abroad or at home; and, lastly, a period of exile to the Colonies, —the objections to transportation might be removed. The system in itself may have been excellent. Its object was to assimilate the condition of the ticket-of-leave man to that of the assigned servant of former days; "except in those particulars in which the system of assignment was open to objection."[4]

[1] *Parl. Pap.*, 1847.
[2] *Col. Policy*, Vol. II. p. 44. [3] Vol. II. p. 17. [4] P. 25.

The Crown, which had by law a property in the service of sentenced criminals, made over that property to the man himself, subject to the condition of his submitting to a certain annual deduction from his wages, for the payment of which his employer was made responsible.

All this might be in theory admirable, but there was one insuperable objection, and that was that colonial public opinion barred the way. Doubtless the failure of the English Government to fulfil the terms of their bargain was merely the pretext which caused the Legislative Council in 1849 to protest "against the adoption of any measures by which the Colony will be degraded into a penal settlement." The real blunder lay in the failure to appreciate the force and strength of the anti-transportation sentiment, a failure which is nowhere more apparent than in the pages of Lord Grey's own
1849. book. However, the Order in Council making New South Wales a place to which convicts might be sent was again revoked, but in a most grudging and ungracious manner. Just as with the disposal of the waste lands, so with the transportation question, the cause which finally decided the issue of events was the discovery of gold. It is true that Lord Grey, with characteristic obstinacy, refused to recognise that this made any difference, but his successor, Sir J. Pakington, admitted that "Her Majesty's Government are unable to resist the force and justice of these remonstrances . . . they propose altogether to discontinue transportation to Van Diemen's Land." Henceforth, so far as the Eastern Colonies in Australia were concerned, the question had merely a historic interest; and Van Diemen's Land, to emphasize its break with the past, entered in 1855 upon a new life under the name of Tasmania. It should give pause to the confidence of theorists to note that the Colony, which was the most deeply saturated with the criminal taint, has been on the whole the most orderly and conservative of all the Australian Colonies. So true does it seem that the anti-social forces of crime and vice are in their nature sterile and suicidal, and that evil far more than happiness "dies in its own too much." Probably the most permanent effect of

transportation has been that State socialism, which (as Mr Jenks has pointed out[1]) was inevitably fostered by the early circumstances of the Australian Colonies.

Meanwhile, just when the elder Colonies were beginning to push from them the accursed thing, Western Australia, which had been expressly founded as a Colony of free settlers, began to cast longing eyes on a system, which, whatever its moral objections, seemed productive of economic good. For some years the Colony had received lads from the Parkhurst Penitentiary under the euphonious name of Government Juvenile Immigrants. In 1849 application was made to the Home Government to declare Western Australia a place to which convicts should be transported. The delight with which Lord Grey acceded to the request can be imagined. He notes[2] with pride how those who have obtained tickets of leave have readily found employment . . . that the Colony is prospering in every respect . . . while the Governor states "that the amount of crime as yet committed in this Colony among all classes is so slight, that I do not feel it necessary to make any unfavourable remark whatever."

In discussing the subjects of the disposal of the waste lands, of the constitution, and of transportation, we have dealt with the main lines of Imperial Policy, so far as it affected Australia during the period in question. A word may be added as to the settlement of Port Phillip in 1835. On this subject, the policy of the Home Ministry was explained in a despatch of Lord Aberdeen in 1834.[3] "His Majesty's Government are not prepared to authorise a measure, the consequences of which would be to spread over a still further extent of territory a population which it was the object of the recent land regulations to concentrate." In the abstract this sounded reasonable enough, and when it was necessary to modify principles under the changing circumstances of particular cases, the Colonial Office did not show itself obstinate. Lord Glenelg realised that "the principle of counteracting dispersion,

Port Phillip.

[1] *Hist. of Aust. Col.*, p. 149.

[2] *Col. Pol.*, Vol. II. p. 63.

[3] *Parl. Pap.*, 1835.

when reduced to practice, must unavoidably be narrowed within the limits which these physical peculiarities of the Colony dictate and require." Perhaps, indeed, the settlers at Port Phillip had "given birth to undertakings which deliberate reflection would have recommended rather than discouraged." To the South Australians, who complained bitterly that emancipists from Port Phillip might cross the boundary into the Colony devoted to free men, Lord Glenelg plaintively remarked that there were no soldiers or policemen to keep in check the Port Phillip settlers, nor in any case would it have been possible to use force for such a purpose. Upon the whole, the Colonial Office would seem to have taken as their model the wise Gamaliel.

Free Trade.

The story of the triumph of Free Trade belongs to general English history. We are here only concerned with it so far as it affected Colonial policy. It was inevitable, however, that this great economic revolution should profoundly modify the relations existing between the Mother country and her Colonies. Again and again it has been noticed that for well-nigh two centuries the great object of all European nations, in seeking to obtain Colonies, had been the gain supposed to accrue from the Monopoly of their commerce. Although this policy had been considerably modified, yet "the principle of placing the trade with the Colonies on a different footing from that of other countries had been maintained up to the year 1846, and was generally regarded as one of unquestioned propriety and wisdom."[1] At this time the principal exporting Colonies were the West Indies and Canada; the main products being sugar, timber, and wheat. Colonial sugar still possessed a virtual monopoly in the British markets, only slightly relaxed in favour of sugar the produce of countries in which slavery did not exist. To destroy this monopoly was in any case a serious measure, but there were special circumstances which rendered the change peculiarly obnoxious. The West Indian planting interest had deeply resented the emancipation of their slaves, and had by no means been content

8 and 9 Vic., c. 5, sec. 2.

[1] Lord Grey, *Col. Pol.*, Vol. I. p. 7.

with the compensation given. The modified slavery, termed apprenticeship, had broken down, under the pressure of English public opinion, which exacted such checks upon the power of the masters to enforce compulsory labour, as to make it of little use. The establishment of stipendiary magistrates in Jamaica had been, in the words of Metcalfe,[1] "extremely grating to the landed interests, and, added to the abolition of slavery, became a second revolution in the island." In this state of things, the Jamaica Assembly "having taken into mature consideration the aggressions which the British Parliament continue to make on the rights of the people of this Colony, and the confusion and mischief which must result from the present anomalous system of government," determined to "abstain from any legislative function, except such as may be necessary to preserve inviolate the faith of the island with the public creditor." The reply of the English Ministry was to introduce a Bill suspending the Jamaica constitution. This Bill was, however, ultimately withdrawn, being the occasion of the constitutional struggle over the "Bedchamber."

In all seriousness, the Jamaica constitution needed alteration. It was not there required, as in the Mother country, and as under the subsequent amended constitutions of Canada and of the Australasian Colonies, that grants of money should be recommended by the Crown's representative, nor was there any one person responsible for preparing an estimate of the receipts and expenditure of the Colony, and taking care that the latter should be covered by the the former. Nor did the mischief end here. "By various local Acts, most of them of somewhat remote date, the collection and application of the revenue had been almost entirely taken out of the hands of the Governor"[2] and transferred to certain Commissioners of public accounts. But these Commissioners were the members of the Assembly under another name, so that the same body audited the accounts which it had previously voted. Moreover, there was no check possessed by the Crown by means of a threat

[1] *Life and Letters*, by Kaye. [2] Lord Grey, *Col. Pol.*, Vol I. p. 175.

of dissolution, as the Commissioners were authorised by law to act, notwithstanding the prorogation or dissolution of the Assembly. Under the new electoral law a great number of emancipated slaves might by registration acquire the franchise, so that, while a narrow oligarchy was neglecting its own business, and passing its time in framing pompous indictments of the British Parliament, there seemed opening ahead the Curtian gulf of a black democracy. In all probability, if the step advocated by Lord Grey had been taken, much of the economic evils of emancipation might have been avoided. The measure for the abolition of slavery was defective, in that it contained no provisions for impelling the emancipated slaves to work for hire. Lord Grey's own suggestion,[1] made as early as 1833, was that the negroes should be stimulated to industry by the imposition of a tax on their provision grounds. During the period of slavery, the greater portion of the food consumed by the negroes had been derived from these provision grounds, so that, unless a much higher standard of living could be established, or an artificial stimulus imposed, there would be no adequate motive to work for wages for more than a small portion of the week. In this state of things, the natural economic result followed. Labour became a scarce article, and thus fetched a scarcity price, quite apart from the profits of the planter. "The principal causes of diminished production and consequent distress are the great difficulty . . . in obtaining steady and continuous labour, and the high rate of remuneration which they give for the broken and indifferent work which they are able to procure."[2] When one reflects that the taxation, advocated by Lord Grey, would have been spent on education, religion and the general improvement of the negroes, the case for the measure, which the Jamaica legislature obstinately rejected, becomes overwhelming.

If, however, the West Indian interest did not know the way that led to their own peace, that was no reason why Lord Grey should not persevere in his settled course. One of the earliest and most uncompromising of free traders,

[1] Vol. I. p. 76. [2] H. of C. Com. Rep., 1842.

he had no doubt but that every form of monopoly must curse him that takes as well as him that gives. He was willing to do all he could to promote assisted immigration to meet the planters' needs, but on the question of monopoly there could be no paltering. When in the beginning of Sir Robert Peel's commercial reforms, the tariff of 1842 contained provisions by which various new protected interests would be created in the Colonies, Lord Howick, as he then was, met them with a hostile resolution, based on the broad ground that "duties ought not to be levied on the importation of any article, which would meet in our market articles of the same kind produced in the Colonies, and not subject to an equal amount of taxation." One is struck by the hesitation and uncertainty shown for many years by most English statesmen on the question of trade relations with the Colonies. As Lord Elgin wrote[1]: "You cannot halt between two opinions; Free Trade in all things, or general Protection. There was something captivating in the prospect of forming all the parts of this vast British Empire into one huge *zollverein*, with free interchange of commodities and uniform duties against the world without. . . . Undoubtedly, under such a system, the component parts of the Empire would have been united by bonds, which cannot be supplied, under that on which we are now entering, though it may fairly be urged, on the other side, that the variety of conflicting interests, which would, under this arrangement, have been brought into presence, would have led to collisions, which we may now hope to escape."

Be this, however, as it may, Lord Grey at least knew his own mind. "The object of the Act of 1846," he tells us,[2] "was to provide for the immediate reduction, and the entire abolition at any early period, of the heavy differential duty . . . on foreign sugar . . . and further, to put an end . . . to the distinction between foreign sugar, the produce of countries in which slavery does or does not prevail." Its details were altered by an amending Act, 1848. 8 and 9 Vic., c. 63.

[1] *Letters and Journals*, p. 61.

[2] *Col. Pol.*, Vol. I. p. 51.

but the policy remained the same. On the other side, the Colonies were enabled to admit foreign goods on the same terms as British goods. Hitherto there had been, in addition to the duties imposed by colonial laws, certain differential duties imposed by a British statute upon articles of foreign origin. The Navigation laws were repealed in 1849. The various restrictions, from which the colonial sugar-growers were now relieved, had been in 1830 estimated by the Committee of West Indian planters and merchants as equivalent to a charge of no less than five shillings per hundredweight on colonial sugar, so that the relief given was not trifling. Unhappily the West Indian planters were in no mood to consider these things. Moreover, they were not without powerful allies. The conviction is forced upon the historical student that the wrongs of the West Indian planter afforded a very useful rod for an active Opposition to employ in the cudgelling of the Ministry. When, however, the great champion of the West Indies attained to power the figures wore a very different aspect. Between 1851 and 1852 British production of sugar had increased by one and a quarter million hundred-weights, and foreign production had decreased by six hundred thousand hundred-weights, and so Mr Disraeli[1] was ready to be called a traitor or a renegade, but could not recommend a differential duty to prop up a prostrate industry, "which is actually commanding the metropolitan market." To the West Indies the moral of the story was the old moral, Put not your faith in rulers. Doubtless the energy employed over petitions and lobbying, if applied to the economic needs of the Colony, would have supplied Mr Disraeli with even yet more favourable figures. Nor, so far as Jamaica was concerned, does the situation seem to have been really a cheerful one. Sir H. Barkly,[2] reporting in 1854, affirmed that, "in all classes, mortgagees, proprietors, public officers, planters and labourers are equally alarmed at the prospect of overwhelming ruin. . . . Successful sugar cultivation may be said to be confined to three or four districts of limited

[1] Hans., N.S., Vol. CXXIII. p. 850.

[2] *Parl. Pap.*, 1854.

area possessed by peculiar advantages; elsewhere it would seem to be at the lowest ebb."

Jamaica was especially unfortunate by reason of its political constitution; power being lodged in the hands of the small freeholders, who were opposed to the one remedy possible, immigration. Offers of assistance in this way from the British Government were again and again refused by the short-sighted Assembly; at last, with the bait of the promise of an Imperial loan, Sir H. Barkly induced the Assembly to adopt a new constitution. Under this the Legislative Council was re-organised, and made to consist mainly of unofficial members. An Executive Committee was established, consisting of three members of the Assembly and one member of the Legislative Council, who, in effect, were to discharge the duties of responsible Ministers.

Although, with respect to the general trade policy of the Empire, the die had been cast, there was still room for a great difference of opinion on the point how far English theory and practice were to dictate the theory and practice of the Colonies. In Lord Durham's Report, the regulation of trade with the Mother country, the other British Colonies, and foreign nations, had been stated as among the points on which the Mother country required a control. So too, in C. Buller's famous speech in 1843, he had said: "Of the fiscal policy of the different portions of your own Empire, you can always make sure, and may rely upon being met by no hostile tariff on their part." Yet more emphatic, *more suo* is the language of Lord Grey. When Parliament adopted Free Trade "it did not abdicate the duty and the power of regulating the commercial policy, not only of the United Kingdom, but of the British Empire. The common interest of all parts of that extended Empire requires that its commercial policy should be the same throughout its numerous dependencies, nor is this less important than before because our policy is now directed to the removal instead of as formerly to the maintenance of artificial restriction upon trade."[1]

[1] Vol. I. p. 281.

The first Colony in which this new cause of conflict was fought out was New Brunswick. The Legislature of that Colony passed an Act granting a bounty on the cultivation of hemp. As the Act was of limited duration it was provisionally allowed, but the Lieutenant-Governor was instructed to refuse his assent to any Act having a similar object. The Assembly claimed that the question was "purely local," and that the prohibition of bounties by the Imperial Government was a capricious interference with the right of the Colony to regulate their own taxation. Lord Grey was not the man to yield when he considered that the sacred cause of Free Trade was at stake, and it was perhaps well for the general peace of the Empire that the seals of office had passed into more pliable hands before the question was ultimately decided.

Apart, however, from the general question how far England was to dictate the fiscal policy of the Colonies, special circumstances complicated the introduction of free trade into Canada. As recently as 1843, a British statute had allowed Canadian wheat and flour to be admitted to the British market at a nominal duty; the Canadian legislature having on their side imposed a duty of three shillings per quarter on foreign wheat. As the result of this legislation, much capital had been expended in Canada in the erection and working of flour mills for dealing with American wheat. Under the Free Trade Act of 1846, all the advantages, because of which this capital had been attracted, were swept away. Well might Lord Elgin say,[1] "It is the inconsistency of Imperial legislation, and not the adoption of one policy rather than another, which is the bane of the Colonies." It is now clear that during these years Canada passed through a terrible time of trial, so far as loyalty to the Empire was concerned. The mercantile and commercial classes, the natural bulwarks of law and order, were "thoroughly disgusted and lukewarm in their allegiance."[2] Political discontent, properly so-called, there was none. Com

6 and 7 Vic., c. 29.

9 and 10 Vic., c. 22.

[1] *Letters and Journals*, p. 60.

[2] Lord Elgin, Aug. 18, 1848, *ibid.*, p. 62.

mercial embarrassments were the real difficulty, and there was always the risk lest the Colony, not yet attained to full national manhood, should seek protection within the broad portals of that great Republic, whose unequalled physical position allows her to combine, with protection against the outside world, the fullest and freest interchange of the most varied products of every soil and climate. How strong was the temptation can only be surmised. That it was resisted was due in the first place to the engrained loyalty of the Canadian people, and next to Lord Elgin. English statesmen at home could certainly claim no credit in the matter.

A more serious cause of quarrel than the New Brunswick bounties threatened to arise when, on the petition of Sheffield manufacturers, the English Ministry seemed inclined to disallow the tariff imposed by the Canadian legislature in 1858. The Home authorities finally gave way, but there was an ominous ring in the language of the Canadian Minister which threatened trouble in the future, if the claims of the Mother country, as put forward by Lord Grey, were to be persisted in.[1] "Self-government," wrote Mr Galt, "would be utterly annihilated if the views of the Imperial Government were to be preferred to those of the people of Canada."

[1] *Parl. Pap.*, 1864.

CHAPTER III

CAPE COLONY, 1830-1860

Cape Colony. THE difficulty of arranging the diverse and varied doings of a world-embracing empire under the formulæ of any particular theory is especially illustrated by the case of South Africa. It has been seen that, taking the Empire at large, the period in question was one of achievement. Mistakes were doubtless made; practice lagged behind theory, and theory itself was but half-understood. But, if we compare the position of the Colonies in 1860 with their position in 1830, we are struck with the progress. How comes it that South Africa alone appears to some extent an exception? that here British Colonial policy seems always attended by failure; that even, when the measure was right, it was taken at the wrong time, and that a heritage of future trouble was laid up, the final outcome of which puzzles even now the shrewdest of political prophets. In one sense it is, of course, possible to exaggerate the importance of such failure. As years went on, there was in the Colony great moral and material development, and it was no slight triumph that, amongst a population so different in origin and tradition, representative government should have been peacefully introduced, and have worked on the whole so quietly and well. Nevertheless, it is the dark side of the shield which must mainly detain us. The great source of trouble has been already mentioned. Public opinion at home,—meaning by public opinion the opinion of the few people who took interest in the subject,—and colonial public opinion were at hopeless issue on the question of the treatment of the natives. The fixed idea of English public men was that the constant practice of the Dutch colonists was to enslave and tyrannise over the natives. In accordance with this view, Lord Goderich directed that Dutch farmers should not be allowed to settle in the new frontier districts. It was in vain that Governor

after Governor sought to combat English prejudice. Thus Sir Lowry Cole wrote with regard to the alleged ill-treatment of the coloured people,[1] "It might suit the views of some writers to hold up the local government and the colonists to the detestation of mankind . . . and to represent the native tribes as the most injured and innocent of human beings, but those who have the opportunity of taking a dispassionate view of the subject would judge differently."

More striking is the testimony of D'Urban. He went out in 1834 to administer a new policy. The civil establishments were to be greatly reduced, the expenditure was to be brought within the revenue, and the balance scrupulously applied to the payment of the public debt. The system of dealing with the natives was to be altered, and friendly alliances were to be formed with Kaffir chiefs. D'Urban started with the sincere belief that the colonists were wholly in the wrong, but facts on the spot soon led him to alter his views. The experience of the Kaffir War, which broke out at the end of 1834, taught him the value of the idyllic picture of the Kaffir, as drawn by the missionaries. After the close of the war, he considered it necessary to annex to the British possessions the tract of country between the Keiskamma and the Kei. The despatch announcing his intentions was thus answered by Lord Glenelg: "In the conduct which was pursued towards the Kaffir nation by the colonists and the public authorities of the Colony through a long series of years, the Kaffirs had an ample justification of the war into which they rushed with such fatal imprudence . . . urged to revenge and desperation by the systematic injustice of which they had been the victims, I am compelled to embrace, however reluctantly, the conclusion that they had a perfect right to hazard the experiment, however hopeless, of extorting by force that redress which they could not expect otherwise to obtain." In these circumstances "the claim of sovereignty over the new province . . . must be renounced. It rests upon a conquest resulting from a war in which . . . the original justice is on the side of the conquered, not of the victorious

Dec. 26, 1835.

[1] Quoted at p. 377 of Theal's *History of South Africa*, 1795-1834.

party." Lord Glenelg further announced that a Lieutenant-Governor would be sent out for the eastern district, and that an Act was being drafted to enable Courts of Law to take cognisance of offences committed by British subjects beyond the borders of the Colony. The new Lieutenant-Governor proved to be Captain A. Stockenstrom, whose main title to distinction at the time was that he had just been bringing the strongest accusations against his fellow-countrymen before a Committee of the House of Commons. The composition and findings[1] of that Committee indicated very clearly the tone of the English public opinion of the day. Mr Fowell Buxton was its Chairman, which was very much as though the Committee on the South African Chartered Company had been presided over by Mr Labouchere. The Report appears to have been drawn up under the inspiration of Dr Philip.[2] The opinion of men like Sir Rufane Donkin, who had had actual experience of the Colony, went for nothing, although many now-a-days will agree in his preference for missionaries, who did not intermeddle "with the politics, either internal or external, of Colonies."

Frontier Policy.

The new Lieutenant-Governor, in accordance with his instructions, negotiated treaties with the chiefs, under which the two parties were placed on a footing of perfect political equality. "Colonists were to have no more right to cross the boundary eastwards without the consent of the Kaffir chiefs than the Kaffirs to cross westwards without the consent of the Colonial Government. White people, when in Kaffirland, were to be as fully subject to Kaffir law as Kaffirs, when in the Colony, were to be subject to Colonial law."[3] The result of all this was plain enough. In D'Urban's words, the new and reckless policy had "sufficed to dispel the salutary fear of our power . . . to shake—if not altogether to alienate—the respect and confidence with which we have been regarded by our friends, to banish the flower of the frontier farmers, and to leave those who yet remained in a state of the most fearful insecurity." D'Urban, at least, was not wanting in

[1] *Parl. Pap.*, 1836 and 1837.

[2] See *supra*, p. 270.

[3] Theal, *Hist. of S. Africa*, 1834-1854.

the courage of his opinions. His reply to Lord Glenelg's indictment of the colonists was to demand compensation for "faithful subjects who had been visited with calamities rarely paralleled, undeserved by any act of the sufferers." No wonder that in the following year the Governor was informed May 1837. that the King had thought proper to dispense with his services as Governor of the Cape Colony.

The old frontier policy had been the rough and ready one of punishing native raids by *commandos* on the part of the settlers. The new policy was to trust to the promises of treaties, and to a frontier police of forty Kaffirs, a goodly proportion of whom were in the pay of the native robbers. In the language of D'Urban's successor,[1] Sir G. Napier, himself a chivalrous friend of the natives, and an advocate of Lord Glenelg's policy,[2] the effect of the treaties was to bear "hardly and unjustly upon the colonists, to tend rather to encourage than to discourage stealing upon the part of the Kaffirs." Although he recognised that "the good faith and equality upon which treaties are based are and must ever be wanting in treaties with barbarous tribes"; nevertheless, the policy must be continued, because "the effect of force would 1843. be to postpone the great object of these treaties, viz., to raise the Kaffirs in the scale of civilisation by appealing to their sense of justice." Lord Glenelg himself admitted[3] that "time and experience alone can reduce to a satisfactory test the 1837. conflicting expectations of Sir Ben. D'Urban and myself." What was the answer of time and experience will abundantly appear in the sequel.

In a yet more important way, the doings of these few years Boer exodus were to leave permanent traces on the whole future history of South Africa. Whatever may have been its causes, the exodus of the Dutch farmers, which began in 1836, has

[1] *Parl. Pap.*, 1851. "Extracts of corr. relating to Kaffir tribes between 1837 and 1845."

[2] Sir G. Napier lived to change his mind. He told a H. of C. Committee "on the Kaffir Tribes," in 1851, that he had been prejudiced against feeling in favour of D'Urban's policy, "but common sense told me that I was wrong."

[3] *Parl. Pap.*, 1851.

had more far-reaching results than any other event in South African history. What, then, were its causes? To the omniscient Lord Glenelg they seemed clear enough.

Nov. 28, 1837. "The motives of the emigration were the same as had in all ages impelled the strong to encroach upon the weak, and the powerful and unprincipled to wrest by force or fraud from the comparatively feeble and defenceless, wealth or property or dominion." In a similar spirit, he afterwards wrote that the proceedings of the emigrants must be checked "in order to put an end to the scenes of havoc and destruction which have hitherto attended their course." [1]

To D'Urban, on the other hand, who was on the spot, and had the opportunity of testing theory by fact, the causes of the exodus were, the insecurity of life and property occasioned by the recent measures, "inadequate compensation for the loss of the slaves, and despair of obtaining recompense for the ruinous losses by the Kaffir invasion." The view of the emigrants themselves was thus stated [2]—

"We despair of saving the Colony from those evils which threaten it, by the turbulent and dishonest conduct of vagrants who are allowed to infest the country in every part. . . . We complain of the severe loss . . . by the emancipation of our slaves and the vexatious laws which have been enacted respecting them. We complain of the continual system of plunder, which we have for past years endured from the Kaffirs . . . We complain of the unjustifiable odium which has been cast upon us by interested and dishonest persons under the name of religion. . . . We are resolved that wherever we go we will uphold the just principles of liberty, but, whilst we will take care that no one is brought by us into a condition of slavery, we will establish such regulations as may suppress crime and preserve proper relations between master and servant. . . . We quit this Colony under the full assurance that the English Government has nothing more to require of us and will allow us to govern ourselves without its interference in

[1] *Parl. Pap.*, 1851. Corr. between 1837 and 1845.
[2] *Hist. of S. Africa*, 1834-1854, p. 90.

future." It may be said that evidence on one's own behalf counts for little, but by the side of this statement should be placed D'Urban's assertion that the Dutch farmers who were leaving the Colony were "a brave, patient, industrious, orderly, and religious people—the cultivators, the defenders, and the tax-contributors of the country."

It is often said that the emigration was mainly due to the emancipation of the slaves. It is true, of course, that the regulations with regard to their treatment had caused much heart-burning and friction, and that the manner in which emancipation was carried out, the inadequacy of the compensation, and the fact that claims had to be substantiated in London had caused much dissatisfaction and suffering among the owners. Mr Theal, however, has pointed out[1] that, whilst 56 per cent. of the total slave population belonged to the districts of Cape Town and Stellenbosch, 98 per cent. of the emigrants were from the districts of Beaufort, Graaffreinet, Somerset, Albany and Uitenhagen, wherein there had only been 16 per cent. of the slave population. In these circumstances, it is impossible to connect the emancipation of the slaves and the emigration as cause and effect. Another opinion maintained is that the emigration was merely a continuation of what had been going on since the beginning of the eighteenth century, but there is all the difference in the world between the movement necessitated by defective methods of agriculture and the need of new lands, and the deliberate exodus of masses of people who abandoned or sold for small sums some of the choicest land in South Africa, and who left the Colony with the avowed determination to set up independent communities. It would seem that the runaway debtors and rogues who afterwards sheltered themselves within these loosely-governed republics were not partakers in the original exodus.

The English Government found themselves confronted with a most difficult question. The strict legal aspects of the case might be clear enough. The maxim "nemo potest

[1] *Hist. of S. Africa*, 1834-54, p. 91.

exuere patriam" applied no doubt to the case of subjects who had become such by conquest. But when the case was transferred from the grounds of dry law to its merits, every kind of difficulty stood in the way. In the first place, the emigrants could not be detained. The Attorney-General recognised that "it seemed next to an impossibility to prevent persons passing out of the Colony, by laws in force, or by any which could be framed." The emigrants must therefore be allowed to leave, but it seemed equally clear that the new country, to which they might proceed, must not be claimed as British territory. On this point, of the necessity of no further extension, all English statesmen were agreed. It was not merely the feeble Glenelg who was deeply persuaded of the "inexpediency of acquiring any further enlargement of territory in South Africa." His successor, Lord Normanby, agreed to the fullest extent with his immediate predecessor; and Secretary of State after Secretary of State breathed the same spirit. It is true that the tendency of things was too strong for English statesmen to resist and that extension had in a grudging and half-hearted way again and again to be allowed; but it was impossible to frame policy beforehand with a view to such extension. But, if the emigrants were to remain British subjects, while the country in which they lived remained native territory, it was clear that they were subject to all the duties of citizenship without obtaining any of its advantages. It might be easy for lawyers and politicians to put forward such claims, but tried by the logic of facts they broke down. The State, which abjures responsibilities, will in the long run find itself to have lost rights. It may be said, however, that if the British Government were determined against expansion, whatever the abstract theory, practical difficulties need not arise. Against this, however, important considerations stood in the way. In the first place, English statesmen frankly recognised that they were trustees on behalf of the interests of the native races of South Africa, and, according to the received view of the Dutch emigrants, their action would almost certainly imperil those interests. Moreover, in a direct

fashion, the doings of the emigrants might affect Cape Colony. Their relations with the natives might result in the pressing southwards upon the Cape frontiers of masses of native tribes; a danger to the Colony which must at all costs be averted.

Annexation of Natal.

Be this as it may, the action of the emigrants in taking possession of Natal precipitated events. The history of the exodus is one of continually renewed dispersions, owing to dissensions between rival leaders. Already we detect the note which was to be of such importance in subsequent history, viz., the inability of the Boer, when left to his own devices, to carry on civil government. Thus, the separate settlement in Natal arose out of quarrels between rival leaders, the other party remaining some in what is now the Orange Free State, and some in the country beyond the Vaal. Natal had been for some years the resort of English adventurers. The question of its occupation as a British settlement had been mooted and decisively answered in the negative by Lord Glenelg. When, however, the Dutch emigrants proceeded to take possession of the Port of Durban, the hands of Napier were forced, and an occupation, however "temporary and purely military," of Durban became inevitable. Whatever the words of statesmen, the English Imperial spirit was not dead through sleeping, and the material interests of Cape Colony would not allow that an independent republic should be established upon the coast with a harbour, through which access would be given to the interior. British Colonial Secretaries, however, could not yet reconcile themselves to facts, and so in 1840, Napier, believing "that the colonization of that country would never be sanctioned," "felt the further retention of the port might give rise to hopes or even fears which it was probably the wish of Her Majesty's Government not to foster." The withdrawal of the English troops from Durban was almost simultaneous with the great victory of Panda, the ally of the Boers, over Dingan's army. The result was that Pretorius was able to issue a Proclamation taking possession of a territory more extensive both to the north and the south

1835.

Jan. 22, 1840.

Jan. 30, 1840.

than is the present Colony of Natal. The description[1] given by Mr Theal of the condition of things in the Natal Republic is very suggestive. "The result was utter anarchy . . . public opinion of the hour in each section of the community was the only force in the land." A loose kind of alliance had been formed between the Natal Volksraad and the Government of the settlers in the districts of Winburg and Potschefstroom. Roughly speaking, the Winburg district corresponded to about half of the present Orange Free State, the Potschefstroom district to the present South African Republic, while, between the Vet River and the Orange, there were several parties of emigrants acting independently. The Natal Volksraad proposed to send Commissioners to the Cape Colony to treat for "acknowledgment of their independence with the rights of British subjects!"

Meanwhile English public opinion was moving, and in 1840 Lord John Russell wrote that he was favourable to the settlement of Natal as a British Colony, though not prepared to expend large sums of money in conquering the country from the emigrant farmers. The precarious state of affairs on the eastern frontier of Cape Colony prevented, for some time, any attempt to enforce this policy, and it was the action of the Boers in pressing the Pondos southward which finally caused the interference of the English. At the close of 1840 Napier issued a Proclamation declaring that the Queen would not recognise the emigrants as an independent state, and that he was about to resume military occupation of Port Natal. It is impossible not to sympathise with the Boers under the shilly-shallying treatment they had received from England. In their distress they looked for help from Holland, and deluded themselves with vain hopes which throw a certain light on more recent events. Even as late as 1842 Lord Stanley struggled with the inevitable. He believed that little advantage would ensue from the establishment of Natal. For many years it would be costly to the Mother country. It would tend still further to disperse population

[1] *Hist. of S. Africa*, 1834-1854, p. 321.

and would bring Great Britain into new and hazardous relations with the natives. However, Lord Stanley was open to conviction, and in answer to Napier's urgent appeal, finally agreed[1] to take the inhabitants under the protection of the Queen. Accordingly, in May 1843, Natal was proclaimed a British Colony. When the British Commissioner arrived at Maritzburg he found[2] "the machinery of government at a complete standstill; there was not a sixpence in the treasury. . . . The sentences of the law courts were in most instances completely disregarded. . . . There was hardly one who had been in office but who candidly admitted that the Republic of Natal was a failure." The Natal Volksraad submitted; the more violent section of the farmers retiring beyond the Drakensberg Mountains to their kinsmen on the other side. Mr Cloete next came to terms with Panda, the Zulu king, obtaining the formal cession of St Lucia Bay; by which means the farmers were prevented from obtaining the seaport they coveted. Natal was to be a dependency of the Cape, though separate for judicial, financial, and executive purposes. The Lieutenant-Governor was to be aided by an executive Council. The Lieutenant-Governor and Council might recommend laws to the Cape Colony authorities for their enactment. Lord Stanley was urgent[3] that national preferences should be, as far as possible, indulged. Notwithstanding these good intentions, the rule that actual occupation for the twelve months preceding the enquiry must be shown to give a good title to land, pressed hardly on the Dutch and was the cause of a new emigration. Feelings were further embittered by the refusal of the Governor, Sir H. Pottinger, to see the Natal envoy Mr Pretorius.

Sir Harry Smith, who became Governor in 1847, had a genuine liking for the Dutch, and was convinced that he could bring them to terms. He had already served in South Africa and won all hearts. He assumed the government with a fully matured plan for the settlement of affairs north of the Orange. A new British Colony must be formed, and 1847.

[1] *Parl. Pap.*, 1847-8. [2] *Hist. of S. Africa*, 1834-1854, p. 356.
[3] *Parl. Pap.*, 1847-8.

Orange River Sovereignty. a general control exercised over the native chiefs. For this purpose Sir H. Smith proceeded to Bloemfontein. The picture which he gave in his despatches, of the state of feeling among the Boers, is very vivid. "Jealous to a degree of what they regard as their rights," "constantly at variance with one another," "the world has at no period produced a race of men so prone to give credit to evil reports, however monstrous and impossible their nature, as the Dutch emigrant Boer." He frankly recognised that "it must not be expected that perfect cordiality can at once be established among men who have for so many years led so unsettled a life as these emigrant farmers."[1] In many ways Sir H. Smith was well suited to the task of conciliation. Unfortunately he was in a great hurry, and his passage through the country, as was afterwards said, was like that of a meteor. He was anxious to reach Natal so as to prevent any further exodus of the Dutch from that Colony, an object in which he was successful. As a consequence of this hurry, the Proclamation under which the government of the Orange River Sovereignty was carried on contained provisions which caused future trouble. Especially the clause which required every able-bodied man to turn out in defence of the Queen and her allies, whenever called upon to do so, became, as interpreted by the British Resident, Major Warden, a fertile cause of mischief. Under it the lives of European settlers might be risked in pursuing the quarrels of native chiefs. In any case, however, the assumption of sovereignty was at first, upon the whole, unpopular. It had reluctantly been assented to in England on the ground that the black people required protection from the Dutch, and that the better disposed farmers, being in a condition of anarchy, would gladly submit to a settled government. For the moment, however, the more violent spirits obtained the upper hand, and it was necessary to use force to maintain the sovereignty.

Feb. 3, 1848.

Upon the defeat of the Boers, the most anti-British of them moved over the Vaal, while fresh immigrants from the Cape Colony filled their places. According to a statement[2] drawn

[1] *Parl. Pap.*, 1851.

[2] *Parl. Pap.*, 1854.

up by the inhabitants in 1851, "no sooner had your Excellency extended the authority of the Queen than order and subordination were established, the confidence of the peaceful and well-disposed revived . . . flourishing villages suddenly sprang up, and the apparently waste land of a year or two previous became studded with substantial homesteads." Doubtless other considerations had to be borne in mind. It is unfair to rail at the disinclination of English Ministers to extend British possessions in South Africa. It must be remembered that South Africa was a casket which jealously hid its riches to the last. For long it was a continuous source of expense to the Empire, with no apparent corresponding advantages. It is possible, indeed most probable, that a bolder policy would have in the end been cheaper, and some at least of the trouble had been caused by the blunders of English Ministers. Still, in the circumstances, English policy was, it must be admitted, natural enough. That policy was not merely the policy of busy politicians living from hand to mouth. It received authoritative support from the considered opinion, issued in 1850, of the Committee of the Privy Council for Trade and Plantations. "Very serious dangers are inseparable from the recent and still more from any future extension of Her Majesty's dominions in South Africa. That policy has enlarged, and, if pursued further, may indefinitely enlarge the demand upon the revenue and the military forces of the kingdom, with a view to objects of no perceptible national importance. By these repeated extensions. . . . Your Majesty's colonial subjects have as repeatedly been brought into contact with new tribes of barbarous people with whom it has been found impossible either to obtain any protracted peace or to wage any war which has not been at once costly, inglorious, unprofitable, and sanguinary. The effect of such extension of territory has not been to arrest the emigration of the disaffected colonists, but to induce them to emigrate into yet more distant regions, into which they have carried a warfare revolting to humanity and disgraceful to the British name."

Such being the views of English statesmen, the Sand River

Sand River Convention. Convention, signed in 1852, was probably inevitable; though care should have been taken to define the exact limits of the Republic. It is surely always right to recognise facts as they are. If Great Britain was prepared at all costs to resume authority over the emigrant farmers, well and good; but if not, what possible good was gained by keeping open old sores and treating as under a ban those whom there was no intention to coerce? The assistant Commissioners appointed by Lord Grey were doubtless right in holding that the best way to detach the Transvaal Boers from the disaffected in the Orange River Sovereignty, was frankly to recognise the independence of the former. There was surely a better chance of the Transvaal at some future time becoming British, if, in the meantime, the main cause of friction was removed, and if the Orange River Sovereignty could have given an object lesson in the capacity of the British system of government to permit within its confines a self-governing Dutch community. That the policy as a whole never had a fair trial was not the fault of the framers of the Sand River Convention.

Under the terms of the Agreement, the Commissioners "guaranteed in the fullest manner on the part of the British Government to the emigrant farmers beyond the Vaal River, the right to manage their own affairs, and to govern themselves according to their own laws, without any interference on the part of the British Government; and that no encroachment should be made by the said Government on the territory north of the Vaal River; with the further assurance that the warmest wish of the British Government was to promote peace, free trade, and friendly intercourse with the emigrant farmers then inhabiting, or who might hereafter inhabit, that country; it being understood that the system of non-interference was binding upon both parties." By other clauses Her Majesty's Government disclaimed "all alliances whatsoever and with whomsoever of the coloured natives north of the Vaal River," while the Boers covenanted that no slavery should be "permitted or practised by the emigrant farmers."

The political effects of the Convention on the Orange River Sovereignty were at once apparent. The disaffected

farmers in the southern province were informed that, while a cordial welcome would be given to any who should decide to cross the Vaal, it was impossible for the Transvaal Boers to aid and abet intrigues against the British Government. Unhappily, the decision was soon arrived at which rendered the good effects of the Sand River Convention of no practical use. As early as February 1852 Lord Grey had written[1] that "the ultimate abandonment of the Orange River Sovereignty should be a settled point in our policy." It is but fair, however, to Lord Grey to note that, while no statesman was more ready to form and to express strong opinions, none was more ready to modify such opinions when they were in conflict with the judgment formed upon the spot by an officer in whom he had confidence. During the brief tenure of office by Sir John Pakington, the question of retention or abandonment was stated to be still open. Matters, however, were brought to a climax by the outbreak of the war with the Basutos. In England it was believed that this war had been undertaken on behalf of the Dutch settlers, and their neglect to defend themselves was loudly blamed. In truth, it would seem to have been due to the action of the Imperial representative, who had acted against the opinion of the English as well as of the Dutch settlers. In the circumstances, the action of the Home authorities was natural enough. The real responsibility seems to lie with the Colonial officials. In the spring of 1852 Sir Harry Smith, who, for various reasons, had given displeasure to Lord Grey, was superseded by General Cathcart. The views put forward by Cathcart[2] on constitutional questions, assuming that they ran in the family, cause a sense of relief that Lord Grey appointed Lord Elgin in his brother's stead Governor of Canada, so that it did not fall to his lot to carry through the experiment of responsible government. When a meeting of delegates had, while demanding free institutions, declared strongly in favour of the retention of British authority, General Cathcart's amaz-

Abandonment of Orange River Sovereignty.

[1] *Parl. Pap.*, 1854.

[2] The conspicuous gallantry shown by Sir G. Cathcart in the Crimea need not forbid criticism of his actions as Civil Governor.

ing comment was as follows[1]:—"The expression of the wants and wishes of the delegates are so decidedly in favour of uncompromising self-government that it would be gracious in Her Majesty to grant them even more than they ask, viz., independence." "I have reason to think," he adds, "in that event Mr Pretorius would become president of a United Republic, and its natural independence might then be recognised. As you justly observe, the principle is the same whether the Vaal or the Orange River be the named boundary." With this kind of statesmanship to represent British interests the result was inevitable.

It was doubtless true that the faults of Sir H. Smith's original settlement of the question had been faults of detail, and were capable of remedy; that it had been these matters of detail and not the principle itself of British sovereignty which had caused such trouble and friction as there had been; that much of this trouble and friction had been further due to the manner in which the particular British Resident had carried out his duties, but no authoritative voice was raised to report all this to the British Government, and able statements, such as that drawn up by Mr Green[2] (who was appointed Warden's successor), pointing out exactly what required remedy, remained unheeded. As soon as the news of the Cadmean victory over the Basutos reached England, the Duke of Newcastle wrote that "Her Majesty's Government had decided to withdraw from the Orange River Sovereignty." Even now, however, the responsibility must mainly lie with Sir George Clerk,[3] the Special Commissioner appointed in 1853 for "the settling and adjustment of the affairs of the Orange River Sovereignty"; because the Duke of Newcastle distinctly informed him that, although the determination of the Ministry, as at present advised, was to withdraw, still it was open to modification on sufficient grounds being shown. Sir G. Clerk, however, was not the man to alter the Government's policy. He went out prepared to find certain things, and found them.

[1] *Parl. Pap.*, 1854. [2] *Parl. Pap.*, 1854.

[3] Curiously enough, Sir G. Clerk was a personal friend of Sir Bartle Frere.

When the elected delegates of the people, both Dutch and English, declared for the maintenance of British supremacy,[1] it was due to "delusions practised on the inactive Dutch by greedy English land speculators." It gave him no pause that the capable Chairman of the delegates solemnly affirmed that there had been "hitherto no separation of interests between the Dutch and English inhabitants." To Sir George Clerk it was plain that the Dutch must be casting longing eyes on their fellow exiles, "living contentedly and peaceably across the Vaal." To anyone who cares for English honour the story of the abandonment of the Orange River Sovereignty must be bitter reading. How an Assembly, consisting of seventy-six Dutch and nineteen English members, were denounced as "obstructionists," because they clung to the British connection; how the "well-disposed" were those who wished for independence; and how the loyal were either tired out or soothed by gifts of money; all this forms a dreary chapter in the dreary story of British failures in South Africa. The time and manner of the abandonment, just when the power of Moshesh, the Basuto king, appeared most threatening, were especially calculated to fill the loyal with disgust and dismay. They declared[2] that they would nail the British ensign, festooned with crape, half-mast high, and hold out until the British Parliament should decide their fate. To look to Parliament, however, was to depend upon a broken reed. When Mr Adderley moved[3] in the House of Commons an address to Her Majesty that she would be pleased to reconsider the Order in Council, renouncing Sovereignty over the Orange River territory, he received no support from either party. The royal Proclamation withdrawing the Sovereignty had been signed on January 30th, 1854, and the Convention, carrying out the Agreement, was signed in the following month. Under this convention the Special Commissioner guaranteed the future independence of the country and of its Government. He renounced any alliance with any

[1] *Parl. Pap.*, 1854. [2] Theal, *Hist. of S. Africa*, 1834-1854.
[3] *Hans.*, N.S., Vol. CXXXIII.

native tribe or chief north of the Orange River, with the exception of the Griqua chief, Adam Kok. The Orange Free State was to have the right to purchase arms in any British possession in South Africa, and the Commissioner promised to recommend to the Colonial Government that privileges of a liberal character, with regard to import duties, should be allowed. A British agent was to be stationed near the frontier, to promote mutual facilities and liberty to travellers and trade. The new Government further covenanted that no vexatious proceedings should be adopted towards those who had been loyal to the Queen, and that slavery and the slave trade should be illegal in the territory.

Policy of Federation.

The independence of the Orange Free State having been thus thrust upon it, against the wishes, to use Sir George Grey's words,[1] "of nearly all the wealthy and influential inhabitants," there followed that which might have been expected to follow. Within three years, the Government of the Orange Free State became "in a very distracted state."[2] The fellow exiles across the Vaal, instead of "living peaceably and contentedly," were themselves rent asunder by two hostile factions. The stronger of these two factions, led by a son of Pretorius, claimed to absorb the Orange Free State, and in its extremity the latter appealed to Sir George Grey, to be allowed to enter into a treaty of alliance with England, against its usurping kinsfolk. Sir George Grey saw to the root of the matter. He saw[3] that "by a federal Union alone, the South African Colonies can be made so strong and so united in policy and action, that they can support themselves against the native tribes." In the following year, on the invitation of Sir E. B. Lytton, he wrote an elaborate explanation of his policy.[4] He declared that the root of the mischief had been the want of faith shown by English statesmen in the future destinies of British South Africa. Their view had been that Simon's Bay was the only thing really worth caring about; that the

Nov. 19, 1858.

[1] *Parl. Pap.*, 1860.
[2] *Parl. Pap.*, 1857-8.
[3] *Parl. Pap.*, 1857-8, March 1857.
[4] *Parl. Pap.*, 1860.

expenditure of British money during wars had made the fortunes of the colonial inhabitants; that the European settlers beyond the Orange River had been indeed really rebels. Under this belief the union of the Transvaal and Orange River Free State had been deliberately advised, because, when it became necessary to punish them, "it would be only requisite to deliver one blow at one point instead of several blows at two or more points." But this policy of isolation involved a great danger, the full force of which time has demonstrated. After all, the Dutch population in South Africa were of one stock, and there could be "no doubt that in any great public popular or national question or movement the mere fact of calling these people different nations would not make them so, nor would the fact of a mere fordable stream, running between them, sever their sympathies, or prevent them from acting in unison."

The policy thus powerfully pressed upon the British Government was the same policy of confederation, which at a later date an English Minister was ineffectually to attempt to impose from without. In 1858 the moment was singularly opportune for its success. In the December of that year the Orange River Volksraad recognised [1] that "Union or alliance with the Cape Colony, whether on the basis of federation or otherwise, is desirable." Had such a federation been then established, complete self-government being jealously preserved to the Dutch farmers, sooner or later, in all probability, if no untimely threats of coercion had been employed, the Transvaal emigrants themselves would have seen the advantages of such union, and the problem of British South Africa might have been satisfactorily solved. The prejudices of British statesmen barred the way. Such prejudices were natural enough, but they were none the less calamitous. To the earlier despatches of Sir George Grey, Mr Labouchere replied that the policy of abandonment had been deliberately adopted, and must be maintained.[2] "Even the danger of one of these States being annexed by the other through fraud or violence would not furnish sufficient reasons for any interfer-

[1] *Parl. Pap.*, 1860.

[2] *Parl. Pap.*, 1857-8.

ence." When Sir E. B. Lytton invited Sir G. Grey's opinion on the general question of federation, there seemed a ray of hope; but the result was only the more disappointing. Unfortunately, with all his great merits as statesman and man of action, Sir G. Grey had pre-eminently the defects of his qualities; he scarcely took the trouble very often to disguise his contempt of his official superiors. Certainly the provocation given by him on this occasion was great. The Orange Free State being an independent community, he discussed, in his opening speech to the Cape Parliament, the question of confederation with that State, without waiting for instructions from the Home authorities. In these circumstances the
Jan. 1859. conclusion arrived at in England was probably inevitable.[1] "You have so far compromised the Government and endangered the success of that policy which they must deem right and expedient in South Africa, that your continuance in the administration of government can be no longer of service to public interests." Sir George Grey has himself stated[2] that the Queen and Prince Albert realised the wisdom of his general policy; but, although he was reinstated on the accession to office of the Duke of Newcastle, it was only on the distinct understanding that he should leave alone the question of confederation.

Sir George Grey.

While, however, on the most important of South African questions Sir George Grey was before his time, there was no difference of opinion as to his admirable management of the Kaffir difficulty. We have seen how contradictory and varying had been the frontier policies of successive Governors. At one time the Fish River, at another the Keiskamma, and at another the Kei had been considered the best boundaries. At one time the policy had been to break up the native tribes, at another to deal with them as sovereign powers on a perfect footing of equality. Sir G. Grey found that, however expedient it might be to govern through the chiefs, it would not do to allow native laws and customs to prevail, when they were revolting to humanity. Henceforth, therefore, the chiefs

[1] *Parl. Pap.*, 1860.

[2] *Parl. Pap.*, 1890-1, speech at National Aust. Convention.

exercised their power under the advice and direction of capable English magistrates. The policy of making the frontier country a kind of No man's Land was abandoned, and immigration thither actively promoted. The country was opened up by roads which the natives themselves made. The natives were taught the rudiments of agriculture, and extensive missions were started on the frontier, together with industrial schools. A native village police was set on foot, and an organisation of medical relief established. It is touching to read years after, in a native address to Sir Bartle Frere, of Sir G. Grey,[1] "a good Governor, good to tie up the hands of bad men, good to plant schools, good to feed the hungry, good to have mercy." The wisdom of Grey's proceedings was fully proved when in 1857 the rumours of the renewal of the Kaffir war came to naught. Minor matters in connection with that policy caused trouble. The subject of the German legion[2] (and, by the way, it is curious to note that forty years ago British South Africa was to be strengthened by means of German immigration), provoked much irritation. In justice to the Home authorities, it must be allowed that it does not very clearly appear how the introduction of a thousand German families, with young children, would have met the difficulty of the German soldiers not being accompanied by wives. These, however, were details, the main point was that Sir G. Grey while, as an interlude, helping to save India, did more to consolidate Cape Colony than had been done since the time of the first occupation. Not again, until the time of Sir Bartle Frere, was Cape Colony to have a really great Governor, but Sir Bartle Frere, as we shall see, was yet more unfortunate than his predecessor, in being thwarted by Ministers and circumstances.

Cape Colony Constitution.

So much space has been occupied by questions of policy, which involved the very existence of British South Africa, that there remains little room to deal with constitutional questions. Cape Colony having been obtained by cession,

[1] *Life of Sir Bartle Frere*, by J. Martineau, Vol II., 2nd ed., p. 397.
[2] *Parl. Pap.*, 1857-8.

the business of settling its form of government lay, not with Parliament, but with the Crown. This fact, however, had no practical effect in delaying the grant of free Institutions. The question of the future government was referred to the Committee for Trade and Plantations, and their Report was adopted in 1850. In that Report they decided against the division of the Colony, on the ground that those with local knowledge were of opinion "that the means do not exist of forming two separate legislatures with advantage." They had no hesitation in recommending a bi-cameral Legislature. With regard to the Legislative Council, they held, against the opinion of the Cape Colony Executive, "that, if it is desired to give to the Legislative Council strength to act in any degree as a balance to the Assembly, the elective principle must enter into its composition." They regarded responsible government "as altogether unsuited . . . because we believe it to be one which can never work with advantage except in countries which have made such progress in wealth and population that there are to be found in them a considerable number of persons who can devote a large proportion of their time to public affairs."[1] The Committee wisely recommended that "the main and leading provisions of the constitution . . . should alone be laid down, and that power should be given to the existing legislative council to pass Ordinances, subject to Your Majesty's approbation, for regulating all the subordinate arrangements, of which we are of opinion that as large a share as possible should be thus left to be determined on the spot." Nothing could have been more conciliatory than these recommendations, and they were at once adopted by the British Ministry. Unfortunately, the temper of the colonists had been excited by Lord Grey's ill-advised attempt to foist convicts on Cape Colony, and much unnecessary bickering and dispute ensued before the final settling of the new constitution. At last, however, the Ordinances were approved by the Privy Council, and the new constitution came into force in July 1854. The grave and dignified language of the des-

[1] Cape Colony did not, in fact, obtain responsible government until 1872.

patch[1] which accompanied the constitution brings home to us that, whatever blunders and mistakes might be made, they were in no sense due to want of sympathy. "In transmitting . . . Ordinances which confer one of the most liberal constitutions enjoyed by any of the British possessions, Her Majesty's Government are actuated by an earnest desire to lay the foundations of institutions, which may carry the blessings and privileges, as well as the wealth and power, of the British nation into South Africa, and, whilst appeasing the jealousies of some times conflicting races, to promote the security and prosperity not only of those of British origin but of all the Queen's subjects, so that they may combine for the great common object, the peace and progress of the Colony."

[1] *Parl. Pap.*, 1854.

NOTE.—Attention should be called, as indirectly bearing upon Colonial Policy, to the provisions of the Merchant Shipping Act of 1855, which, as amended and re-enacted by subsequent Acts,—the most recent of which was in 1894—may be termed the Magna Charta of the Emigrant. The Act promoted the comfort and safety of emigrants by stringent regulations as to the seaworthiness of emigrant ships, the provision on board of proper accommodation, good food and medicines, and the protection of emigrants against imposition. Emigration officers were stationed at the various ports to enforce the Act. (An excellent summary of the 1894 Act will be found in the *Emigration Statutes and General Handbook*, ed. by W. B. Paton, issued by the Emigrants' Information Office.)

BOOK IV

THE PERIOD OF THE ZENITH AND DECLINE OF *LAISSEZ-ALLER* PRINCIPLES.

1861-1885

"Keep you to yourselves;"
"So loyal is too costly! Friends—your love"
"Is but a burden: loose the bond and go."
. . . . . .
"The loyal to this Crown"
"Are loyal to their own far sons, who love"
"Our ocean-empire with her boundless homes,"
"For ever broadening England."

CHAPTER I

THE ATTAINMENT OF CANADIAN SELF-GOVERNMENT

The genesis of *laissez-aller* views on Colonial Policy.

WHERE tendencies, not events, are being considered, divisions by time must, in the nature of things, be somewhat rough and arbitrary. No one can say the exact hour when the *Zeitgeist* is found pointing in a particular direction. Moreover, it must be confessed that during the time we have been considering there was already much of the spirit abroad which we have called *laissez-aller*. Note the language of Sir F. Rogers[1] in 1854. Speaking of a "Legislative declaration of Independence on the part of the Australian Colonies,"[2] he goes on, "The successive Secretaries of State have been bidding for popularity with them by offering to let them have their own way. . . . What remains to complete colonial independence except command of the land and sea forces I don't quite see. I shall be interested to see what comes of it. It is a great pity that, give as much as you will, you can't please the colonists with anything short of absolute independence, so that it is not easy to say how you are to accomplish what we are, I suppose, all looking to, the eventual parting company on good terms." The view, which regards the granting of complete self-government to the Colonies, as part of a general policy of cutting them adrift, has been already noted. In 1872 Mr Disraeli asserted that "there had been no effort so continuous, so subtle, supported by so much energy, and carried on with so much ability and acumen, as the attempt of Liberalism to effect the disintegration of the British Empire." "Those subtle views," he alleged, "were adopted by the country under the plausible plea of granting self-government."[3] The attempt has been already made to vindicate the memory of

[1] Afterwards Lord Blachford.
[2] *Letters*, p. 175, ed. by G. Marindin.
[3] *Speeches*, ed. by T. E. Kebbel, Vol. II. p. 530.

Lord John Russell on this question, and we have seen how complete was, in fact, the continuity of policy amongst statesmen of both the great parties. Nor was Mr Disraeli very clear in his suggestions as to what British policy should have been. "Self-government . . . ought to have been conceded as part of a great policy of Imperial consolidation. It ought to have been accompanied by an Imperial tariff, by securities for the people of England for the enjoyment of unappropriated lands . . . and by a military code, which should have precisely defined the means and the responsibilities by which the Colonies should be defended, and by which, if necessary, this country should call for aid from the Colonies themselves." Now, with regard to an Imperial tariff, if what was meant was an Imperial *zollverein*, of course much might have been said for such a policy. It was not, however, through indifference to the Colonies, but because, rightly or wrongly, English public opinion was in favour of simple free trade, that such a policy was not adopted. But if it be meant that the Mother country should have dictated to the Colonies their fiscal policy, then there is little doubt but that such a course would have wrecked the Empire. In fact, it was strenuously advocated[1] by the Whig doctrinaire, Lord Grey, and its inexpediency was clearly shown by one who had himself been a Tory Under Secretary for the Colonies. With regard to the Land question, we have already seen that all English statesmen started with the firm intention to retain the control of the Crown lands in the hands of the Mother country, but the practical difficulties in the way proved insurmountable,[2] and, in fact, it was a Tory Secretary of State who first yielded on this point to the colonial demands.

Question of military defence.

The subject of military defence opens out a wide question. It has been maintained that the policy of gradually reducing the number of troops quartered in the Colonies was part of a

[1] See controversy in *Nineteenth Cent.* in 1877, between Lord Grey and Sir C. Adderley.

[2] On this, note that in the Western Aust. Act of 1890 it was found impossible to retain to the Mother country the control of the public lands, and sec. iii. provides that "the entire management and control of the waste lands . . . shall be vested in the Legislature."

general scheme of disintegration; but, in fact, that policy may well be defended on better grounds. It is not necessary to agree with the historical theory again and again put forward by Lord Grey and the statesmen and officials of the day. This theory held that the American Colonies had, in the old time, defended themselves unaided against aggression, and had even taken part in expeditions outside their own limits. While this state of things had lasted all had gone well, it was supposed, with the Empire. The theory took, perhaps, its most extravagant form in the language of Mr Godley, a recognised authority on colonial matters, who gravely informed[1] a Parliamentary Committee that the sending of English troops to America under Braddock was indirectly the cause of the future separation. Assuredly, as things were tending, without the presence of British troops in America, such separation would not have happened, because in a very short time there would have been no British America to separate. The theory appears based on a hasty generalisation from the single case of the New England Colonies. As a matter of fact, after there was a regular standing army at home, troops were furnished to some at least of the Colonies, as a matter of course. Thus, in 1679, we find[2] an annual expenditure of over £3000 in each of the Colonies of Virginia, Jamaica and the Leeward Islands upon English soldiers, and £1000 was at the same time devoted to the maintenance of forts in New York. If, as in the case of the troops afterwards quartered in New York, such companies in a short time only existed upon paper, the fault lay with the dry rot of corruption, and was not due to any elaborate theory. Moreover, as we have already seen, the despatch of troops from the Mother country, to assist the Colonies in special expeditions, had been proposed and made on many occasions before the time of Braddock.

Apart, however, from history, and merely upon its merits, there would appear much to be said for the almost unanimous conclusion of the Committee, which carefully considered the whole question in 1861, that the main object

[1] *Parl. Pap.*, 1861.

[2] Fortescue, *Cal.*, 1677-1680.

should be to encourage local efforts and local organisation; that therefore "the responsibility and cost of the military defence of such dependencies ought mainly to devolve upon themselves." And this "not merely with a view to diminish Imperial expenditure, but for the still more important purpose of stimulating the spirit of self-reliance in colonial communities." It was not necessary to agree with Mr Lowe, who, having boxed the political compass in New South Wales, lost no opportunity in England of traducing the community where he had passed his political apprenticeship, that a Government of the kind of New South Wales was not "fit to be entrusted with the disposition of Her Majesty's troops for any purpose whatever," to recognise the extreme difficulty of reconciling complete local independence with Imperial control of the military forces. Everyone must agree with Sir W. Denison[1] that "Usefulness must attend upon that unity of action which can only result from unity of administration . . . there must be no shuffling of responsibilities." But, under these necessary conditions, there was a grave risk of friction between the local and Imperial authorities. In this connection we may note the circumstances under which the last detachment of Imperial troops was removed from Victoria. The British Government were willing to leave, and the Colonial Government desired to have the services of a small body of men "to assist in fortifying and to aid in organising local volunteers."[2] The Colonial Government was willing to pay the cost, but insisted on a guarantee that under no circumstances should the troops move from the Colony. This guarantee the Imperial authorities were unable to give,
1870. and so the troops were removed.

Apart, however, from the complications introduced by the existence of responsible governments, the subject bristled with difficulties. It was easy enough to maintain in theory that Great Britain should protect her Colonies from attack by European powers, but that the resources of the Colony should be sufficient for small frontier wars; the difficulty

[1] *Parl. Pap.*, 1861. [2] Rusden, *Hist. of Aust.*, Vol. III. p. 400.

lay in the practical application. To a very great extent the Mother country might have dictated the policy which issued in war. Thus, in the case of Cape Colony, most colonists would adopt the view stated by Mr Owen.[1] "Directly there was any difficulty between the Colony and the blacks, the missionaries stepped in, and some philanthropists got up a tale here, and then we sent out troops to take care of the Kaffir, and we pampered him . . . we took such care of him that he made himself strong enough to fight us." Again, in New Zealand, the colonists strenuously maintained that the troubles were in great measure due to British interference. In this state of things, the one thing clear was that it was practically impossible to lay down any hard and fast rule. On the whole, the course taken has been justified by its results. In 1859 there had been[2] 15,000 British troops quartered in British North America, Australia, and South Africa, at a cost to the Mother country of over one million one hundred and ninety thousand pounds. The number and the cost were steadily reduced. In 1862 the House of Commons resolved without a division that "Colonies exercising the rights of self-government ought to undertake the main responsibility of providing for their own internal order and security, and ought to assist in their own external defence." Mr Adderley, in his book, *Colonial Policy and History*, asserts that thenceforward the principle, embodied in the above resolution, was adopted by every successive Administration as the settled policy of the Empire. "Accordingly," writes Todd,[3] "in debates upon this subject . . . from 1867 to 1870 Ministers were in a position to state that the troops were being gradually withdrawn from all the leading Colonies . . . until in 1873 the Under Secretary of the Colonies was able to announce that the military expenditure for the Colonies was now almost entirely for Imperial purposes."

In connection with the new policy, which required the Colonies to undertake the responsibility of their own defence,

[1] Evidence before H. of C. Com. of 1861. [2] *Parl. Pap.*, 1861.
[3] *Parl. Gov. in the Br. Colonies*, p. 297.

28 Vic., c. 14. an Act was passed in 1865 which empowered the Colonial Legislatures to provide vessels of war, seamen and volunteers for their own defence, and to place at the disposal of the Crown ships of war and seamen for Imperial service. Although no very important results ensued upon the passing of this measure, the fact of its passage serves to show that the attitude of the Home Government was not that attitude of callous indifference which it has been sometimes represented. In the same spirit, while the Home Government maintained that the Colonies should be able primarily to protect themselves, they were ready and willing to put at the service of the Colonies the best professional advice on questions of defence. In accordance with this undertaking Colonel Jervois in 1863 and 1864 was sent to report upon the state of defence of the British North American Colonies, and to confer with the Canadian Government on that subject. In 1875 the same distinguished engineer, along with Lieut.-Col. Scratchley, performed the same service for the Australian Colonies.

Colonial Policy of the Manchester School.

The importance, in dealing with questions of policy, of freeing one's self from the idols of the forum must be the excuse for dealing at such length with Mr Disraeli's criticism. It remains to justify the division of the subject here adopted. Hitherto English parties had not been divided on the question of the Empire. It so happened that, in the years between 1830 and 1850, many of the most energetic supporters of colonial expansion belonged to the Liberal party. Lord Durham, C. Buller, Sir W. Molesworth, are names which at once occur to one, and Grote had been among the original promoters of South Australia. In passing, we may note how different might have been the future of English Radicalism, had Sir W. Molesworth been a stronger man both physically and intellectually. As it was, his accession to the Colonial Office in 1855 was cordially welcomed throughout the Empire, and he was able to set an excellent precedent in promoting a Canadian to high office in the West Indies. From the death of Sir W. Molesworth, however, there dates the triumph, I think, of

a wholly different school of Radicalism. The opinions of Bright and Cobden had as little in common with those of Lord Durham and C. Buller, as they had with the later State Socialist Radicalism of to-day, but it was from about 1860 that the ascendency of the Manchester school must be dated. The Crimean War and the Chinese War had been object-lessons in the incapacity of Whigs and Peelites, while the Tory party were still feeble from the effects of the great disruption. In this state of things, the importance of the one party in Parliament, which knew its own mind, cannot be overestimated. The influence of the Manchester school extended far wider than amongst its nominal supporters. The late Lord Derby did not nominally break with the Conservative party till many years later, but it would not be difficult to show that, during his whole political life, he was in reality a disciple of Bright and Cobden. Lord Granville was by birth and breeding a Whig of Whigs, but in his economic and political convictions he will be found the fine flower and product of the Manchester school. Moreover, during the period on which we are entering, the personality of Mr Gladstone bulks large, and—whatever may have been, on occasions, his doubtlessly honest professions—most persons have instinctively recognised that his genius and the genius of Greater Britain stood opposed.[1]

As showing the convictions underlying the outward conduct of the statesmen of the day, note the remarkable language used by Lord Blachford writing many years later. He was a loyal servant of the Crown, and would have cut off his right hand rather than bring about by any act of his a day earlier than need be the eventual separation, but all the more striking are his words[2]:—"I had always be-

[1] "I had a long conversation on the 23rd with Mr Gladstone, in which I told him that he had often been charged in Australia, both in the newspapers and in speeches, with being indifferent, if not inimical to the preservation of the connection between the Colonies and England. He was visibly surprised at what I told him, and said I was authorised to say that he had never at any time favoured such views."—*Fifty Years in the Making of Aust. Hist.*, Vol. II. p. 103, by Sir H. Parkes.

[2] *Letters*, p. 299, ed. by G. Marindin (written in 1885).

lieved,—and the belief has so confirmed and consolidated itself, that I can hardly realise the possibility of anyone seriously thinking the contrary,—that the destiny of our Colonies is independence; and that in this point of view the function of the Colonial Office is to secure that our connection, while it lasts, shall be as profitable to both parties, and our separation, when it comes, as amicable as possible." When one considers that, from 1860 to 1871, Sir F. Rogers was permanent Under Secretary of State; that his influence with successive Colonial Secretaries was notorious; and that, in fact, to a very great extent, he, during these years, guided the policy of England, there is surely room for thought. If Lord Elgin was right on the saving virtues of faith, it was undoubtedly a serious matter that this distinguished and upright public servant, "the most gifted, the most talented, and of the most wonderful grasp of mind," of Newman's friends, was on this question among the faithless. The subtle weakening of sympathy thereby engendered was really more dangerous than the boisterous assertions of open foes.

In truth, opposition to colonial expansion was no new thing. It is curious to note that one of the earliest and most able advocates of a Little England was the high church Tory, Dean Tucker. In numerous writings, he preached the doctrine that—"The total separation from America" would be "one of the happiest events that has ever happened in Great Britain."[1] "France without Colonies . . . is almost invulnerable, but whenever she is seized with the epidemical madness of having distant Colonies, she will be as vulnerable as her neighbours." Again in 1823 Mr J. Hume had maintained in the House of Commons that "the Colonies, instead of being an addition to the strength of the country, increased its weakness,"[2] and suggested that they should be freed from their allegiance and become their own masters. No great stress need therefore be laid on the constant use of such language by politicians of the school of Mr Bright. The important point was how far more moderate statesmen had become imbued with such views.

[1] *Cui bono, letter addressed to M. Necker.* [2] *Hans.*, N.S., Vol. VIII. p. 250.

Upon the whole, I think that we shall be on firm ground in recognising that about the sixties, tendencies which had been for long floating in the air, began to assume more distinct shape: that these tendencies grew in force for some twelve years or so; that then opposite tendencies begin to become more clearly recognised, tendencies representing forces which had been long silently at work, until about 1885 we recognise that a new view of regarding colonial relations has become popular, so that the permanent official of the future, when he looks back upon his past experience will probably express himself in very different language from the passage I have quoted from Lord Blachford.

British N. America Act, 1867.

Be this, however, as it may, the student is abruptly recalled from the field of abstract theory in returning to the actual details of colonial administration. Point the *Zeitgeist* whither it may, the task of English statesmen is to carry through, as well as possible, the actual business in hand. We have now reached a time at which the full effects of responsible government had become apparent. It is Canadian not British Policy, which primarily dictates the British North America Act of 1867.[1] It is true that the passing of that Act has greatly subserved British interests, but it would have been out of the question for the initiative on the measure to have been taken by the Mother country. Most fortunately, colonial and Imperial interests were at one. Imperial defence, no less than the material interests of Canada, required confederation, and so when in 1865 Canadian delegates were sent to confer with Ministers on these and other questions, the very satisfactory result, in the words of the delegates themselves, was to "inspire more just views as to the position and feelings of the Canadian people, and to draw closer the ties that have so long and so happily attached our provinces to the Mother country."[2]

30 and 31 Vic., c. 3.

The British North America Act, 1867, embodied in an Imperial Statute the resolutions which had been agreed upon at a meeting of representatives from all the provinces, held at Quebec in 1864. The Confederation was to be known as

[1] Set out in Houston, *op. cit.*

[2] *Parl. Pap.*, 1867.

the Dominion of Canada. It was to consist of Canada, Nova Scotia, and New Brunswick. On addresses from the Parliament of Canada, and the respective legislatures of Newfoundland, Prince Edward Island, and British Columbia, these latter Colonies, or any of them, were to be admitted into the Union, and Rupert's Land and the North-Western Territory, or either of them, were to be admitted on address from the Canadian Parliament. A later Act empowered the Dominion Parliament to establish new provinces and provide for the constitution and administration thereof, and to alter the limits of provinces with the consent of their legislatures, and to legislate for territory not included in any province. Finally in 1886 the Dominion Parliament was empowered from time to time to make provision for the representation in itself of any territories, forming part of the Dominion, but not included in any province.

34 Vic., c. 28.

49 and 50 Vic., c. 35.

Under the British North America Act the Executive Power over the Dominion lay in the Queen and Privy Council constituting the Ministry. Legislative power lay in a Parliament, consisting of the Queen, a Senate, and a House of Commons, each House to possess such privileges, immunities and powers as might be defined by Act of Parliament, but so as not to exceed the privileges, immunities and powers exercised "at the passing of this Act" by the British House of Commons. The members of the Senate were to be nominated for life by the Governor-General. To prevent a reckless increase of the Senate for party purposes, it was enacted that the Governor-General should have the power to summon three or six additional senators, "representing equally the three divisions of Canada," but in such case no other person might be summoned "except on a further like direction by the Queen on the like recommendation," until each of the three divisions was represented by no more than twenty-four senators. In no case was the total number to exceed seventy-eight. The House of Commons was to consist at first of one hundred and eighty-one members, of whom eighty-one were to be elected for Ontario, sixty-five for Que-

Sec. 26.

Sec. 27.

bec, nineteen for Nova Scotia, and fifteen for New Brunswick. At each decennial census the representation of the four provinces was to be readjusted according to proportionate population: Quebec keeping the fixed number of sixty-five members, and the other provinces having their numbers readjusted in proportion. The duration of Parliament was to be five years. The practice of the English Parliament as to money Bills was closely followed. Under the statute the Governor-General had power either to assent to colonial measures, to withhold his assent, or reserve them for the signification of the Queen's pleasure. In the case of Bills reserved, the assent of the Queen in Council must be announced within two years from their presentation to the Governor-General. Bills assented to may be disallowed by the Queen in Council within two years after their receipt by the Secretary of State. The British North America Act further contained elaborate provisions with regard to the provincial governments and legislatures. It is impossible to enter here into the careful distribution of powers between the Dominion and Provincial authorities. It is sufficient for our purpose to note the broad distinction between the American Federal Union and the Canadian Federation, that,[1] "whereas in the United States, Congress has only the powers actually granted to it, the State legislatures retaining all such powers as have not been taken from them, the Dominion Parliament has a general power of legislation, restricted only by the grant of certain specific and exclusive powers to the Provincial legislatures." More germane to the immediate subject it is to observe the deliberate abandonment to the Dominion Government of the supervision formerly exercised by the Home authorities over the Provincial legislatures and executives. It is true that it has been held by British Secretaries of State that the Governor-General, in dealing with provincial legislation, fulfils an Imperial function, and should not merely act by the advice of his Dominion Ministers, but it would appear from the very careful and learned discussion of the subject in Todd's *Parliamentary Government in the*

Sec. 51. Sec. 50. Secs. 53 and 54. Sec. 55. Sec. 56. Part VII. of Act.

[1] Bryce, *American Commonwealth*, Vol. I. p. 685.

British Colonies that "under the British North America Act the control of the Crown over the provinces of the Canadian Dominion is now exercised, not directly by Imperial authority but indirectly through the instrumentality of the Dominion Government."[1] The section which substitutes the Governor-General for the Queen as the Executive authority in dealing with provincial legislation, refers also to the action of the Governor-General in relation to Appropriation Bills and money votes. So that, if the Governor-General could act independently of his Ministers in the one case he might also in the other, a conclusion which, from a constitutional standpoint, involves a *reductio ad absurdum*.

Sec. 90.

Hudson's Bay Company.

We have already dealt with the affairs of the Hudson's Bay Company down to the end of the fifties, and seen that, at this time, a final settlement seemed as far off as ever. The political circumstances, however, of Canada precipitated a decision of the question. When once confederation came within the sphere of practical politics, the further question naturally arose, should not British Columbia form part of such confederation, but if so, was it to be tolerated that it should be severed from Canada by a tract belonging to an independent company, which at one time talked of selling its rights[2] to Anglo-American capitalists; and so, among the subjects on which Canadian representatives conferred with the Home Government in 1864, was the settlement of the North-West and the claims of the Hudson's Bay Company. The Company had been reconstructed in 1863 amidst loud promises of a new policy, but in fact nothing was done, and in 1866 the shareholders condemned and rejected the policy of colonization absolutely and definitely. The union of British Columbia and Vancouver Island was effected in 1866 by an Imperial Statute. The original intention was that the Hudson's Bay Company should come to terms with the Canadian Government under a section of the British North America Act, but it was afterwards held that, as the claims of the Company were based on a Crown Charter, an Imperial Statute was necessary. An Act was therefore passed en-

29 and 30 Vic., c. 67.

Sec. 146.

[1] P. 345.

[2] *Colonial Policy and History*, by C. Adderley, p. 77.

abling the Crown to accept the surrender, upon terms, of the rights of the Hudson's Bay Company. It is unnecessary to enter here into the lengthy negotiations with regard to the price to be paid to the Company for the surrender of their territorial rights. The Company was a powerful corporation, with men such as Lord Kimberley or Sir Stafford Northcote for Governors, served by very able officers, and doubtless could protect its own interests. The North-West territories were finally purchased in 1869 for £300,000, and the new province of Manitoba was carved out of them. To us the important point is that henceforth the way was clear for a confederate dominion to stretch from ocean to ocean. "A new nation," "a fresh power"[1] had been called into existence, and the dream of Lord Elgin had been fulfilled, that it was by creating such a country as might fill the imagination and satisfy the aspirations of its sons that the danger of absorption with its great neighbour might be for ever set at rest. Of course, as usual, the voice of the croaker was sounded.[2] "To suppose that half the continent of America organised under one government and legislature can ever be treated as a Colony is to cherish a delusion." "The colonial skin . . ." would only be borne "till the warmth of England's bosom enables them to cast it off." Time however, as yet, has shown no indication of a fulfilment of such prophecies. On the contrary, the relations between all parties in Canada and the Mother country have been much closer and more cordial under the new system than ever they were under the old. *Divide et impera* may have been a good motto under the old colonial system, but the new one prefers "union and trust." 31 and 32 Vic., c. 105.

The province of British Columbia entered the Union in 1871: some pressure having been exercised by the British Government, which recognised that "easy . . . internal . . . communication . . . was . . . indispensable," and that such communication could not be obtained until the separate provinces were under one government. The consideration which induced British Columbia to join the Union was that a British Columbia.

[1] *Parl. Pap.*, 1867. [2] *Ibid.*

railway, connecting the seaboard with the Canadian Railway system, should be begun by the summer of 1873 and be completed within ten years. Unfortunately the physical difficulties in the way proved much greater than had been anticipated; and, when no steps were taken to carry out the undertaking, the dissatisfaction in British Columbia became great. With the consent of all parties the matter was referred to the arbitration of Lord Carnarvon. The actual details of Lord Carnarvon's award[1] need not concern us here, as in spite of the guaranteeing by the Imperial Parliament of a loan of £3,600,000 it was found impossible to fulfil the conditions imposed. When in 1876 Lord Dufferin visited British Columbia the inscription of an arch, under which he refused to pass, was "Carnarvon or separation." At last in 1879, the Lieutenant-Governor was able to express his satisfaction at "the assurance given by the Dominion Government that railway work in the province would not only be commenced, but be vigorously prosecuted this season." From this time the work went on busily, and the Canadian Pacific Railway was at last opened for general traffic in June 1886.

Lord Dufferin.

It will always be a ground for the deepest satisfaction that the critical period of Canadian history, when the scattered provinces of British North America found themselves welded into a single nation, was watched over by the most distinguished of the many distinguished men who have governed Canada since the time of Lord Dorchester. The peculiar combination in Lord Dufferin of Irish wit with the most perfect sobriety of judgment, of the most charming eloquence with the faculty of never saying too much, of the most genial bonhomie with a dignity which always worthily represented the Crown, rendered his government memorable in the annals of the Empire. Beneath the ready wit and brilliant periods of his speeches[2] is to be quarried a mine of applied thought, most suggestive to the student of Colonial Policy. Note his half-humorous yet most suggestive comparison between the American and the British Colonial systems of government, and the delightful passage wherein he compares the position

[1] *Parl. Pap.*, 1875.

[2] *Speeches and Addresses.*

of the Governor to that of the humble functionary who superintends the working of some mass of steam-drawn machinery, who "walks about with a little tin vessel of oil and pours in a drop here and a drop there as occasion or the creaking of a joint may require." Hard things have been said of Liberal Governments in connection with their attitude towards the Empire; at least this may be put to the credit side, that a Liberal Government gave Canada the Governor-General who did more to render the Imperial connection at once imposing and attractive than could have been done by any other man. With singular tact, Lord Beaconsfield, in choosing his successor, did not attempt to find one who should vie with Lord Dufferin in purely intellectual qualities. The choice of Lord Lorne was a public recognition of how remote was the fear of friction between the Governor-General and the Canadian Executive or Parliament, since otherwise the presence of the Queen's son-in-law would have been most inexpedient. Under the new régime the presence of Princess Louise served only to intensify Canadian loyalty and to strengthen the ties which, as Canada grows in population and importance, must more and more depend, not upon British constitutional or parliamentary ascendency, but upon a common respect of common interests and sentiments.

CHAPTER II

AUSTRALASIA AND THE EMPIRE

The influence of the Imperial connection upon the constitutional development of the Australian Colonies.

WITH the full granting of responsible government it is obvious that British policy must less and less concern itself with the internal politics of the Colonies. The general rule of course still holds good that no Colonial legislative body is competent to pass a law, at variance with or repugnant to any Imperial Statute which extends in its operation to the particular Colony. Neither can such body exceed the bounds of its assigned jurisdiction. The right of veto, however, has been very sparingly exercised. It would nevertheless be most erroneous to hold that, even with regard to questions of internal management, the rôles of the Colonial Governor and of the British Secretary of State have become merely ornamental. Indeed, in the case of the Australian Colonies, there were causes at work which rendered the existence of the English authorities of the utmost importance. Allusion has already been made[1] to the suggestive passage wherein Sir E. Head pointed out the use of the Canadian Union as a training ground in political moderation. No such training had been received by the Australian colonists, and, in consequence, amongst them political warfare was carried to extreme lengths. But it must at once be apparent how ill suited were constitutions moulded on the British for such methods of procedure. In Lord J. Russell's words, Oct. 14, 1839. "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. . . . The Sovereign using the prerogative of the Crown to the utmost extent, and the House of Commons exerting its powers of the purse to carry all its resolutions into im-

[1] See *supra*, p. 309.

mediate effect would produce confusion into the country in less than a twelve-month."

In the Colonies the great cause of strife arose from the rival claims of the Upper and Lower Houses of the Legislature. Much argument has been expended upon the respective merits of a nominated or elected Upper House; but, in fact, neither system can work unless there is present a spirit of compromise and of give and take. Moreover, the frequent changes of Ministry blunted the edge of the sense of ministerial responsibility. Between 1856 and 1876 there were in Victoria no less than eighteen administrations; in New South Wales and New Zealand there were seventeen; and in South Australia there were as many as twenty-nine. In this state of things, the Australian Colonies were a fire in which to test the characters of English Governors for independence as well as for tact.

Under the New South Wales Constitution, the Upper House had the right to amend as well as to reject money Bills. In 1858 the Ministry of the day proposed to swamp the Upper House by an addition to its members of thirty per cent. Sir W. Denison was willing to fill up vacancies, but "objected altogether to the principle of putting in members for the purpose of giving the Ministry of the day a majority."[1] The succeeding Governor, Sir John Young, was more complaisant, and was prepared to add twenty-one new members 1861.
to the Council, nominated with the express intention of carrying through a Land Bill. The attempt, however, was defeated by the action of the President of the Council and of the majority, in resigning their seats. The Parliamentary papers of the day are silent on this incident, but in 1872 the Governor[2] stated that the action of his predecessor had been regretted by the Secretary of State as not appearing "to be justified by the urgency of the occasion."[3] The Council had been nominated for five years, so that it now devolved upon Sir J. Young to nominate a new Council. Fortified by royal instructions, and repenting of his momen-

[1] *Varieties of Viceregal Life*, Vol II. p. 435. [2] Sir H. Robinson.
[3] See Rusden, *Hist. of Australia*, Vol. III. p. 263.

tary weakness, Sir J. Young was careful that the new Council should not be the mere creation of the Ministry but should consist of "gentlemen of various political opinions, who were at the time prominent in Parliament or in possession of much general influence."[1] Most appropriately Wentworth was appointed President. The incident thus closed happily, but it served to strengthen the hands of those who were in favour of an elective Upper House.

The leading case, however, in the conduct to be pursued by a Governor and by the Secretary of State, where there has been an actual breach of the law by the Colonial Ministry, is that of the unfortunate Sir C. Darling. It has been already noticed that a special difficulty in working English constitutional models arose in Victoria from the character which the rapid development of gold-mining had given to its population. In these circumstances, though the risk of refusing responsible government would have been infinitely greater, the dangers attached to its introduction were assuredly great. In Victoria the Upper House might reject but not amend Money Bills. Being elective, it claimed, no less than the Assembly, to reflect the public opinion of the Colony. In the state of warfare thence ensuing, the Ministry in 1865 proposed to cut the Gordian knot by 'tacking' to the Appropriation Bill resolutions imposing a protective tariff. The expectation was that the Council would pass the measure sooner than allow the ordinary needs of the various public departments to remain unprovided for. The Council, however, rejected the Bill on the broad ground that it was unconstitutional "that any clause of appropriation should be introduced into a Bill of Supply."[2] The Ministry retaliated by giving the same effect to the resolutions of the Assembly as if they had been the Act of the Legislature. They sanctioned the levying of the new duties, although the decision of the Courts was that they were wholly illegal.

[1] Extract from despatch of Feb. 16, 1865, contained in despatch of Sir H. Robinson, Aug. 27, 1872, quoted by Rusden, Vol. III. p. 264.

[2] Motion of Mr Fellows, July 25, 1865, in Council, see Rusden, *Hist. of Aust.*, Vol. III. p. 305.

They arranged with a private bank, so that moneys might be provided for the public service, to be recovered from the Government by a collusive suit. All this was done with the sanction and approval of the British Governor. Such conduct received its judgment in the words of Mr Cardwell,[1] —"I look with extreme apprehension on a state of things in which the Governor of a British Colony is engaged in collecting money by mere force from persons from whom the Supreme Court has declared that it was not due. . . . It was for one or other of the local Legislatures to yield, or for both to compromise their differences. . . . It was not for you to give a victory to one or the other party by a proceeding unwarranted by your commission, or by the laws of the Colony." Again, difficulties were "not to be removed by irregular acts of power. Anarchy, indeed, may ultimately result from continued opposition between two constitutional authorities, each obstinately insisting on its extreme rights. But anarchy has come already when the executive Governor, entrusted with power for the maintenance of public order and the protection of private rights, uses that power for the purpose of illegally setting aside the authority of one branch of the Legislature, of overruling the decisions of the Supreme Court, and of depriving the subject, even for a time, of that which the Court has decided to be his." "The Queen's representative is justified in deferring very largely to his constitutional advisers in matters of policy, and even of equity; but he is imperatively bound to withhold the Queen's authority from all or any of those manifestly unlawful proceedings by which one political party, or one member of the body politic, is occasionally tempted to establish preponderance over another. . . . It will be for the gentlemen who guide the opinions of the Colony, or form the majorities in the two Houses, to . . . ascertain, and you will, of course, afford them every opportunity of ascertaining how the government of the country is to be carried on. It is for you to take care that all proceedings taken in the Queen's name, and under your authority, are consistent with the law of the Colony."

[1] *Parl. Pap.*, 1866.

In attempting his own defence, Darling made use of such hostile language towards many of the leading colonial politicians, that even the persistent long-suffering of the Colonial Office was compelled to recognise that his continuance in the post of Governor had become impossible. "It is one of the first duties of the Queen's representative to keep himself as far as possible aloof from and above all personal conflicts. He should always so conduct himself as not to be precluded from acting freely with those whom the course of Parliamentary proceedings might present to him as his confidential advisers. . . . I regret to say that in the present instance you have rendered this impossible. . . . This has resulted, I think, entirely from your own acts, your adoption of a course of conduct which cannot be justified by law, and your strong denunciation, in which I am wholly unable to concur, of those who have objected to that course." Unfortunate as was Darling's position, he was still to sink to a lower. The squalid story of his indecision whether to continue in the Queen's service, or to accept, in his wife's name, the £20,000 voted him by the Victorian Assembly as the price of his weakness, need not detain us here, except so far as it points the old moral of the necessity of obtaining strong men for the post of Colonial Governor.

Whatever may have been the shortcomings of Sir C. Darling, there can be no question as to the ability or discretion of his successor, Governor Manners Sutton. For some years the constitutional history of Victoria continued to be the record of constant disputes between the Council and Assembly. The position of the Governor was, assuredly, no easy one. On the one hand, his duty was to keep aloof from all parties, and to take care that Imperial interests were not dragged into the vortex of faction; on the other hand, he was bound to keep within the four corners of the law. His duty was to act "in accordance with the advice of Ministers"[1]; but only "provided" he was "satisfied that the action advised" was "lawful." His position was rendered more difficult by the attitude of the contending parties. It

[1] Sir M. Hicks Beach, Feb. 22, 1878.

was clearly the opinion[1] of the astute Governor Manners Sutton that the Council were not satisfied with the position of the British House of Lords in its present working, but were inclined to put forward pretentions such as in England had long ago received their quietus. Thus, in passing, we may note the want of tact, which at a later date led the Council, on some objection of form, to reject the measure introduced by the 1878. Government to give effect to Sir W. Jervois' recommendations with regard to the defences of the Colony. So much must in fairness be admitted when considering the conduct of Sir G. Bowen in sanctioning the action of the Ministry, which answered the rejection by the Council of an Appropriation Bill, containing provisions for payment of members of the Legislature,—by the issue of a Gazette notifying the removal of numerous heads of departments, County Court judges, Police Magistrates, etc. At great length and with copious appeals to precedents, Sir G. Bowen justified his conduct.[2] Doubtless his position was a thorny one; compelled, as he was, to take his legal advice from men who were the active partisans of a particular policy. Nevertheless the fact remains that the Chief Justice of the Colony afterwards decided that the act to which the Governor had been a party was an illegal act, and most dispassionate readers of the Parliamentary papers will probably agree with the temperate words of Sir M. Hicks Beach.[3] "I desire to make every allowance for the difficulty of your position; but, so far as I am able to judge, I do not think that the emergency was of a character which can be held to justify the course which you adopted, and in my opinion you would have done better, in the interests of the Colony and in the maintenance of the principles of Parliamentary and responsible government, if you had informed your advisers that you felt unable to put your name to the documents directing the removal of these officers." It is true that Sir G. Bowen still strenuously maintained that such removal was "a question of purely local concern,"

[1] See despatch of Oct. 28, 1867, published in *Parl. Pap.*, 1878.

[2] *Parl. Pap.*, 1878 and 1878-9.

[3] *Parl. Pap.*, 1878, Aug. 25, 1878.

but the contention of the Secretary of State was that it is the duty of the British representative, so long as the Imperial connection lasts, to safeguard the legal interests of those who, however indirectly, are in the service of the Queen, and with this aspect of the case the precedents appealed to by Sir G. Bowen do not really deal. It has been necessary to dwell on this matter, not from any want of respect for a most distinguished public servant, but because the case of "Black Wednesday" singularly illustrates the need during this period of the restraining hand of those nurtured in the "give and take" of English public life.

So far as the surface was concerned, this time was one (as might have been expected) of disloyalty and dislike of the British connection. When in 1869 Mr Higinbotham moved resolutions[1] denouncing instructions from the Colonial Office as "derogatory to the independence of the Queen's representative and a violation both of the principles of the system of responsible government and of the constitutional rights of the people of this Colony," and pledging the Assembly to any measures necessary in "putting an early and final stop to the unlawful interference of the Imperial Government in the domestic affairs of the Colony," the resolutions were carried by large majorities. With the exception, however, of Mr Higinbotham himself,[2] no one appears to have been in earnest in the matter, and no attempt was made to bring the resolutions to the notice of the Secretary of State. A curious commentary was afforded on the sincerity of such professions of independence, when the same public men were found a few years later appealing to England that the long-standing dispute between the two Houses might be finally settled by the Home authorities. In 1878 it was decided that a deputation should be sent to England to request the Secretary of State to "do something by means of which the Imperial Legislature will provide that within some definite period the will of this country shall become the law of the land." It was in

[1] Rusden, *Hist. of Australia*, Vol. III. p. 395.

[2] Even in the case of Mr Higinbotham, dislike of "the man Rogers" rather than of the Imperial connection itself may have been the propelling motive.

vain that Sir M. Hicks Beach expressed the opinion that the question was "by no means ripe for legislation" in England; it was decided to persevere with the embassy, which, however, contained no member representing the views of the Council. The despatch in which the Secretary of State finally dealt with the subject may be deemed a *locus classicus*, on the constitutional aspects of the question.[1] "The intervention of the Imperial Parliament would not, in my opinion, be justifiable except in an extreme emergency. . . . It would involve an admission that the great Colony of Victoria was compelled to ask the Imperial Parliament to resume a power, which, desiring to promote her welfare, and believing in her capacity for self-government, the Imperial Parliament had voluntarily surrendered, and that this request was made because the leaders of political parties, from a general want of the moderation and sagacity essential to the success of constitutional government, had failed to agree upon any compromise for enabling the business of the Colonial Parliament to be carried on." The despatch then proceeds to practical advice. "Following the generally accepted precedent, the Constitution Act . . . established two Legislative Chambers and laid down to a certain extent their mutual relations; of which, it appears to me, a better definition rather than alteration is now required. . . . The recent differences . . . like the most serious of those which have preceded it, turned upon the ultimate control of finance. . . . But this difficulty would not arise if the two Houses of Victoria were guided in this matter, as in others, by the practice of the Imperial Parliament. . . . The Assembly, like the House of Commons, would claim and in practice exercise the right of granting aids and supplies to the Crown, of limiting the matter, manner, measure and time of such grants, and of so framing Bills of Supply that their rights should be maintained inviolate; and, as it would refrain from annexing to a Bill of Supply any clause or clauses of a nature foreign to or different from the matter of such a Bill, so the Council would refrain from any steps so

[1] *Parl. Pap.*, 1878-9, May 3, 1879.

injurious to the public service as the rejection of an Appropriation Bill. It would be well if the two Houses of Victoria, accepting the view which I have thus indicated, would maintain it in future by such a general understanding as would be most in harmony with the spirit of constitutional government. But after all that has passed it may be considered necessary to define those relations more closely . . . and this might be effected either by adopting a joint standing order, as was proposed in 1867, or by legislation. . . . But I must add that the clearest definition of the relative position of the two Houses, however arrived at, would not suffice to prevent collisions, unless interpreted with the discretion and mutual forbearance which have been so often exemplified in the history of the Imperial Parliament. . . . I hope that the views which I have expressed may not be without influence in securing such a mutual agreement between the two Houses as to remove any necessity for imperial legislation. . . . The course of action which Her Majesty's government might adopt, should this hope unfortunately be disappointed, must in a great measure depend upon the circumstances which may then exist; but I can hardly anticipate that the Imperial Parliament will consent to disturb, in any way, at the instance of one House of the Colonial Legislature, the settlement embodied in the Constitution Act, unless the Council should refuse to concur with the Assembly in some reasonable proposal for regulating the future relations of the two Houses in financial matters . . . and shall persist in such refusal after the proposals of the Assembly . . . have been ratified by the country, and again sent up by the Assembly for the consideration of the Council."

The compromise of 1881, which originated in the Council, was probably due to the temperate advice of the Secretary of State. In any case the importance of the Imperial connection as a *παιδαγωγὸς* to the school of constitutional compromise must be noted.

It would be easy, did space allow, to carry to great length this branch of our work. The Mother country was like some firm of engineers, which, having set on foot in a

strange country a complicated and elaborate system of machinery, sends one of its staff to superintend its working. The English Constitution, as we know it, is perhaps the most complicated and subtle which has ever been. Depending as it does on unwritten usage, we cannot well expect that its outcome will be quite the same amidst wholly different surroundings. Just as plants sown in different climates, give different results, so we cannot be sure what forms the constitutional seed sown in America, Australia, and Africa may finally take; but this at least we know, that the plant which finally issues will have owed much to the fostering care of British officials. And among the boasts of British Colonial Policy, it is surely not the least, that amidst circumstances, materially, socially, and morally wholly new, it has sought with a rare courage to apply the experience of the past, and, like the wise householder, to bring forth things new and old.

In this connection, note the constitutional precedents which the Colonies have afforded on the important question, how far the Minister of the day has a right to claim as of course a dissolution of Parliament. Even in England the Sovereign is by no means a passive instrument in the hands of his Ministers. All that is necessary is that there should be a responsible Ministry to sustain and justify a refusal. It is not even now quite clear how far the case of a Governor is on all fours with the case of the Crown at home, or whether the contention of Lord Mulgrave, the 1860.
Governor of Nova Scotia, can still be justified that the Governor occupies a different position,[1] "because the Governor is himself responsible to the Home Government, and it is no excuse to say . . . I do so by the advice of my Council." Upon the whole it would appear that more recent ex- 1872.
perience does not justify this distinction. Be this as it may, the proposition has been in Australia boldly maintained[2] that "in England . . . the alternative of resignation or dissolution is left absolutely to the discretion and responsibility of Ministers." To a similar claim put

[1] Todd, *Parl. Gov. in Br. Cols.*, p. 537.

[2] By Mr C. Gavan Duffy.

1879. forward at a later date by Mr Berry, Lord Normanby replied in a singularly convincing manner. "If the principle were once admitted that a Minister had a right to a dissolution whenever he saw fit to advise one, a vital blow would be struck at the power and independence of Parliament. The Minister would then become the master of Parliament instead of the servant of the Crown, and the knowledge that a vote against the Government might terminate its existence, would act as a constant drag upon the independence of Parliament, and the exercise of that supervision over the actions of the Government which it is its duty and right to exercise."[1] On this subject Lord Normanby could speak with authority; his wits having already been sharpened upon it in New Zealand by contests with that very able antagonist, Sir G. Grey. Needless to say, to Sir G. Grey the power of dissolution was a power derived from the Constitution Act, and was therefore "one of those questions on which . . . the Governor should act on the advice of his Ministers." Accordingly Sir G. Grey claimed the right of dissolution "unfettered by any condition of supplies being granted." Lord Normanby appealed to the Secretary of State, who replied "that the responsibility must . . . rest with the Governor. . . . If he should feel himself bound to take the responsibility of not following his Minister's recommendation, there can, I apprehend, be no doubt that both law and practice empower him to do so." Sir G. Grey, in commenting on this despatch, spoke of the Secretary of State as an "exterior authority"[2] unknown to New Zealand law. He would not consent that his own conduct in relation to the Assembly or to the Governor should be submitted to the Secretary of State, whose decisions he could not "recognise or accept." He would not discuss New Zealand questions "with any officer who is outside the Constitution, or who has no responsibility in the matter, or who has no lawful right to interfere with it."[3] Such language sounded strangely in the mouth of one who had been for over twenty

[1] Quoted by Todd, *Parl. Gov. in Br. Cols.*

[2] Rusden, *Hist. of N. Zealand*, Vol. III., 2nd ed. p. 154. [3] *Ibid.*, p. 155.

years a Colonial Governor, and who had himself, as lately as 1876, invoked the authority of the Secretary of State with regard to the abolition of the New Zealand Provinces. Happily, however, in this attitude of hostility to the British connection, Sir G. Grey did not express the popular mind, and in spite of the respect felt for his great abilities and distinguished services, he proved altogether powerless to enlist the New Zealand colonists in an anti-Imperial crusade. Having thus touched the fringe of a great subject, as illustrating one aspect of Colonial policy, we must leave a more systematic pursuit of it to be sought in Todd's *Parliamentary Government in the British Colonies*, or in the constitutional lore to be found in Blue Books.

Transportation.

We have already seen how the unfortunate interference of the House of Commons caused the system of transporting convicts to Australia to be continued after that it had been condemned as well by English authority as by colonial public opinion. Much credit is due to Sir W. Denison, who, although he had been against its discontinuance in Tasmania, opposed most strenuously its introduction into Queensland; recognising as he did that the past history with regard to the question would be repeated. In this state of things, Western Australia remained the one Colony to which convicts might be sent. The Australian Colonies, however, as they grew in importance, grew in self-assertion, and in 1864 the proposal was seriously put forward, characteristically enough by the Victorian Premier, Mr M^cCulloch, to boycott Western Australia so long as transportation should be continued. Such continuance was "universally regarded as an act of oppression and injustice."[1] Disregarding the usage by which official correspondence with the other Colonies was carried on through the medium of the Governor, Mr M^cCulloch addressed circular letters to the other Australian Ministries, proposing an Inter-Colonial Conference for making the necessary arrangements. The Governor of Victoria was informed that the time "had arrived for the exercise of such a power of self-govern-

[1] See Rusden, *Hist. of Aust.*, Vol. III. p. 516.

ment." Happily moderation was more present in the councils of the other Colonies. New South Wales declined to take a step "which would amount to an undue interference with the Imperial functions." New Zealand sympathised with the object, but could not "coincide in the expediency of interfering for that purpose with the postal arrangements between England and Australia." Queensland, where the labour vote was still weak, was apathetic in the matter. South Australia and Tasmania expressed agreement; but the proposal for concerted action was none the less a failure. The general feeling, however, of the Australasian Colonies could not be disregarded by English statesmen. Already the
1863. Duke of Newcastle had announced that the proposal of a Royal Commission to transport annually to Western Australia 1500 convicts would not be adopted; and in 1864 it was finally decided to discontinue transportation altogether. "While on the one hand," wrote Mr Cardwell,[1] "it has needed no menace of opposition to induce the Government carefully to consider the representations of the Eastern Colonies, so on the other the inopportune arrival of that menace has not prevented their taking the decision, which, on other grounds, has appeared to them to be on the whole expedient." The decision was to terminate the employment of transportation within a period of three years. In accordance with this undertaking the last ship with convicts for Australia was despatched in 1867.

Question of employment of Imperial troops in Colonies possessing responsible government.

The circumstances have already been explained under which, with advantage to all parties, British troops were gradually withdrawn from the Colonies. Serious difficulties, however, arose in Colonies such as New Zealand and the Cape, which still required Imperial protection against the natives. In Cape Colony the difficulty was partly met by the postponement of responsible government, but New Zealand had been the first of the Australasian Colonies to claim responsible government, and the friction between Imperial and Colonial authority was great. By statute the Governor retained an authority independent of his Ministers, so far as dealings with

[1] *Parl. Pap.*, 1865.

the natives were concerned; but as he had no command of separate funds out of which to provide for such services, his independent authority remained a dead letter. The pretensions of the Colony in effect involved a kind of taxation without representation. New Zealand was always to call the tune and the obedient Mother country to pay the piper. According to Lord Blachford, "the danger arose from the desire of the colonists to acquire land and the growing indisposition to part with it except at increasingly high prices."[1] The British Government in 1860 "proposed the establishment of a kind of Land Court composed of the Governor and a few persons in whom the natives would confide, and acting, not under the authority of the colonial Government, whose capacity at that time the natives distrusted, but under that of the Queen whom they respected." A Bill with this object was prepared by Rogers,[2] and introduced into Parliament. It was, however, dropped "because it was held that the Colony was entitled in that, as in other matters, to manage its own affairs; from which it followed that they were to have absolute power of bringing on wars of which we were to pay the cost and that they would be under a constant temptation . . . to pick a quarrel with the natives and clear them out at our expense." Sir G. Grey, who returned to New Zealand as Governor in 1861, strong in the sense of his own power to influence men, was emphatically of opinion that responsibility should be thrown on the Colonial Ministry for the conduct of native as well as other affairs. The English Ministry were of the same mind. The real obstacle lay in the reluctance of the New Zealand Legislature, which recognised that to agree to this would be to destroy the last argument on which they could claim special Imperial assistance. A Ministry which went as far as proposing that "the ordinary conduct of native affairs should be placed under the administration of responsible Ministers,"[3] although it disclaimed "exclusive responsibility," was replaced by another more favourable to August 1862.

[1] *Letters*, p. 298, ed. by G. Marindin. [2] Afterwards Lord Blachford.
[3] Rusden, *Hist. of New Zealand*, Vol. II., 2nd ed., p. 185.

the continued maintenance of Imperial responsibility. Again
1863. in the following year, Sir G. Grey, feeling strongly "the great evils resulting to both races from the present system, in which all power rests really in the hands of his Ministers, whilst responsibility rests upon himself and that there can consequently be no rapidity of decision or vigour of action in native affairs at this most important crisis of the history of the Colony," entreated "Ministers to accede to the advice of her Majesty's Government." At last the New Zealand Legis-
Nov. 1863. lature accepted the responsibility placed upon the colonists. Inasmuch, however, as in Mr Rusden's words, "the pledge . . . was no sooner made than it was repented, and by some sought to be evaded"[1]; the practical consequences of this change of policy were not great.

A special cause of friction between the Home and Colonial authorities arose from the very different views held by them on the subject of the confiscation of native land. "The New Zealand Settlements Bill, 1863," under which the Governor in Council might declare districts occupied by rebels as within the provision of the Act, and might thus seize upon lands for settlements, was assented to by Mr Cardwell, though not without misgivings. "Considering that the defence of the Colony is at present effected by
Apr. 1864. an Imperial force, I should perhaps have been justified in recommending the disallowance of an act, couched in such sweeping terms, capable, therefore, of great abuse unless its practical operation were restrained by a strong and capable hand." Sir G. Grey had considered the measure necessary, but he was not prepared to go the length of his Ministry in putting it in force. Their object was to defray war expenses by means of territory. Sir G. Grey was willing to enforce the cession of lands only as the punishment for rebellion. The Governor adhered to the Proclamation, which gave expression to his views, and the Ministry resigned: while, to add to their discredit, it now appeared that one of their colleagues, who had gone to England on a financial mission, had been "distinctly told that the acceptance of the proposal

[1] *Hist. of New Zealand*, Vol. II., 2nd ed. p. 256.

for a guaranteed loan would be regarded as an assurance . . . of their desire cordially to co-operate in that just and temperate policy toward the native races; and his reply, which was laid before Parliament, was perfectly satisfactory and complete in this respect." "If the doctrines now propounded by your Ministers," wrote Mr Cardwell, "are to be admitted, New Zealand must be regarded not only as owning no dependence upon the Mother country, and as having that inherent right which independent countries exercise of conducting their own affairs . . . but as having this right coupled with the singular privilege of having a Governor, a general, and an army furnished by this country. On the other hand, the Mother country would be simply a tributary nation, affording at its own cost the means of carrying into effect the policy of the colonial Ministers, without exercising any voice in the direction of that policy." The reply of the new Premier, Mr Weld, to this unanswerable argument was to propose that Imperial troops should be no longer employed. The Colony should undertake all the expense and all the control of the Maori question and war. Could such a policy have been at once put in practice, it would have won the cordial approval of the Colonial Office, of the Governor, and especially of the British troops quartered in the Colony. In fact, however, the financial position of the Colony rendered its postponement inevitable. Sept. 26, 1864.

The period was indeed one of general gloom. Difficult as was at best the system to work, special circumstances rendered it more difficult. The general outsider must share Mr Cardwell's astonishment at a state of things "in which ten thousand of the Queen's troops, aided by a colonial force equal in number, have been engaged in war against a body of natives never exceeding, as you have led me to understand, more than 2000 in number at one time."[1] In these circumstances the *onus probandi* surely lay with Sir Duncan Cameron to show that he was not an incompetent commander. Whatever were his military qualities, he proved a most unwelcome colleague to Sir G. Grey. Despatches criticising the Governor

[1] *Parl. Pap.*, 1866.

1865. were forwarded by the General to the War Office, while he refused to furnish Sir G. Grey with copies. Sir G. Grey's post was indeed no bed of roses. When in 1865 he took the Weraroa stronghold—accomplishing without loss a task which General Cameron, even after its accomplishment, was complacently asserting to be impossible until the weather permitted—his only reward was the issue of a new army regulation forbidding the Governor, though Captain-General and Commander-in-Chief, "to take the immediate direction of military operations."[1] At last, worried on all sides and rendered bitter by the belief that he was not receiving that support at home which was his due, Sir G. Grey made use of such expressions towards Mr Cardwell as inevitably called forth a rebuke[2] from Mr Cardwell's successor, Lord Carnarvon. It is unnecessary here to enter into the grounds of Sir G. Grey's indignation. Serious charges made in a private letter against himself and Gen. Chute should, he considered, have been referred at once to him by the Secretary of State without previous comment. From the Imperial standpoint the important and most lamentable result was that the services of a most capable and distinguished public servant were thus lost to the Empire. Moreover, it would unfortunately seem as though private grievances had so eaten into the soul of Sir G. Grey as to divert his colonial public life towards ends the very opposite of those which he followed with such success while in the direct service of the British Crown. It is not, however, in this atmosphere of pique and prejudice which maladroit eulogies have rendered more insufferable, that one cares to bid farewell to this great Proconsul. Let us note rather the words of the Executive Council on his departure, words which were the mere truth.[3] "Seldom has a Governor been placed in circumstances more trying and amid duties more conflicting and embarrassing. . . . Again and again during the last twenty-six

[1] According to the Duke of Cambridge in House of Lords, July 15, 1867, "No more dangerous step could be taken; and for this reason, that the military authorities ought to and must be subordinate to the civil."

[2] *Parl. Pap.*, 1867-8.

[3] *Parl. Pap.*, 1868-9, Nov. 26, 1867.

years, when there has been danger and difficulty in the administration of colonial affairs, your Excellency's aid has been invoked by the most eminent statesmen of the day." Nor in the circumstances was the comment unnatural. "We cannot but regard it as indicative of the indifference, if not positive disfavour, with which the Colonies of the Empire are regarded, when loyalty, zeal and high intelligence . . . are passed by without even the courtesy of a cold acknowledgment."[1]

If it was expected that the departure of Sir G. Grey would improve relations between New Zealand and the Mother country, the expectation was doomed to grievous disappointment. All that the new Governor, Sir G. Bowen, could do in the way of argument and illustration he did to reconcile the Home Government to the views of his New Zealand Ministry. But a new obstacle barred the way. The Duke of Buckingham was succeeded at the Colonial Office by Lord Granville, and it is not too much to say that the relations between England and her Colonies have seldom been more strained than during the years 1869-1870. It was not that the Minister was necessarily wrong in his conclusion, it was that such conclusion was always put forward in the manner most irritating to the colonial mind. Lord Granville has been already described as by birth and manners an aristocratic Whig, and by conviction a Manchester Radical. It is hard to say in which of these two characters he appeared the more distasteful to the democratic and protectionist colonial communities. In New Zealand the main cause of provocation lay in the question of the Imperial troops. We have already seen how much was to be said from the English standpoint against their continued employment, and how in this matter the policy of all English Ministers and parties was the same. But it is difficult to suppose that any other Minister could have treated the sufferings of the colonists with such cool and well-bred indifference as was shown by Lord Granville. On his accession to office an urgent appeal was addressed to him, pointing out the consequences of "the policy of abandonment," which might deprive the Crown of a valu-

[1] An admirable biography of Sir G. Grey appeared in 1907 by G. C. Henderson.

able Colony and lead to the destruction of the British Empire. A New Zealand judge had declared from the bench, "It had now become impossible to carry out the ordinary law in the ordinary way in the North Island . . . If we were to be burdened with the responsibilities of independence, we should also be permitted to enjoy its powers."[1] Lord Granville's equanimity was in no way disturbed, and the 18th Regiment was peremptorily recalled. Unfortunately the colonial Ministry involved themselves in an error of fact as to what had happened in the time of Lord Carnarvon, and here of course Lord Granville was on firm ground. Meanwhile, in the New Zealand Parliament,[2] resolutions calling for the presence of 1000 Imperial troops in the Colony for the next five years and engaging to make provision for them, upon such terms as might be settled, were passed unanimously. Lord Granville's despatch[3] in reply was published in England before its reception in the Colony. The withdrawal of troops was necessary "to preclude continuance of . . . doubts and surmises." So long as the Colony could continue to look to England for aid, "the distasteful remedies" of "abandonment of land, the recognition of Maori authority and the maintenance of an expensive force" would never be resorted to. The New Zealand Ministry complained bitterly though in dignified language. They claimed[4] that the Colony should be "practically recognised as an integral portion of the Empire and not be thrust out beyond its pale, as of less consideration than a British subject in foreign lands!" The natives would understand the despatch to mean "that the weakness of the Colony renders these concessions unavoidable, and that the British troops are withdrawn for the express purpose of reducing the Colony to that requisite weakness." Somewhat later it was officially maintained[5] "that the action of the Imperial government was not only unfriendly but scarcely reconcilable with any other motive than a desire to drive

March 1870.

[1] Rusden, *Hist. of N. Zealand*, Vol. II., 2nd ed. p. 579.
[2] *Parl. Pap.*, 1870, Aug. 1869.
[3] *Parl. Pap.*, 1870, Oct. 7, 1869.
[4] *Parl. Pap.*, 1870, Jan. 7, 1870.
[5] Rusden, *Hist. of N. Zealand*, Vol. II., 2nd ed. p. 630.

New Zealand from the Empire." Independence or annexation to the United States was openly spoken of, and prominent public men were reported to be in favour of a Declaration of Independence. Fortunately, in 1870, Lord Kimberley succeeded Lord Granville. Moreover, the seriousness of the situation called out feelings which were latent both amongst Englishmen at home and in the Colony. When in the New Zealand Legislative Council the Report[1] of a Committee was considered which declared that "a feeling of estrangement and even antagonism has been lately manifested by your Majesty's advisers"; that the integrity of the Empire ought to be preserved until it shall appear to your Majesty, to the British Parliament and to the colonists themselves that it is no longer desirable that New Zealand should continue to be a dependency of the Crown"; and urging in the last resort that a Royal Commission should enquire into their grievances; it was finally agreed "that the best interests of New Zealand will be consulted by remaining an integral part of the British Empire. That this Council regrets the course adopted by the Home Government towards the Colony, but as the causes of dispute have been satisfactorily discussed by the Colonial Government, and as an indication of a desire to preserve a friendly feeling towards the Colony has been made by the Home Government, it is undesirable to make any further reference to past misunderstandings." A less friendly motion was brought forward in the Assembly but was eventually withdrawn. Lord Granville himself condescended to explain that his opinions had been misapprehended, upon which the colonial Ministry accepted his disavowal "as meant to convey the feelings of the time at which Earl Granville was writing. They cannot suppose that it in the least affects the accumulated evidence from different parts of the world, that Her Majesty's Government previously favoured a policy having for its end a more or less speedy disintegration of the Empire."[2] A more operative cause of improved relations was the guaranteeing[3] by the Imperial

[1] Rusden, *Hist. of N. Zealand*, Vol. II. p. 635. [2] *Ibid.*, p. 637.
[3] *Parl. Pap.*, 1870.

Government of a loan of £1,000,000 to be expended upon immigration and public works. Lord Granville hoped[1] that the waiving of the usual objection to such a guarantee "would be received . . . as a proof of the deep interest" felt "in the welfare and prosperity of this great possession of the Crown."

Fiji. The same motives which had actuated English Ministers in annexing New Zealand accounts for the annexation of Fiji in 1874. In the latter case, as in the former, owing to natural circumstances, the islands became the resort of the European trader and settler. The need in Queensland for native labour caused a traffic in Kanakas to grow up, which, however justifiable under proper rules and regulations, obviously lent itself to the most shocking abuses, where there was no European law or government, and where in fact anarchy prevailed. In such circumstances, Fiji, as New Zealand formerly, threatened to become a Hell upon earth, an Alsatia for all the worst criminals in the southern hemisphere. In 1859 the most important native chief, recognising the inability to maintain a settled government, offered under certain conditions to cede the islands to the Queen. The offer was at the time declined. In 1864 an attempt was made to establish a regular government, with a responsible Ministry, based on English models; but the experiment was by no means a success. Meanwhile the rumour went that the United States intended to assume the Protectorate. Lord Granville, caring for none of these things, in 1869 considered that there would be "more disadvantage in Great Britain taking the responsibility of the government of Fiji than in the risk of the United States assuming the Protectorate."[2] In spite, however, of the reluctance of English Ministers, it became more and more clear that something must be done. The Australasian Colonies, at the Conference of 1870, unanimously called for British annexation. Lord Kimberley decided to send Commissioners to report
Apr. 1874. upon the whole subject. The Report of Commander Goodenough and Mr Layard was strongly in favour of annexation.

[1] May 20, 1870.

[2] *Parl. Pap.*, 1875.

The *de facto* Government they practically found a Government *pour rire*; they saw "no prospect for these islands, should Her Majesty's Government decline the offer of cession, but ruin to the English planters, and confusion in the native Government." On Lord Carnarvon's accession to office, he requested Sir H. Robinson, the Governor of New South Wales, to visit Fiji with a view to a final decision. Accordingly, the cession was accepted in October 1874. We may note the remark of a native chief: "Of one thing I am assured, that if we do not cede Fiji, the white stalkers on the beach, the cormorants, will open their maws and swallow us!" A Charter was issued for the government of the island as a Crown Colony, and Sir Arthur Gordon was appointed Governor. In 1877 he was further appointed High Commissioner, "in and over" the Western Pacific. Fiji appears to have been singularly fortunate in the choice of its first Governor; and his methods of dealing with the natives, and of levying taxes by co-operation with the Chiefs, appear to have been attended with more success than has generally followed the effort to reconcile the rights of native races with the claims of European colonization.

Oct. 1874.

Fortunately for the British Empire, the case of Fiji was simplified by the urgency of the need for annexation on the grounds of humanity. Otherwise there would probably have been a perilous delay. There was no doubt but that the Australasian Colonies were mainly interested in the question, and yet, when Lord Carnarvon made the modest proposal that they should each contribute the sum of £4000 towards the annual expenses, he was met with a refusal.[1]

The same thing happened in the case of New Guinea. Formal possession of this island, so far as it did not belong to the Netherlands, had been taken in 1847.[2] Again, in 1873, Captain Moresby took possession of the eastern portion of it, "pending the decision of Her Majesty's Government."[3] The attention of Lord Carnarvon was called to the subject by a letter from Mr Labillière, which was forwarded to the different Colonies for observations. The replies of the Governors were

New Guinea.

[1] *Parl. Pap.*, 1876. [2] *Ibid.* [3] *Ibid.*

on the whole not very encouraging. Sir Hercules Robinson considered it very unlikely that any foreign power would wish to obtain possession of New Guinea, and Sir G. Bowen, from Victoria, had been much struck by a recent speech of Lord Derby, wherein he said that the Queen had already enough black subjects. Even from Queensland Governor Cairns could report but little interest "as yet in the destiny of New Guinea." As time went on, feeling grew on the ques-
1876. tion. In the following year the New South Wales Ministry urged the annexation, not only of New Guinea, but also of the New Hebrides and other islands. Had the Australian Colonies been ready "to give trial and effect to the principle of joint action amongst the different members of the Empire in such cases,"[1] Lord Carnarvon would doubtless have acceded to their wishes so far as New Guinea was concerned. They, however, professed to be unable to share in the cost, on the ground that the government must fall to the Mother country. This excuse was severely handled by the press in the Colonies. The *Sydney Mail*, a leading Liberal newspaper, roundly stated that there was "not only inconsistency, but meanness in the conduct of those who complain that England is relaxing her Imperial policy, and not showing a due interest in . . . her dependencies, and then claim that these dependencies shall be exempt from bearing any share in Imperial action . . . because, as Imperial action, it would be beyond their control."[2]

For the time being the subject was dropped, but the discovery of gold and the consequent influx of settlers
1878. caused it again to be mooted in 1878. Sir A. Gordon found himself[3] "irresistibly compelled to adopt a conclusion which I should have wished to avoid, viz., that the annexation by Great Britain of at least certain portions of New Guinea will speedily become inevitable, even if the necessity for such a step has not already arisen." From his point of view, the urgency of the matter lay in this, that under the Western Pacific Order in Council of 1877,—which had been framed under the Western Pacific Act passed

[1] *Parl. Pap.*, 1876. [2] *Ibid.* [3] *Parl. Pap.*, 1883.

in 1875, — jurisdiction only lay with respect to British subjects. There were no means to punish foreigners for crimes, or to enforce their attendance as witnesses. In this state of things to attempt to enforce the law against Englishmen, while others went scot free, would only be to engender a sense of intolerable hardship. Sir A. Gordon was very emphatic on the danger of handing over New Guinea to Queensland. It was "not at all desirable to place the control of relations between natives and settlers in the hands of local colonial Ministers responsible to a Parliament in which one of the interests concerned is exclusively represented." The failure, however, of the expedition in search of gold rendered the question less immediately pressing. Meanwhile, interest on the subject in the Colonies grew by leaps and bounds, and there were continual rumours of contemplated foreign occupation. At last, in February 1883, the Queensland Government[1] telegraphed urging annexation, and offering to bear the expenses of government and to take formal possession on the receipt of authority by cable. Lord Derby's reply to this was that the subject was "one of the greatest importance, as to which the decision could not be formed without very full and careful consideration."

In the following April, "To prevent foreign Powers taking possession of New Guinea, the Queensland Government took formal possession in Her Majesty's name pending decision."[2] The Queensland Ministry must have known little of Lord Derby if they had any doubt what that decision would be. He was "unable to approve the action of your Government in this matter. It is well understood that the officers of a colonial Government have no power or authority to act beyond the limits of the Colony, and if this constitutional principle is not carefully observed, serious difficulties and complications must arise." It was decided, however, before coming to a final decision, to await the outcome of the Inter-Colonial Conference which met in the December of 1883. Sir G. W. Des Vœux, the new Governor of Fiji, who

[1] *Parl. Pap.*, 1883. [2] *Ibid.*

attended the conference unofficially, bore emphatic witness,[1] "to the plainly indicated, as well as expressed, loyalty to the British connexion and the readiness to appreciate the difficulties of Her Majesty's Government." The resolutions, adopted unanimously, set out that the "further acquisition of dominion in the Pacific, south of the Equator, by any foreign Power would be highly detrimental to the safety and well-being of the British possessions in Australasia, and injurious to the interests of the Empire." They urged that so much of New Guinea as was not claimed by the Netherlands should be forthwith annexed. On the question of the New Hebrides, dealt with below, while recognising that the understanding of 1878 stood in the way of annexation by Great Britain, they suggested that negotiations should be set on foot with France with the object of obtaining the control of these islands in the interests of Australasia. The delegates undertook to submit and recommend to their various Parliaments measures of appropriation to give effect to the above-stated policy. They further protested against the declared intention of the French Government to transport large numbers of relapsed criminals to the French possessions in the Pacific, and expressed the "confident hope that no penal settlement for the reception of European criminals will long continue to exist in the Pacific."

Satisfactory as the undertaking of the colonial delegates appeared to be, Lord Derby was dissatisfied because the Colonial Parliaments did not at once make distinct provision for the expenses. He was willing, however, that a Commissioner should be appointed for the eastern portion of New Guinea on the understanding that the Colonies would provide a sum of £15,000 towards the expenses. The argument for annexation was strengthened by the publication of the Report of the Royal Commission on the Western Pacific regulations over which Sir A. Gordon had presided.[2] "The time has arrived," they say, "at which to do nothing is in fact to take the most momen-

[1] *Parl. Pap.*, 1884. [2] *Ibid.*

tous and responsible action." The immediate cause, however, which brought the whole question to a conclusion, was neither the demands of Australia nor of humanity, but the appearance upon the scene of Prince Bismarck. In the August of 1884 Germany stated her intention to annex the north side of New Guinea. On grounds of international law it might have been impossible to prevent such annexation, but, considering Australian feeling about New Guinea, the effusiveness of Lord Granville's language on the subject is at least significant. After consultation with his colleagues he was "able to assure Count Münster that Her Majesty's Government had no desire to oppose the extension of German colonization in the islands of the South Seas, which are unoccupied by any civilised power. I added that the extension of some form of British authority in New Guinea will only embrace that part of the island which specially interests the Australasian Colonies, without prejudice to any territorial question beyond those limits."[1] If the intention was to conciliate Germany, it was woefully unsuccessful. In the following year we find Prince Bismarck bitterly complaining[2] of the "closing up" policy which German colonization always had to encounter, and very characteristically uttering the veiled threat that, because of this, Germany was unable, as she had hoped, to advance British interests nearer home. Had English Ministers boldly confessed that, valuable as was the goodwill of Germany, the goodwill of our own colonists was of even greater value, they would at least have won respect. But to be continually expressing amiable sympathy with German expansion, while "the impelling power not of desires but of events"[3] led them, in fact, to be always thwarting it, of necessity bred resentment. Of course with German colonization in the abstract we have no quarrel;—in the direction of the North Pole for example!—But the stern fact remains that the best parts of the earth have long been occupied, that Anglo-Saxons have somehow or another obtained the larger portion of such best parts, and that they resent in their neighbourhood the presence of foreign settlements, which,

[1] *Parl. Pap.*, 1884-5. [2] *Ibid.* [3] *Parl. Pap.*, 1883.

in the event of a European war, would be a cause of danger and difficulty. Be this as it may, the news of the German annexation of north New Guinea was received in Australia with indignation and dismay. It is due to Lord Derby to note that the hasty action of Germany in issuing the Proclamation caused him to agree to a more extensive annexation than had previously been contemplated. Moreover, as I have endeavoured to show, the responsibility for the final issue lies largely with the Australian Governments of 1876.

New Hebrides.

It is a good object-lesson in the burdens of Empire to note the complications with European Powers caused by the affairs of the Pacific alone, without reference to other portions of Greater Britain. We have already dealt with the case of New Guinea and Germany, but relations with France were even yet more difficult over the question of the New Hebrides and the transportation of habitual criminals to New Caledonia. On the latter point the Australian grievance was no sentimental one. It was a proved fact that French convicts were able to escape in considerable numbers, and served to increase crime in the Australian Colonies. A measure, which extended transportation under less strict supervision to the most hopeless cases of moral depravity, was an act unfriendly to Australian interests, though in international law it is difficult to say when the rule, "a man may do what he wills with his own" ends, and the other rule, "*sic utere tuo ut alienum non lædas*," begins to apply. The case of the New Hebrides was fairly simple.[1] Under the Charter of 1840 they had been a part of New Zealand, but had been omitted in defining the limits of that Colony at a more recent date. In 1878 an agreement was arrived at between England and France that neither power should annex them, but that they should remain independent. The Australasian Colonies more than once chafed at this decision, especially New Zealand, whence, as early as 1848, Sir George Grey had called attention to the danger of foreign annexation in the Pacific and pointed out the necessity of providing against it in time. A Monroe

[1] *Parl. Pap.*, 1883.

doctrine for the Pacific had been openly asserted, not always, it must be admitted, in a very kindly spirit towards the Mother country. We have seen, however, that the language of the inter-Colonial Conference in 1883 was perfectly correct upon this question, and, so long as the French did not extend their pretensions, the Australian Colonies remained fairly satisfied with the *status quo*. Continual rumours arose, in one case, at least, well founded,[1] of French encroachments upon the New Hebrides. At last, in 1887, they were placed under the joint naval protectorate of Great Britain and France.

Fiscal relations

It will be remembered that, when last we noticed the fiscal relations of Great Britain and the Colonies, there was still an element of uncertainty with regard to them. The old colonial system was dead and buried, but there were not wanting those like Lord Grey, who held that, under the new system no less than the old, it was for the Mother country to direct the trade policy of every part of the Empire. For good or for evil, however, English politicians were not, for the most part, made of the stout stuff of Lord Grey, and the recognised doctrine soon came to be that emancipation from Imperial control in all matters of local concern included also a withdrawal from any regulation of trade and commerce, even when the fiscal policy of the Colony might be the direct opposite of that of the Mother country. Thus when in 1879 the Canadian Parliament enacted a tariff based on the principle of protection to native industries, the Secretary of State, when invited in the House of Commons to discountenance and disallow "the Canadian national Policy," declined to interfere on the ground that this measure was not in excess of the rights guaranteed by the British North America Act, "under which (subject only to Treaty obligations) the fiscal policy of Canada rested with the Canadian Parliament, and that however much Her Majesty's Government might regret the adoption of a protective system, they did not feel justified in opposing the wishes of the Canadian people in this

[1] *Parl. Pap.*, 1884.

matter."[1] And in a similar spirit, though not precisely on the same grounds, protective tariffs were sanctioned in the case of several of the Australian Colonies. The sole restriction which remained was that by statute or by special Instructions to Colonial Governors the Legislatures were forbidden to impose differential duties, or to interfere in any way with the Treaty obligations of the Empire. In the case of Canada such instructions have been discontinued since the year 1878, and the special position and circumstances of the Colony led the Mother country to approve and assist in obtaining a system of reciprocity between her and the United States. Even before the Confederation of the British North American provinces, the expediency of affording greater facilities to inter-Colonial trade was generally recognised, and partial steps in this direction were taken with the sanction of the British Government. By the British North America Act, however, all impediments in the way of mutual trade were removed, and henceforth, the separate provinces became for fiscal purposes a single country. Fired by the example of Canada, the Australian Colonies sought in 1871 liberty to make arrangements between themselves for the establishment of a commercial Union. They demanded[2] that no Imperial Treaty should be concluded with any Foreign Power, which should conflict with the exercise of inter-Colonial reciprocity, and that Imperial interference with inter-Colonial fiscal legislation should absolutely cease. Dissatisfied with the reply of Lord Kimberley, the Australian Colonies held an inter-Colonial Conference in February 1873, at which it was decided again to press these demands upon the British Government. Upon being informed by telegraph of the proceedings of the Conference, the Gladstone Ministry no longer hesitated but at once introduced "The Australian Colonies Duties Act, 1873." Under this measure full power was given to any one of the Colonies mentioned, to impose or remit duties, although such duties might be differential in character, in favour of or against one another. The pro-

[1] *Hans.*, N.S., Vol. CCXLIV. [2] *Parl. Pap.*, 1872.

hibition against differential duties still held good with respect to imports from foreign countries or from Great Britain, and the levying or remitting of any duty, contrary to or at variance with any existing Imperial Treaty, was expressly forbidden. Of course, the provisions of a measure, under which the Mother country was expressly classed as a foreign country, lend themselves to easy criticism; at the same time it may be plausibly contended that the complaisance of British statesmen, in yielding to colonial claims, helped on the spirit of Imperial unity far more than would have any premature assertion of formal union. It is clear, I think, that in the period between 1850 and 1880 the relations between England and the Australian Colonies were very similar to those between a father and sons on the verge of manhood, and who has not known the irreparable mischief which may not be caused by some exercise of authority, in itself not blameable, at that trying time?

Jamaica.

However ill-suited responsible government may have been to the circumstances of Jamaica, it is probable that things would have gone as before with the usual amount of grumbling and friction, had not the outbreak of 1865, with its attendant panic, reconciled the most obstinate of the planter Oligarchy to the abolition of the Constitution. In itself the outbreak has perhaps received more notice than it deserved. The furious controversy which raged round the reputation of Governor Eyre, wherein were engaged, on the one side or the other, many of the leaders of English thought, caused the details of the affair to be eagerly canvassed throughout England. For our present purposes it is sufficient to note the findings of the Royal Commission, consisting of an experienced military Colonial Governor and two distinguished lawyers, who found[1] that there had been an organised conspiracy, but that martial law was continued for a longer period than was at all needful. Fear creates cruelty, and if his past record acquitted Governor Eyre of cowardice, he perhaps showed himself too compliant to the fears of others. However this may have been, the main importance of the

[1] *Parl. Pap.*, 1866.

insurrection lay in the fact that because of it, the ancient Constitution was at last, to the great advantage of all par-
1866. ties, overthrown. The Colonial Legislature signed its own death-warrant. After two hundred years of so-called popular government, Jamaica was transformed into a Crown Colony, with a single nominated Legislative Chamber. In 1884, however, the principle of popular representation was again tentatively reintroduced.

CHAPTER III

THE RIDDLE OF SOUTH AFRICA

IT has been already seen how Sir G. Grey's policy with regard to South Africa was repudiated by the Home Government, and how his reinstatement in the position of Governor had been on the condition that that policy should be dropped. His almost immediate transference to New Zealand released him from a position of great difficulty: while the wisdom of his views was attested by the despatches of his successor, Sir P. Wodehouse. Again we hear of agitation in the Orange Free State "with a view to the reannexation in some shape of that territory to the British possessions in this quarter."[1] Sir P. Wodehouse writes[2] in 1866, "You are aware that in 1854 Her Majesty's Government, strongly impressed with the difficulties it had had to contend with in administering the affairs of the Orange River Territory, not sufficiently appreciating its possible value, and alarmed at the prospect of having to maintain an expensive military force, resolved" on abandonment. "This step gave great dissatisfaction here at the time; and it may fairly be questioned if the British Government, acting under the pressure of immediate evil, gave sufficient thought to the embarrassment that might arise out of setting up in immediate proximity to ourselves and the native tribes, a small independent state, peopled by the nearest kinsmen of the Cape colonists, possessing their warmest sympathies, excessively weak in itself, and yet almost certain to cause us much inconvenience whenever it should please to come to an issue with the natives around." In Mr Cardwell's opinion, however, the extension of British rule in Africa was "a matter too serious in its bearings to be entertained without some overruling necessity such as has not yet arisen."

Cape Colony. Sir P. Wodehouse on past policy.

June 1863.

Jan. 13.

March 9, 1866.

Forces, however, were at work, against which the timidity

[1] *Parl. Pap.*, 1868-9.

[2] *Ibid.*

of British statesmen proved powerless. The very astute
Basuto-land. Moshesh had for some time seen that his best chance of safety lay under the ample wing of the British Empire. He was, in fact, able to force the hands of England by rendering his relations with the Orange Free State a standing menace to the paramount Power. So intolerable did the situation become that Sir P. Wodehouse, with the fear of the disapproval of the Home Government before his eyes, found himself forced to take measures, the outcome of which would be the annexation to the Empire of Basutoland. To any complaints by the Orange Free State of the breach thereby made in the 1854 Convention, the reply was that the Republic itself had broken the Convention, through closing for months its law-courts, and thus denying redress to colonial creditors. At bottom, however, there was the conviction that it was the original Convention, with which
June 1, 1868. the fault lay. "It does not now admit of any question that the policy which led to . . . that Convention was a most mistaken one; that under an undue estimate of the difficulties attending the immediate government of that country, Her Majesty's Government resolved to free themselves from the responsibility, while possessing but a very imperfect perception of the more serious and more permanent evils, which they would then bring into existence. Under the influence of this error they forced the people, . . . in opposition to the decided wishes of the majority and the most intelligent, to set up an independent government on the most democratic principles. . . . The results have been quite what might have been expected."[1] To the Duke of Buckingham belongs the credit of having first among English Colonial Secretaries showed a real inclination to yield to the logic of the man on the spot. Writing in
Nov. 23. November 1868,[2] he considered that the "necessity" spoken of in Mr Cardwell's despatch "may not be far off." "It appears to me possible that the interests of our Colonies and the maintenance of peace in the countries around them may render it politic to take into consideration any overtures

[1] *Parl. Pap.*, 1868-9. [2] *Ibid.*

which may be made, to bring these States (*i.e.*, the Orange Free State and the Transvaal Republic) in some form or other under British authority." With respect to Basutoland the policy of annexation was sanctioned, although the particular method of carrying out the annexation advised by Wodehouse was not approved.[1]

The final arrangement[2] with regard to the Basutos, under which a part of Basutoland was incorporated in the Orange Free State, was far from satisfying the philanthropic party in England. They would not recognise that the Orange Free State could fairly claim some compensation in territory for having been restrained just in the moment of victory. In Sir P. Wodehouse's words, "They" (*i.e.*, the Aborigines Society) "speak as if they were wholly unaware of the fixed determination for years past of the British Government and people to treat with the coldest indifference the struggles of other peoples, not absolutely and immediately affecting themselves. They seem to think that I, as the Governor of a Dutch population, with a Legislature largely pervaded by the Dutch element, acting under the certainty that I should not be supported in so doing by Her Majesty's Government, ought to have pushed matters to an extremity with a Dutch Republic, inhabited by the nearest kinsmen of the Cape Colonists, ought to have incurred an immediate risk of great disasters, and sown the seeds of bitter and lasting animosity."[3] Sir P. Wodehouse had already proclaimed Basutoland British territory and for the present it was left to be administered by the High Commissioner. He, however, had no separate funds with which to enforce his authority, and the employment of the Cape frontier police in Basutoland caused some friction with the Cape Legislature; many members considering that their Dutch kinsfolk had been hardly dealt with by England on the question of the annexation. Sir P. Wodehouse was succeeded by Sir H. Barkly at the close of 1870, and in the

April 18, 1870.

[1] The Home authorities were in favour of annexing Basutoland to Natal. Moshesh, however, refused to agree to this.

[2] Treaty of Aliwal North, Feb. 12, 1869.

[3] *Parl. Pap.*, 1870.

1871. following year a Bill annexing Basutoland to Cape Colony was passed by the Cape Parliament.[1]

Relations with Transvaal.

Whilst the relations between the British Government and the Orange Free State were thus becoming more and more strained, separate causes of trouble were at work in the Transvaal. We have already noted the character of the government. "It was," writes Theal,[2] of the years 1854 to 1857, "so weak that to many persons it must seem a misnomer to call it a government at all. Practically it had no revenue. There was no police, yet there was very little crime, and neither person nor property was in danger, except from tribes of Africans." A remedy was hoped from the formal adoption of a Constitution in 1856. The proceedings of the Potschefstrom delegates were at once, however, met with protests from the Lydenburg and Zoutpansberg districts, and an independent Lydenburg Republic was proclaimed. Nor were things made better when nominal union was secured. In 1861 we find civil war imminent, two acting Presidents and two rival Governments. Indeed, anarchy was only averted by the determined measures of Mr Paul Kruger, and even then peace was not obtained without civil bloodshed, nor a satisfactory settlement arrived
1864. at until May 1864. "The treasury," Mr Theal writes,[3] "was empty, and salaries were in arrear; taxes of all kinds were outstanding and practically irrecoverable. The Republic had lost the confidence of the outside world, no one any longer believed in its stability."

Such being the condition of affairs in the Transvaal, we need not be surprised at the reported occurrences which startled the conscience of Englishmen and did much to foster ill-feeling against the Boers. From more than one quarter it was reported[4] that it was the practice for Boers to kidnap destitute native children and to sell them into virtual slavery, though the proceedings were termed "appren-

[1] After the long and troublesome war, which arose out of the attempt to enforce the Disarmament Act, it was separated from the Cape Colony in 1884 and became a Crown Colony.

[2] *Hist. of S. Africa*, 1854-1872, p. 25. [3] *Ibid.*, p. 143. [4] *Parl. Pap.*, 1868-9.

ticing." It must, I think, be admitted that from the time of Lord Glenelg downwards a strong undercurrent of prejudice against the Dutch is to be observed in the behaviour of the British Colonial Office, a prejudice which is remarkably apparent in the cool and sober Lord Blachford. I cannot find that there is any trustworthy evidence to connect the Transvaal authorities with any acts of direct cruelty. At the same time, when the central Government was virtually an anarchy, it was not likely that the acts of the more reckless and lawless Boers would be held in check, while there can be no question but that public opinion in the Transvaal regarded offences against the natives in a very different light from what they were regarded in England. For better or for worse, upon the whole for worse, the Boers belonged to another generation, and to other modes of thought. It was impossible to apply New Testament codes of morality to a people which belonged to the Old:—it is something really to hold by any code at all.—Admirers of the Boers would have done well to rest content with such general considerations. Mr Theal, however, carries the case further, and appears[1] to hold that it was fortunate for the children to exchange their native custodians for Boer masters. He does not, however, attempt to deal with what was really the ugly feature in the matter. How came it, it was asked, but never, I believe, answered, that while in their frontier wars the English had never come across these numerous orphan destitute children, wherever the Boers went they became of importance? The theory was that they were the children of natives whose parents had been victims in war, but there were suspicious circumstances pointing to the conclusion that in some cases at least the manufacture of orphans by the Boers had become a regular trade. Be this as it may, the Transvaal Government appears honestly to have endeavoured to stop the evil by rendering illegal the sale of such children. They admitted the existence of isolated cases, but denied *in toto* that they in any way tolerated the trade. Much correspondence took place about the matter. The

[1] *Hist. of S. Africa*, 1854-1872, p. 154.

Foreign Office was put in motion, and appealed to the Colonial Office. Sir P. Wodehouse, who was no friend of the Boers, put little faith in their denials. At the same time he insisted that there was no way of arriving at the truth, and that idle protests, which could not be enforced, were a mere waste of words.

While the Boers were thus arousing against them that philanthropic sentiment which has always been of such power especially with the great middle classes, a Proclamation[1] of their President in 1868 excited the indignation of those who maintained that in spite of the failures and errors of the past, Great Britain must be still the paramount Power in South Africa. The boundaries of the Republic were largely extended on the north, west, and east. On the east the claim was put forward to access to the sea in the direction of Delagoa Bay. Whatever may have been the vague expressions of Mr Owen or the tacit agreements of Sir G. Clerk, considerations both of native rights and of Imperial responsibilities barred the way to the admission of such claims, and Sir P. Wodehouse at once notified to Mr Pretorius that the Proclamation must be withdrawn. The Transvaal Government yielded, but no doubt with sullen discontent, and it was in this atmosphere of mutual distrust and dislike that the parties were living, who, within a few years, were to become closely linked, and then again rudely divorced, with consequences so disastrous to the good name of England, to the character of the Transvaal administration, and to the well-being of South Africa generally. Already in the sixties, in the claim of the South African Republic to have its Consul at Berlin, in the loose boasting about an Afrikander nation, we see the answer of history to the challenge of Lord Glenelg for the future to decide between him and Sir B. D'Urban. The well-meaning caution of the Colonial Office and its determined resistance to a policy of expansion had already hatched the egg from which it is not yet clear whether there may not emerge a cockatrice to British South Africa.

[1] *Parl. Pap.*, 1868-9.

Orange Free State. Question of Diamond fields.

Returning to the affairs of the more enlightened southern Republic, unhappily we do not find ourselves in much less troubled waters. It has been already seen that, whatever may be said in favour of the annexation of Basutoland from an Imperial point of view, the manner and time of annexation was such as grievously to wound the Free State burghers. It is the Nemesis which waits upon the renunciation of duties, that generally lost ground has to be made good at the most inopportune moment. But, bad as appeared the business of the annexation of Basutoland, the manner in which Great Britain acquired the Diamond fields seemed infinitely worse. It is impossible in a general sketch to deal with the complicated details of this difficult question. It would appear, if we may trust the authority of Mr Theal,[1] that the title of Waterboer, through whom the English claimed, was bad, though the sum of £90,000 afterwards paid by Lord Carnarvon to the Orange Free State was paid[2] without prejudice to the rights of the case. But whatever might be abstract rights, here again the fact remained that the real justification for annexation lay in the responsibilities involved by the position of the paramount Power. Lord Kimberley caused needless irritation by a despatch wherein he stated[3] that "Her Majesty's Government would see with great dissatisfaction any encroachment on the Griqua Territory by those Republics, which would open to the Boers an extended field for their slave-dealing operations, and probably lead to much oppression of the natives and disturbance of peace." But an inkling of the true position of affairs leaked out in the peremptory refusal to admit of the reference of the dispute to the head of some foreign country, than which, if the South African Republics were really in all senses independent of Great Britain, no proposal could have been more reasonable.[4]

Oct. 1871.

Nov. 1 1870.

[1] See ch. xiv. of *Hist. of S. Africa*, 1854-1872. Mr Theal is careful not to express an opinion, but he leaves no doubt as to his views.

[2] *Parl. Pap.*, 1876.

[3] *Parl. Pap.*, 1871.

[4] On July 20, 1871, Lord Kimberley wrote—"It seems to me that to admit the action of foreign Powers in these South African questions might lead to very serious embarrassments."

In truth, the respect which gave Lord Kimberley pause was in no wise the rights of the Orange Free State, but the importance of not being "a party to the annexation of any territory which the Cape Colony would be unable to govern and defend by its own unaided resources."[1]

May 18, 1871. Assuredly "not without reluctance," he agreed to accept the cession offered by Waterboer, if only the Cape Parliament would bind itself to undertake the responsibility of government and the maintenance of any force which might be necessary. The attitude of the Cape Parliament on the question brought out very clearly the standing danger of South African politics. There was general agreement that the acquisition of the Diamond fields would be of advantage to Cape Colony, and that it was advisable to accept anything that Waterboer could really cede, but there was a strong disinclination to interfere in any way with the rights of the Orange Free State, and a desire to postpone the consideration of the question till the legal position of the parties could be determined. The utmost that Sir H. Barkly could obtain was the adoption of a proposition sanctioning measures for the maintenance of order[2] pending the adjustment of the boundary disputes.

Nov. 4, 1871. Formal possession was taken on the 4th of November 1871. Lord Kimberley had been careful to explain that, whilst it

July 24, 1871. seemed necessary "to accept Waterboer's proffer of allegiance in order to prevent the disorders which must result from the prolonged absence of a settled government at the diamond diggings, . . . the question of limits should be determined with due regard to the claims of the Free State." For this purpose he again proposed arbitration by another servant of the Queen. President Brand protested, but in vain. We may note, too, the language of the Volksraad: "Few in number, and surrounded by hostile and powerful coloured tribes, these white inhabitants were reluctant to take its government upon themselves, but, constrained by Her Majesty's Plenipotentiary, . . . they accepted the government of this terri-

[1] Despatch, Jan. 3, 1871. *Parl. Pap.*, 1871.

[2] Sir H. Barkly to Lord Kimberley, Aug. 15, 1871. *Parl. Pap.*, 1872.

tory."[1] Whether or not the annexation of the Diamond fields might have been made in such a manner as not to excite this sense of injustice is difficult to say. Mr Theal asserts[2] that "in 1870 and 1871 there was an opportunity for statesmen in British South Africa to bind together the diverse elements of society, and, with little difficulty, to extend the influence of England in the interior . . . but the man was not at hand to take advantage of it." Mr Theal, however, does not give his reasons for this opinion, and his own narrative shows the serious difficulties which lay in the way.

Boundary Question with Transvaal.

The question with regard to the claims of the Orange Free State to Griqualand West had its counterpart in the question with regard to the claims of the South African Republic to the diamond fields north of the Vaal, and to the territory on the west of the Transvaal occupied by the Barolong and Batlapin tribes. The Transvaal Government proved more accommodating than their southern kinsfolk, and agreed that the question should go to arbitration, the Lieut.-Governor of Natal to be the umpire. When, however, the award proved to be in favour of the natives, the Transvaal Volksraad attempted to repudiate the action of their President, on the ground that the terms of the Constitution had not been complied with. The firmness of Sir H. Barkly prevented further trouble, and upon the whole the reader gathers that the real grievance was not so much that the paramount Power should interfere, but that, having interfered, it did not assume the responsibility of its action. According to a Boer newspaper, the British Government "having done so much" with regard to Bechuanaland, "will and must do more."[3] For the time being, however, the English Government refused to accept the submission of the Bechuana Chiefs, so that the only result of the award was to bring about a state of anarchy on the western frontier of the Republic, the Transvaal authorities, of course, not

[1] Quoted by Theal, *History of S. Africa*, 1854-1872, p. 395.
[2] *Ibid.*, p. 376.
[3] Sir H. Barkly to Lord Kimberley, Dec. 18, 1871. *Parl. Pap.*, 1872.

caring to interfere in a district which had been declared to be outside their jurisdiction.

Responsible government.

It has been already noticed that Cape Colony did not obtain responsible government until 1872. In fact, colonial public opinion with respect to it was very far from being enthusiastic in its favour, as had been Australian public opinion. In the Cape, responsible government was pressed upon the Colony by the Home authorities. The reason why the Colony distrusted the offered boon was that they feared it would be accompanied by the withdrawal of British troops. From 1867 onwards there had been serious efforts to diminish the drain upon the Imperial military resources caused by the needs of Cape Colony. In that

Jan. 26, 1867.

year Lord Carnarvon, while pointing out that the Colony contributed the small sum of £10,000 towards the allowances of the Imperial troops,[1] announced an elaborate scheme of gradual reductions, under which after 1872 the Colony should pay for Imperial troops at the same rate as was paid by the Australian Colonies, viz., £40 a year for every infantry soldier, and £70 a year for every artilleryman. In vigorously criticising the despatch, on the grounds that there should be sufficient Imperial troops or none quartered in the Colony,

July 16, 1867.

Sir P. Wodehouse had stated[2] that "if they contemplate . . . forcing the people of the Colony to set up responsible government . . . then the troops ought all to be withdrawn." The Governor himself was no friend of responsible government. We have already noticed how different was the attitude of different men, equally able and equally honest, towards this great change. Perhaps no Governor expressed himself with greater emphasis upon this question than did Sir P. Wodehouse. Witness his despatches and especially the speech

Jan. 25, 1870.

with which in 1870 he opened the Cape Parliament.[3] "People in England, knowing little of the Colonies, and to whom their proper position was not brought home, were fascinated by the notion of extending British institutions. . . . They did not perceive that the very principle of responsibility was opposed to existence as a Colony . . . that the day

[1] *Parl. Pap.*, 1871. [2] *Ibid.* [3] *Ibid.*

must come for a collision, that . . . the issues might be delayed, but, sooner or later, it was inevitable; that *this form was suitable only to communities who desired or looked for ward to a severance at no distant day from the mother country, whether by transfer to another power or by the establishment of an independent State; that, when such a severance was not coveted or contemplated, party government was inexpedient.* Rightly or wrongly, I have always held this view, and I cannot see that the course of events has tended to controvert it."

Other causes were at work, hostile to responsible government. There was the distrust of the English minority, lest the Dutch should thereby secure ascendency. There was the discontent of the Eastern districts, which feared that their interests might be sacrificed to those of Cape Town. There was the doubt of the philanthropists, whether, under responsible Colonial government, the natives might not be ill-treated. In this state of things, the task awaiting the new Governor, Sir H. Barkly, who, at the close of 1870, succeeded Sir P. Wodehouse, was by no means an easy one. He had, however, this in his favour, that he thoroughly believed in the policy which he went out to enforce. Moreover, the course of colonial politics showed the urgent need of some change. As Lord Granville had put it in 1869,[1] "If the colonists will not allow themselves to be governed . . . it follows that they must adopt the responsibility of governing," but the Cape Parliament showed no inclination to follow meekly the lead of the executive. A measure for conferring responsible government was introduced in 1871, and passed through the Assembly. It was, however, thrown out by the Legislative Council. Its passage in the Lower House was doubtless assisted by the willingness[2] of Lord Granville in the preceding year, to delay the withdrawal of the troops,[3] "and for the present at least to leave a regiment[4] in the Colony." In 1872 the measure was passed through both Houses and became law, although, not without, for a time, considerable protest from the Eastern districts.

April 7, 1870.

June 1872.

[1] Dec. 9. 1869, *Parl. Pap.*, 1871. [2] *Parl. Pap.*, 1871. [3] *Parl. Pap.*, 1873

[4] In addition to the regiments allotted for garrison duty.

Confederation.

Closely connected with the question of responsible government was the subject of Confederation, which, in South Africa, has had so unfortunate a history. It is often represented that Lord Carnarvon, elated with his success in piloting through Parliament the Canadian measure of 1867, started, in 1874, the subject of South African Confederation of his own mere motion. But, in fact, the question had been for some time within the sphere of practical politics. Thus we find, in 1871, Sir H. Barkly writing strongly in its favour, and Lord Kimberley, both concurring with his views, and authorising him to convene delegates from Natal and the Dutch Republics, "for the purpose of considering the conditions of union."[1] At that time there was good reason to believe that the Orange Free State was willing to enter into such a union. In opening the Cape Parliament in 1872, Sir H. Barkly spoke of "the objections to a voluntary union in such confederation of all the territories which now form, or have at any time formed, portions of the British possessions," as by no means "insuperable."[2] "The benefits which would accrue therefrom in respect of uniformity of legislation, simplification of legal procedure, facilitation of postal and telegraphic communication, as well as of the construction of bridges, railways and other public works, are too obvious to require comment. Neither need I enlarge on those higher moral ends which would be promoted by the reunion of communities owning a common origin, and still closely connected by ties of relationship or of race If federation tended, as it undoubtedly would, to promote a milder and less encroaching policy towards the native races on the north of the Orange River, and to put an end to the much-to-be-regretted disputes with the South African and Orange Republics . . . its accomplishment should form, independently of all other advantages, the object of the warmest aspirations of every humane and patriotic mind." It must be admitted that the practical difficulties in the way were great. Still, in the mind of Sir H. Barkly, responsible government and confederation were closely connected. He regarded the former

Nov. 16, 1871.

April 18, 1872.

[1] *Parl. Pap.*, 1872.

[2] *Parl. Pap.*, 1873.

as "paving the way for a redistribution of representation among the different districts, extending to them the greater powers of self-government which are so urgently needed, and eventually establishing a system of federal union, in which all the provinces of South Africa shall be, sooner or later, embraced."[1]

Confederation being thus in the air, it might have been hoped that the advent to power of an able Colonial Secretary, its enthusiastic advocate, might have given force to the movement. Nothing could have been more conciliatory than Lord Carnarvon's attitude. He expressly stated that he had no desire to dictate, and that the "action of all parties, whether the British Colonies or the Dutch States, must be spontaneous and uncontrolled."[2] Unhappily, Lord Carnarvon took another step to push on Confederation, which was followed by results very different from those which he intended. In the autumn of 1874, and again in the summer of 1875, Mr Froude went to South Africa, on a kind of informal mission, "employed in a special service without remuneration," the Colonial Office not being "responsible for all his movements." Whether, however, he was the accredited envoy of the Colonial Office, he was undoubtedly the envoy of Lord Carnarvon, and it was impossible for Cape politicians not to hold the Home Government responsible for his behaviour. In his first visit, it is true, he emphatically declared himself to be but "a private man of letters, travelling for my private amusement." On his second visit, however, when he, in effect, appealed to the Cape colonists against the action of the Ministry in cavalierly putting aside the courteous proposals of Lord Carnarvon, he expressed himself somewhat differently. However unconstitutional may have been the attitude of the Cape Ministry in denying the Mother country a voice in the settlement of the Confederation question, it was clearly wrong that an envoy of Lord Carnarvon should be, in effect, stumping the Colony against its responsible Ministers, and no doubt the personal

[1] Sir H. Barkly to Lord Kimberley, June 17, 1872, *Parl. Pap.*, 1873.
[2] *Parl. Pap.*, 1875.

bitterness thus aroused did much to render Confederation, for the time, hopeless. Mr Froude has been further credited [1] with having called into being the monster of a South Africa for the Afrikander. It must be remembered that Mr Froude's position was a curious one. He was, of course, selected by Lord Carnarvon as an ardent Imperialist, but as, above all, a disciple of Carlyle, he was bound to respect an Old Testament people when he met one. Hence in Cape Colony he was supported by the Eastern and more English districts; while in the Orange Free State he appeared as the eulogist of the Boer as against the Englishman. Assuredly, the language quoted from his speeches at Bloemfontein reads strangely in the mouth of an Imperial emissary. "The independence of South Africa will come when you can reply to these Powers by shot and shell. . . . I know and admire the achievement of national independence, because it can be achieved only by courage and self-denial." [2] Again, at Worcester, in Cape Colony, speaking in the name of Lord Carnarvon, he said: "At present you are in your nonage, but a time will come when you will arrive at maturity. . . . If you wish to leave us and the British Empire, we shall regret your loss, but we shall not oppose your inclination." Now, all this may have been perfectly true, but it is doubtful how far, addressed to somewhat ignorant and very self-willed audiences, it furthered the objects of Mr Froude's mission. I do not myself suppose that Mr Froude's language had anything to do with creating the idea of an independent South Africa. The slow-witted but shrewd Boer is not the kind of man to draw inspiration from the after-dinner oratory of a brilliant English man of letters. The serious consequence of Mr Froude's mission was that, with the best intentions in the world, he called forth, wherever he went, personal feelings and jealousies, and thereby retarded the the cause of union.

If, indeed, personal issues could have been forgotten, it would have been through the unfailing good temper of Lord

[1] By Mr Greswell in *Our South African Empire*, Vol. I.

[2] Quoted in Greswell's *Our S. Af. Empire*, Vol. I.

Carnarvon. He now proposed that a Conference should be held in London instead of in South Africa. President Brand was in London, and the negotiations with respect to Griqualand were about to come to a satisfactory issue. It was impossible for the President to attend a Conference on Confederation; a resolution of the Orange Free Volksraad having refused leave on the ground[1] "that the independence of this State might thereby be endangered." Mr Brand, however, was willing[2] to attend a Conference on the subject of the treatment of the natives and of the sale to them of fire-arms. The Cape Premier, who was also in England, was precluded[3] by a vote of the Assembly from attending the Conference even when thus limited; and its proceedings, in the absence of a Cape Colony representative and with Mr Froude to represent Griqualand West, whose population he had severely criticised, had some appearance of unreality. However, Lord Carnarvon believed that personal discussions with Mr Brand and Mr Molteno had cleared the air in favour of Confederation. Replying to a Cape Colony deputation, in October 1876, he expressed[4] himself hopefully on the subject. He believed that the Orange Free State was only resolved against a form of Confederation which should attack its internal independence. At the same time he recognised that "no precipitate action should be taken." Further to prepare the way, Lord Carnarvon caused a Bill to be drafted "for the union under one form of government of such of the South African Colonies and States as may agree thereto, and for the government of such Union." In the winter of 1876 this Bill was forwarded to South Africa for observations thereon. The measure of the following year, which embodied some of these recommendations, closely followed the British North America Act, 1867. The power of disallowing provincial Statutes might, however, in certain cases, be reserved to the Home authorities, a provision doubtless intended in the interests of the natives.

S. Africa Act, 1877. 40 and 41 Vic., c. 47.

Sec. 38.

Meanwhile events had been happening in the north of South Africa which, while they clearly proved the necessity for some kind of union, in their results threw such union back

Delagoa Bay.

[1] *Parl. Pap.*, 1876.
[2] *Ibid.*
[3] *Ibid.*
[4] *Parl. Pap.*, 1877.

to the Greek Kalends. The extravagant claims of the South African Republic to the country to the north and east, reaching to the seaboard, have been already noticed. These claims, at least, forced on the settlement of the question who was the rightful owner of Delagoa Bay. In 1872 the rival claims of Portugal and England were submitted to the arbitration[1] of the President of the French Republic. The English claim was based on a grant in 1823 by independent chiefs of the country south of the Lorenzo Marques river. Portugal relied greatly on the fact that the names Lorenzo Marques and Delagoa Bay were used as equivalents. Before the publication of the award British diplomacy achieved a distinct triumph. Portugal undertook, in case the award was in her favour, not to part with Delagoa Bay to a third Power.[2] In the hands of Portugal Delagoa Bay is at least powerless to hurt. When we consider that but for this timely precaution it might in the winter of 1895-96 have been a German port, we can appreciate the full importance of Lord Derby's action. That by the decision of Marshal MacMahon one important terminus of the South African railway system should be in the hands of the Portuguese is bad enough, we may yet be thankful that matters are not still worse.

Zulus. In the beginning of 1876 the Natal Government was disturbed[3] by the prospect of immediate war between the South African Republic and the Zulus. On the one hand the Boers were occupying territory, which the Zulus claimed as their own, and were enforcing the payment of a tax from the native inhabitants; on the other hand, Cetywayo was longing "to wash his spears." The position of the British authorities was one of no little difficulty. They had been carefully holding Cetywayo back, and now the Boers were proceeding to act as judges in their own cause. Danger, however, was for the time averted by the outbreak of hostilities in the north-east of the Republic: the Boers for the present neglecting to enforce their claims on the south-east. The expedition against Sekukuni was a military

[1] *Parl. Pap.*, 1875.

[2] The right of British pre-emption was given by a subsequent Treaty.

[3] *Parl. Pap.*, 1877.

failure, and loud complaints[1] were addressed to the British Government by the Lydenburg miners, who alleged that gratuitous trouble had been brought to their doors by the rash and unjust policy of the Boer authorities. Meanwhile the condition of affairs in the Transvaal went from bad to worse. Sir H. Barkly wrote, "The whole state of things borders very closely upon anarchy. . . . The machinery of administration is everywhere all but paralysed, and the Republic seems about to fall to pieces through its own weakness."[2] A Transvaal newspaper, which had supported the Government, wrote, "An empty treasury, an unsuccessful war, an increasing debt, a total loss of credit, an obstinate President, a discontented people."[3] There was even a danger that postal communication between Pretoria and Kimberley would come to a standstill, because the contractor was unable to negotiate bills for £800 received in payment from the Transvaal Government. In fairness all this must be remembered in judging what followed. Again and again in 1876 we find Lord Carnarvon seeking an issue from an impossible *impasse*. The President at one time was to be informed that the English Government could "not consent[4] to view passively . . . the engagement of the Republic in foreign military operations, the object or necessity of which have not been made apparent." Later on we find him writing, "It is obvious my inclination in favour of continuing to co-operate with the Transvaal as a separate State may have to be modified."[5] In this state of things, the best course appeared to be to send out Sir T. Shepstone, in whose "wisdom and evenly balanced mind"[6] Lord Carnarvon had "great confidence," with discretionary powers to act should the necessity arise. Meanwhile, apart from the general complaint that the Boers were sowing the wind from which the British power might reap the whirlwind, there was every sort of minor grievance. Charges of cruelty abound in the Parliamentary papers, while British sub-

Affairs in Transvaal.

Oct. 1876.

[1] *Parl. Pap.*, 1877. [2] *Ibid.* [3] *Ibid.*
[4] *Ibid.* [5] *Ibid.* [6] *Ibid.*

jects found themselves *commandered* to the frontier to fight in a war which they believed to be unjust. The President, during a tour in Europe, had made Conventions protecting the citizens of other States, but no such Convention had been made with the paramount Power, and Great Britain had to be content with an undertaking that until such a Convention could be arranged, British subjects should be let alone. Nor was trouble with the Boers the only danger. During 1876 it became apparent[1] that Cetywayo, whatever may have been his original disposition, was no longer to be controlled by British influence. He had been "not only preparing for war but had been sounding the way with a view to a combination of the native races against the white men." "Go back and tell the English," he said, "that I shall now act on my own account, and if they wish me to agree to their laws, I shall leave and become a wanderer; but before I go, it will be seen, as I shall not go without having acted."[2] Nor was the Zulu king content with words. We hear of him "as putting people to death in a shameful way, especially girls." It should be noted that these outrages took place before the appearance upon the scene of Sir Bartle Frere.

Sir H. Bulwer's Opinion.

Sir Bartle Frere.

The ill-fortune which had throughout dogged the footsteps of British policy in South Africa culminated in the years 1877 to 1881. If ever there was an appointment from which much good might have been expected, it was the appointment of Sir Bartle Frere as Governor of Cape Colony and High Commissioner. It is true that in offering him the post Lord Carnarvon used the unhappy phrase that he was selected to carry "*my* scheme of confederation into effect."[3] But Sir Bartle Frere could be trusted not to act as the mere creature of Downing Street. In many ways he was singularly fitted for the post. Not merely was he an administrator of tried capacity and a statesman of far-reaching views,

[1] *Parl. Pap.*, 1877. [2] *Ibid.*

[3] Letter of Lord Carnarvon to Sir B. Frere, Oct. 13, 1876, quoted in *Life of Sir Bartle Frere*, by J. Martineau, Vol. II. p. 162, 2nd ed.

such as South Africa had not seen since the departure of Sir G. Grey, he was also, as a man, eminently suited for his new position. He combined with much charm of manner a transparent simplicity of character and an old-world devoutness which were just the qualities to attract the Dutch people of South Africa. It was said of him by a Boer farmer,[1] "As for this Governor of yours he might be a 'regt Dopper'" (*i.e.*, a Boer of the Boers). He was able to recognise, as unhappily Englishmen have not sometimes recognised, the strong points in the Boer character. "No people," he wrote,[2] "could have done what the Trek Boers have done during the past thirty years without having the materials of a great people among them; but they have hitherto had scant justice done them by either friends or detractors." So far from being, as has been asserted, the enemy of responsible government, he was its most convinced advocate. We find him condemning "the hybrid affair which here (Natal), as at Kimberley, lets in just enough of independence to check the best of despots but not enough to make the independents feel responsible for any part of the mischief they may do."[3] Following Sir G. Grey, he recognised from the first the policy which the position of paramount Power of necessity involved. "Your object is not conquest but simply supremacy up to Delagoa Bay. This will have to be asserted some day and the assertion will not become easier by delay."[4] Again, "you must be master, as representative of the sole Sovereign Power, up to the Portuguese frontier, on both the east and west Coasts. . . . All our real difficulties have arisen and still arise from attempting to evade or shift this responsibility."[5] Had his advice been taken there would have been no German South-West Africa. The wisdom of the measures he advocated

[1] *Life*, by J. Martineau, Vol. II. 2nd ed., p. 308.
[2] Dec. 2, 1878, to Sir M. Hicks Beach.
[3] Jan. 1879, *Life*, Vol. II. 2nd ed., p. 240.
[4] Dec. 19, 1877, to Lord Carnarvon.
[5] Aug. 10, 1878, to Sir M. Hicks Beach.

with regard to the settlement of the native question is now generally recognised, and even the one step he took on the expediency of which there may be a reasonable division of opinion, viz., the forcing the hands of Cetywayo, was probably in the long run a blessing to South Africa. And yet, though time has already vindicated him, the immediate results to Sir Bartle Frere of these years were dreary enough. His policy thwarted, himself recalled, a great reputation offered on the altar of party exigencies, the reckless calumnies of opponents, the half-hearted excuses of so-called friends, such were the rewards to Sir Bartle Frere, of having accepted a position which he did not covet, and of having given up to the public service the leisure and rest which he had so fully earned. It is among the ironies of history that this was the man whom an Afrikander writer describes as the Proconsul "under whom force and fraud were rampant, peoples were deprived of their constitutional rights . . . and the country deluged in blood."[1]

Annexation of Transvaal.

It might be true, in the words of Lord Carnarvon, that "the war between the Transvaal Republic and the natives has gradually ripened all South African policy";[2] but it by no means followed that it brought "us near to the object and end for which I have now been for two years steadily aiming—the union of the South African Colonies and States." In fact, whether or not the annexation of the Transvaal was necessary, it in no wise advanced the cause of confederation. For this annexation Sir Bartle Frere was in no way responsible. We have seen that Sir T. Shepstone had been sent out to South Africa with an independent commission, and that he was in no way required to consult the High Commissioner before acting. Sir Bartle
1877. arrived at the Cape on the 31st March, and the Proclamation annexing the Transvaal to the British Empire was issued on the 12th April. Looking back in the light of subsequent events it is easy to criticise this step, but at

[1] Molteno, *A Federal S. Africa.*

[2] Letter of Lord Carnarvon, Oct. 13, 1876.

the time it may well have seemed inevitable. Shepstone explained[1] at great length the reasons of his action. In effect they amounted to this, that the "material to maintain independence did not exist in the country, and that Her Majesty's Government dared not suffer a neighbouring white State to become subdued by the coloured races." For the situation, from the standpoint of the Transvaal Government, we may consult the language held by that very enigmatical individual, President Burgers. "Are you prepared,"[2] he asked the Volksraad, "for the self-sacrifice which your independence demands?" "They have not amongst themselves enough men of knowledge and ability to govern them." "He could tell the Raad that within the last few years the Cape had been more of a Republic than the Transvaal." The Government, he admitted, was a mere anarchy, while the Volksraad promptly rejected any proposal of reform. "You may resolve," said the President, "that you will have nothing to do with Confederation, but let me tell you, Confederation has a great deal to do with us." At a later date, it is true, the attempt was made to discredit all this as the utterance of an enthusiast, but at the time no voice was raised to give Burgers the lie. It seems then clear that *for the time being* the Transvaal Government had broken down, and the only question therefore was, did such a state of things involve a danger to the British Colonies. It is easy to make light of a danger when it is past, but at the time there was hardly anyone in South Africa who did not recognise that the presence of Cetywayo's armed forces on the frontiers of the European settlements was a standing menace to civilisation. The military system of the Zulus,[3] as was afterwards stated, "must be looked upon as an engine constituted and used to generate power." It is true that had English officials been the Machiavellis they appear to the foreign journalist, it might have been a tempting policy to allow the Zulus to "wash their spears" among the obstinate Boers, nor is it probable that in the circumstances of the time the latter would

[1] *Parl. Pap.*, 1877. [2] *Ibid.* [3] *Parl. Pap.*, 1878.

have shown the fighting qualities which Englishmen afterwards learnt to their cost. Granted that it had been "a Natal weakness rather to pet the Zulus as one might a tamed wolf who only devoured one's neighbour's sheep,"[1] that weakness did not and could not go the length of betraying their Dutch kinsfolk.

In this state of things, with anarchy within and Cetywayo without, annexation may well have appeared unavoidable. It is, however, more difficult to approve the manner of it. Sir H. Bulwer, some days before the annexation, had remarked, "It is difficult for outsiders to reconcile Burgers' proceedings with his promises and utterances, and I should be half afraid of him myself, but Shepstone appears to have no doubt he is acting in perfect good faith with him."[2] It would seem that Shepstone was fairly outwitted by the Boer leaders. In private they encouraged him, while they issued public protests against the time when their native and financial troubles should be surmounted. The President may have been "bound to make a protest," but there was neither wisdom nor dignity in an English officer being an aider and abettor of such double dealings. On the whole, it appears that the annexation was eagerly welcomed by a minority who recognised the gravity of the situation or were English in their sympathies, and that it was bitterly opposed by another small minority consisting for the most part of Hollanders, although there were amongst them genuine Boer patriots, such as Mr P. Kruger. Between these two extremes there was the great body of the farming population, who had little time to spare for politics, and who acquiesced cheerfully in the annexation, so far as it meant protection against Zulu inroads. It is impossible that the cordial reception of the troops, of which we hear so much, could have existed only in the imaginations of the numerous witnesses who agree in their report.[3] The immediate advance of £100,000 from the Imperial Exchequer to meet pressing financial needs was a measure calculated

[1] Sir B. Frere to Gen. Ponsonby, *Life of Sir B. Frere*, Vol. II. p. 231.
[2] *Parl. Pap.*, 1877. [3] *Ibid.*

to advance British interests. At the time of the annexation Shepstone was attended by twenty-five men, so that, if it had been, as has been represented, an act of high-handed aggression, it would have been impossible to keep the angry population in check.

But if such was the situation in the beginning, the opposition seems day by day to have gathered strength. A government which is neither coercive nor popular is foredoomed to failure, but such was the unhappy position of the British Administrator in Pretoria. The Proclamation had declared that the people should "enjoy the fullest legislative privileges compatible with the circumstances of the country and the intelligence of the people,"[1] but time went on and nothing of the kind was attempted. Meanwhile the authorities were loth to interfere with the liberty of the subject, and intimidation of the indifferent by the 'patriots' went on unchecked. As illustrating the trend of events, note the very different attitude of the Deputations which went to London in 1877 and in 1878. On the first occasion Messrs Kruger and Jorissen, though they had been informed by Lord Carnarvon that the annexation could not be revoked, felt themselves "quite able to report that we have found your Lordship quite desirous always to give the fullest consideration to those wishes of the population . . . which must be considered to be right and reasonable, and that we shall do our utmost to promote that general feeling of satisfaction in the Transvaal which we know is so much needed."[2] But in 1878 this same Mr Kruger is found adopting a wholly different strain.[3] The terms of conventional courtesy barely conceal the note of menace. Meanwhile Sir M. Hicks Beach was urging[4] that some form of popular government should be set on foot. The Legislature should as soon as possible have the control of such matters, as would, under Confederation, be within its jurisdiction. In the previous month Transvaal affairs had been placed[5] under the control of the High Commissioner.

Oct. 1878.

Sept.

[1] *Parl. Pap.*, 1877. [2] *Ibid.* [3] *Parl. Pap.* 1878.
[4] *Parl. Pap.*, 1878-9. [5] *Ibid.*

Unhappily, so far from popular government being introduced, the administration of affairs in the Transvaal became more and more military in character. Shepstone was recalled to England to confer with the Secretary of State, and from March 1878 Col. Lanyon acted as Administrator. An excellent officer and administrator, he appears to have had little understanding of or liking for Dutch ways. The so-called Assembly introduced was the merest sham, so far as popular representation was concerned, consisting as it did of official and nominated members. Meanwhile grievances grew apace. The material prosperity of the people had doubtless increased, but on the other side of the account a new factor had appeared, which controlled, it is probable, the final issue of events. One is at first puzzled to explain why the Boer farmers, who at the time took the annexation so quietly, became afterwards aroused against the English, but the key to the problem would seem to have been what follows. If there is one thing which the Trek Boers have always hated, it is the payment of taxes. This was the rock on which the Republic had so often threatened to split, and on which it did finally split. Consider what would be its present position in this respect, but for Johannesburg and the Uitlander milch cow. To the ordinary Englishman, on the other hand, the payment of taxes has become a kind of second nature, and Col. Lanyon was not the man to apply the historical imagination to political purposes. Read between the lines of Mr Molteno's rhetoric and the secret is laid bare.[1] British rule became hateful because it meant taxation.[2] "Sir Owen Lanyon wrung from the people . . . the taxes at the point of the bayonet and seized the beloved ox-waggon. . . When this was wrenched from him (the Boer) by armed force to pay taxes to the hated foreigner, who had done him such wrong, was it blameworthy if the spirit of his ancestors rose within him, and feeling as they felt when Spain forced its hated Inquisi-

[1] *A Federal S. Africa.*

[2] Compare on this point the language of the Proclamation issued by the Boer leaders, *Parl. Pap.*, 1881.

tion into their very homes . . . he took up arms for that liberty which he valued more than life?" Now in this passage "hated foreigner" seems an Afrikander gloss, due to school recollections of Marathon, and the wrong consisted merely in the enforcement of legal rights, but the passage does serve to bring out the great stone of stumbling in the way of British rule.

Looking back then, it would seem that the annexation of the Transvaal was a measure which could only be justified on the grounds of its necessity and that, with the collapse of the Zulu power, with which we shall presently deal, such necessity could no longer be pleaded. Undoubtedly, in his original instructions, Lord Carnarvon had intended that annexation should only be effected with the consent of the people. Such consent may be held to have been given, at the time, in a grudging kind of way. But when the British authorities were not willing to ask the opinion of the people on the question, it could hardly be maintained that the consent was still existing. Doubtless the situation was complicated by the number of English colonists who had settled in the Transvaal, on the faith of the continuance of British rule, and by the fear that these might suffer in person or in property if left to the tender mercies of the Boer extremists. At the same time, considering that the British colonial system is based on the consent of the governed, considering that the people in question were the blood kinsfolk of the free and self-governing Cape colonists, it would surely have been wise to set up some form of popular government,[1] while carefully stipulating for a British Resident to have the controlling voice on all questions of foreign policy. Reading between the lines of the very interesting account by Sir B. Frere of his visit to the Transvaal in the spring of 1879, I gather that the strength of the opposition gave him much food for thought.[2] "Of the results of our meeting it is at present impossible to say more than that it must have cleared away

[1] See letters of Sir Donald Currie to Sir M. Hicks Beach, July 19, 1878, and Feb. 10, 1881. *Parl. Pap.*, 1881.

[2] *Parl. Pap.*, 1879, Sir B. Frere to Sir M. Hicks Beach, April 14, 1879.

misconceptions on all sides. If they have learnt anything as to the finality of the act of annexation . . . I have, on the other hand, been shown the stubbornness of a determination to be content with nothing else, for which I was not prepared by the general testimony of officials, who had been longer in the country, and who professed to believe that the opposition of the Boers was mere bluster and that they had not the courage of their opinions." Sir Bartle Frere seems to have recognised[1] that some effort ought to have been made to put the Transvaal government on a more popular basis, and to carry forward the examination of the Delagoa Bay railway line. Had he been the resident Administrator, the course of things might have been different. After his interview with the Boer leaders[2] one of the elders took him by the hand and, pointing to Colonel Lanyon, said, "If we had been talked to in that way from the first, all this trouble would never have occurred." Fate, however, had other things in
1879. store. In the following summer the High Commissionership was divided, and Sir Garnet Wolseley superseded Sir Bartle, so far as the northern districts were concerned. Sir Bartle Frere was to push forward[3] Confederation at Cape Town, and we find Sir Garnet writing, "I wish you could carry out Confederation quickly as that might calm the sullen anger of these Dutchmen!"[4] In the face of such utterances, well might Sir Bartle write, "I hold that it is very immaterial, whether union be effected by confederation, annexation, or any other '*ation*.' The thing wanted is unity of purpose and action in all matters which concern more than one province, and the utmost possible freedom for self-action, with regard to matters which concern only one province or part of it."[5]

It is impossible, in the space at our command, to dwell longer on Transvaal politics. A state of things wholly unex-

[1] See *Nineteenth Century*, Feb. 1881.
[2] *Parl. Pap.*, 1879, Sir B. Frere to Sir M. Hicks Beach, April 17, 1879.
[3] Sir M. Hicks Beach to Sir B. Frere, May 28 and July 6, 1879.
[4] *Life*, Vol II., 2nd ed., note at p. 345.
[5] Aug. 26, 1880, to Sir G. Colley, quoted *Life*, Vol. II. p. 387.

pected and unwished for gradually came about, that the country must be held by the sword. Meanwhile, in England, the swing of the political pendulum had recalled the Liberals to office. Mr Gladstone, in Midlothian, had spoken of the annexation "as the invasion of a free people."[1] In these circumstances it would have been perfectly easy for the Liberal Ministry to leave to the Transvaal inhabitants to decide whether or not English rule should continue. Conditions might, at the same time, have been made, securing the rights of British subjects. Instead of this, it was curtly announced that the occupation must be maintained. Afterwards Mr Gladstone explained his conduct on the ground that he was deceived as to the real feelings of the inhabitants by those who professed to speak with authority,[2] but if so, how came it that he uttered no word of apology for the violent language he had previously employed? In these circumstances, the rising of the Boers was a foregone conclusion. A clear distinction must be made between the question whether the retrocession of the Transvaal was a wise measure, and whether it was effected in a wise way. Subtle arguments were not wanting to defend the action of the British Ministry. To plain men it seemed as though the motto of England had become *Debellare subjectos, parcere superbis.* It is not contended that the Transvaal should have been held down by force after Majuba Hill, but probably the marching through the country districts of overwhelming

[1] *Speeches in Scotland*, Vol. I. p. 209.

[2] Compare with this assertion of Mr Gladstone, the Despatch of Sir G. Wolseley, dated Oct. 29, 1879. "I regret to have to inform you that the attitude of the Boers in the Transvaal appears to me to have assumed a serious aspect. . . . I am compelled most reluctantly to recognise the continuance of grave discontent. . . . The grievance has been largely a sentimental one, and it turns on the delicate and sensitive points of national dignity and injured honour. . . . I do not myself wish to imply that I myself apprehend the serious outbreak that is said to be threatened, but I have felt it my duty to state that there is good reason for the conclusion which is now, I think, accepted even more completely by Col. Lanyon than by me, that the main body of the Boers have a rooted dislike to English government." It is true that the tone of the Despatches in the following year became more hopeful, but there was nothing new in them to carry conviction to minds already made up that abandonment was necessary.

reinforcements would have prevented, in the future, much misinterpretation of Great Britain's attitude and power. It is noteworthy that Sir G. Grey, who was a bitter opponent of the annexation policy, seems to have been in favour of some such display of strength. British statesmanship, of course, considered itself satisfied by the terms of the Pretoria Convention of 1881. The term "suzerainty" appeared on the surface satisfactory enough, but thoughtful men like Sir B. Frere[1] saw that the Convention for any practical purpose was so much waste paper. How far the Convention of 1884 modified the Convention of 1881 is really an idle question. In Sir H. Robinson's words,[2] "If the suzerainty were abolished . . . the natives would at all events be in no worse position than they are in at present under a Convention which . . . the one side does not intend to enforce and the other does not intend to observe." *

Nov. 23, 1883.

Paper safeguards proved for the most part powerless against

* NOTE.—The leading provisions of the Conventions of 1881 and 1884 were as follows:—

Under the 1881 Convention "Her Majesty reserves to herself . . . the control of the external relations of the said State, including the conclusion of Treaties and the conduct of diplomatic intercourse with Foreign Powers, such intercourse to be carried on through Her Majesty's diplomatic and consular officers abroad." It is unnecessary to set out the various important duties to be performed by the British Resident with regard to the natives, as, in fact, he proved powerless to act on their behalf.

Under the 1884 Convention the title of the Republic was altered to 'the South African Republic' and its boundaries were enlarged. "The South African Republic will conclude no Treaty or engagement with any state or nation other than the Orange Free State, nor with any native tribes to the eastward or westward of the Republic, until the same has been approved by Her Majesty the Queen. Such approval shall be considered to have been granted if Her Majesty's Government shall not, within six months after receiving a copy of such Treaty (which shall be delivered to them immediately upon its completion), have notified that the conclusion of such Treaty is in conflict with the interests of Great Britain or of any of Her Majesty's possessions in South Africa." (Art. IV.)

[1] Feb. 23, 1883, Sir B. Frere to Mr J. Maclean. "The chief reason given for retaining a British 'suzerainty' (whatever that may imply) . . . was that it would be some protection to the 700,000 loyal native subjects. . . . It has not, however, been of the slightest use for that or any other visible purpose."—*Life*, Vol. II. p. 421.

[2] *Parl. Pap.*, 1884.

the astute advisers of the Transvaal Government. In the deplorable state of things which was brought about, the safety of British South Africa lay in England's command of the sea and in her ability to prevent the South African Republic obtaining that sea-port after which her advisers were always hankering.

It seemed best to deal with Transvaal affairs as a whole, but we have travelled far from Sir B. Frere's arrival in Cape Colony. From the first he recognised the danger involved in the existence of Cetywayo's military despotism. For some time, however, he was kept employed at other work. A general feeling of unrest seems to have pervaded the native population of South Africa after the annexation of the Transvaal. It was not, one gathers, that there was much actual pre-arrangement between the different tribes, at the same time the Gaika and Galeka War and the Zulu difficulty were symptoms of the same underlying trouble. The war on the eastern frontier, which dragged on for many months, is mainly notable for the constitutional question[1] to which it gave rise. Mr Molteno, in the full flush of responsible government, seemed inclined to direct the military as well as the civil affairs of the Colony. Sir B. Frere was unable to yield to this claim, and dismissed the Ministry. Happily

Zulu War.

Feb. 2, 1878.

"Except in pursuance of any Treaty or engagement made as provided in Art. IV. . . . no other or higher duties shall be imposed on the importation into the South African Republic of any article coming from any part of Her Majesty's dominions than are or may be imposed on the like article coming from any other place or country," &c. (Art. XIII.)

"All persons other than natives conforming themselves to the laws of the South African Republic will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic . . . they will not be subjected, in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic." (Art. XIV.)

It will be noticed that the London Convention affords no ground for interference in respect of some, at least, of the subsequent grievances of the Uitlanders, and on the principle that *expressum facit cessare tacitum*, it may be contended that reliance on the actual provisions of the Convention tends to weaken the more general claim to interfere as paramount Power.

[1] *Parl. Pap.*, 1878.

no further difficulty arose, as, on a dissolution,[1] public opinion pronounced in favour of the Governor and the new Minister, Mr Gordon Sprigg. As Sir Bartle's conduct has been and still is branded as unconstitutional, we may note the language of the recognised authority on such questions. After giving a full summary of the facts of the case and of the various arguments used at the time, Mr Todd continues,[2] "Apart from the value of the preceding case . . . upon the constitutional relations of a Governor towards his responsible advisers, it is also useful as indicating the proper steps which should be taken to uphold the authority of the Crown as constitutional head of all the armed forces in a British Colony. In affairs of peace and war, which are essentially of Imperial concern, the supremacy of the Crown must be everywhere maintained inviolate. The Governor in every Colony is the representative of the Sovereign in the administration of this prerogative."

Todd then proceeds to introduce a condemnation of Sir Bartle's conduct on the Zulu question by adding the words, "But he himself must be careful that he acts in such matters in obedience to his instructions from Her Majesty's Government."[3] Now, with regard to this, it is not true that Sir Bartle disobeyed Sir Michael Hicks Beach's instructions.

Nov. 1878. Those instructions were that the reinforcements sent out were not "to furnish the means for a campaign of invasion and conquest, but to afford such protection as may be necessary for the lives and property of the colonists."[4] But Sir Bartle conscientiously believed that for the "protection" of "the lives and property of the colonists," it was necessary that the military power of Cetywayo should be curtailed.

Dec. 1878. "After the most anxious consideration, I can arrive at no other conclusion than that it is impossible to evade the necessity for now settling the Zulu question thoroughly and finally, and that there is no apparent course *consistent with*

[1] Mr Molteno had been unable to obtain a majority against the Governor even in the moribund Parliament.

[2] *Parl. Gov. in the British Colonies*, p. 292.

[3] *Ibid.*, p 293.

[4] *Parl. Pap.*, 1878-9.

our safety, unless we lay down definite conditions for the future government of Zululand, and compel the ruler, if necessary by force, to observe them." On the wisdom of Frere's policy, note the language of Sir H. Bulwer: "In requiring the abolition of the military system as it is, the High Commissioner strikes at the root of that which is most vicious and most dangerous in the country. . . . The whole *regimental* system, in fact, must be broken up."[1] By the side of this put the opinion of Sir Robert Morier. Writing after Isandlwhana, he said: "I have only to add that this view has the more weight, as coming from me, that I have always been against the annexation of the Transvaal and the policy it represented; but what I said at the time, and repeat now, was that, if we annexed, we *necessarily* had to do two things—demilitarise the Zulu armed polity, and acquire the right of way to the sea."[2] It is true that, on the other side, we must set the opinion of Lord Blachford, whom we find gravely comparing the position of Cetywayo to that of one of the great European Powers. But the cases are wholly different, and it is not too much to say that, unless a large military force was to be permanently locked up in Natal, its very existence as a civilised community depended upon the sufferance of an arrogant savage. To Sir B. Frere, at least, "the old system of delay and procrastination"[3] appeared intolerable. Moreover, an excuse for intervention was afforded by the announcement of the award with regard to the disputed boundary on the south-east of the Transvaal. The arbitrators had given their decision in favour of the Zulus and against the Transvaal. Shepstone was convinced that the decision was wrong, and such appears also to have been Sir Bartle's opinion. He did not, however, care, as ultimate referee, to reverse the finding, and contented himself with inserting provisions securing compensation for dispossessed Boer farmers. The announcement to the Zulus of the award was accompanied with conditions which they would be expected to fulfil, and

[1] *Parl. Pap.*, 1878-9. [2] March 27, 1879. *Life of Sir B. Frere*, Vol. II. p. 321.
[3] *Parl. Pap.*, 1878-9.

which a British Resident would be appointed to enforce. The ultimatum of December 11 required the abolition of compulsory celibacy, of the regimental system—in a word, of the whole military régime. It is important to note how this ultimatum was dealt with by Sir M. Hicks Beach before the new element of military disaster had been added. He wrote,[1] in January 1879, "I regret that the necessity for immediate action should have appeared to you so imperative as to preclude you from incurring the delay which would have been involved in consulting Her Majesty's Government upon a subject of so much importance as the terms which Cetywayo should be required to accept before those terms were actually presented to the Zulu King." At the same time, Sir Michael "did not desire to question the propriety of the policy you have adopted in the face of a difficult and complicated condition of affairs." It is clear from this that the Secretary of State, although he was unaware that his November letter, deprecating war on account of troubles in Europe, had not been received[2] by Sir Bartle until two days after the delivery of the ultimatum, still did not consider that the High Commissioner had acted in disobedience of his directions. Neither the military disasters, nor the successes by which they were redeemed, can detain us here. It is well to note, however, that Isandlwhana was either due to the careless neglect of Mr Kruger's reiterated advice[3] to laager the waggons *every* evening, or else it was a proof of the Zulu military efficiency. In the former case, military blundering could in no way reflect upon Frere's policy, while, in the latter, the necessity of that policy was the more completely vindicated. Unhappily, Imperial dangers in other quarters rendered the occurrence of the Zulu War singularly inopportune. In his interesting book on South Africa, Mr Worsfold, after carefully considering the circumstances of the situation, finds the natural remedy in such an Imperial Council as should be able to do justice to the various claims of a world-embracing Empire. But it is open to doubt how any system of Im-

[1] *Parl. Pap.*, 1878-9. [2] *Life of Sir Bartle Frere*, Vol. II. p. 319.
[3] See *Life of Sir B. Frere*, Vol. II. p. 270.

perial Federation could have here supplied a remedy. If one may judge by the tone of Mr Rhodes' comments on the Venezuela boundary question, we may risk the surmise that indifference, tempered by log-rolling, would be too often the reciprocal attitude of the delegates to an Imperial Federal Council. Surely the remedy lay closer at hand. It seems clear that the power of Cetywayo was a standing menace to Natal; at the same time it seems equally clear that Cetywayo at the moment did not intend to precipitate matters. In this state of things, if there had been telegraphic communication with the Cape, the trouble would not have arisen. Frere was an Imperial statesman, the best years of whose life had been given to British India, and would have been the last man to push forward the interests of his particular province at a moment inopportune to the general interests of the British Empire. At the time it took more than a month for intercommunication to take place between England and the Cape. The beginning and the end of Sir Bartle's offending was that he thus acted in ignorance of what was happening elsewhere.

In the circumstances, the soreness of British Ministers was natural enough; but it was deplorable in the interests of South Africa that that soreness led to a fatal division of authority, whereby dealings with the Boers were taken out of the hands of Sir Bartle Frere, and to that betrayal of a great public servant which is one of the most unpleasant pages in the history of recent times.

Time, however, more generous than party politicians, has amply vindicated his memory. In his policy with regard to expansion, in his treatment of the native question, in his respect[1] for the old Dutch community, with its loyalty to the English Crown and its dislike of English cockneyism, he pointed the way along which British Governors must continue to travel. A Liberal Secretary of State might write: "There has been so much divergence between your views and those of Government on South African affairs,"[2] but his successor in the same Liberal Ministry found himself

[1] See *Life*, Vol. II. p. 374.

[2] *Parl. Pap.*, 1881.

within a very few years forced by the logic of events, and by English public opinion, to carry out with regard to Bechuanaland that same policy which had been so recently condemned.[1]

Bechuanaland.

That the mistakes of England in South Africa have been due to want of knowledge rather than to intention was well illustrated in the years 1882 and 1883. We have seen how after the Keate award no further action had been taken with regard to the Bechuana Chiefs. In consequence, a state of anarchy prevailed which in 1878 compelled British military interference. Sir B. Frere was desirous of establishing a British Protectorate, but in 1879 the Secretary of State came to the conclusion that this "would appear to involve the assumption of such increased responsibilities as to be open to very serious objection in present circumstances, whatever view may be taken of the subject in the event of a Confederation or Union of the South African States being carried into effect."[2] The police forces were gradually decreased,[3] and in April 1881 there were none in Bechuanaland. In this state of things the unhappy chiefs became the easy prey of Boer and Colonial filibusters, who embroiled them with each other and then exacted lands as the payment for assistance. In this way Montsioa was at war with Moshette, and Mankoroane with Massow. By a fortunate coincidence, however, Mr Mackenzie, the missionary stationed at Kuruman, was an exceptionally strong man, little inclined to acquiesce in a policy of drift. He determined to go home and explain to the British public the true position of affairs. Through his connection with the Free Church Missionary Societies, he was able to appeal to the 'Nonconformist conscience' in a way no mere official or ex-official could have done. The result was surprising. Resolutions were adopted by crowded public

[1] With regard to Zululand it should be noted that after the grievous failure of Sir G. Wolseley's policy of apportioning the country between thirteen kinglets, and after the Boers had formed in part of it a new Republic which was subsequently incorporated in the South African Republic, the remainder of Zululand was in 1887 proclaimed a British possession.

[2] *Parl. Pap.*, 1879. [3] *Austral Africa*, by J. Mackenzie, Vol. I. p. 117.

meetings in the great provincial towns, attended by the 'stalwarts' of the Radical party, urging upon the Liberal Ministry the adoption of a forward policy. Mr Forster, whose premature loss British interests in South Africa had especial reason to deplore, lent the whole weight of his influence and abilities to the movement. Accordingly in 1884 the Transvaal delegates found themselves outwitted by Mr Mackenzie and Sir H. Robinson, and their pretensions to unlimited expansion once and for all denied. It was decided[1] to appoint a Resident Commissioner to watch over the interests of the natives in Bechuanaland, and Mr Mackenzie accepted the post. Feb. 1884.

It is unnecessary to enter here into the squalid details of how Mr Mackenzie's position was rendered an impossible one and of how his resignation became a virtual necessity. The first appearance upon the political scene of Mr Rhodes, so far as the English reader is concerned, is not one which his admirers should care to linger over. The policy of 'the elimination of the Imperial factor,'[2] and of the *hinterland* for the Colony, may have been a wise one, but, when it involved opposition not only to Mr Mackenzie but to Sir C. Warren, and the signing of formal treaties with filibustering malefactors, it took a somewhat questionable shape. Sir H. Robinson, who in England had apparently advocated British Protectorates, became in South Africa the strenuous advocate of colonial annexation. Working for this, he sacrificed Mr Mackenzie, with the amazing result that the Cape Ministry were finally graciously willing[3] to annex Bechuanaland, provided that the Imperial Governmen furnished £50,000 per annum towards the cost. Lord Derby had said that it was important that the boundary should forthwith be distinctly defined, yet no steps were taken for this purpose till a later date. In consequence, the inhabitants of that portion of Stellaland, which under the 1884 Con- March 1884.

[1] *Parl. Pap.*, 1884.

[2] July 15th, 1884. Mr Rhodes said in the Cape Parliament—"The Imperial factor which he warned the House last year against had now been introduced into that country."—*Parl. Pap.*, 1884.

[3] *Parl. Pap.*, 1884-5.

vention became part of the South African Republic, were treated as representing the portion which came under the British Protectorate. It would seem that the necessity for Sir C. Warren's expedition lay in the preceding futile attempts to eliminate the Imperial factor. The conspicuous success of that expedition in spite of the opposition of the Cape Ministry, and it is lamentable to have to add, of the High Commissioner,[1] was most welcome to the loyal of both races throughout the Colony. If Sir H. Robinson's[2] intention had been to afford an object-lesson in the inconvenience which may result from the Governor, under responsible government, being also the Imperial High Commissioner, he certainly spoke to more purpose than by his argumentative despatches supporting the other side. The hands were the hands of the High Commissioner but the voice was the voice of the Cape politician. It must be admitted, however, that the practical difficulties in the way of the division of the office were great, and in any case such a change would at the present day be wholly impossible. In consequence of the action of the Cape Parliament, British Bechuanaland, consisting of all the country south of the Molopo River, was in September
1895. 1885 constituted a Crown Colony. Ten years later, however, it was finally annexed to Cape Colony.

With regard to the country north of the Molopo River, fear of Germany undoubtedly forced the hands of English statesmen, and, in March 1885,[3] a British Protectorate was proclaimed, extending as far north as the twenty-second parallel of south latitude. While, however, this course was rendered necessary by the danger of German interference, the general

[1] See *Parl. Pap.*, 1884-5.

[2] As it is natural to express some disapproval of some of Sir H. Robinson's doings in South Africa, it is right to quote the estimate formed of him by Sir H. Parkes: "I had seen much of him during his long stay in New South Wales; I knew and admired his knowledge of affairs, his love of difficulty for the sake of mastering it, his clear understanding, and his strong character."—*Fifty Years in the Making of Aust. History*, Vol. II. p. 106.

[3] The government of the Protectorate and "sphere of influence" was in 1895 transferred to the British South Africa Company.

opinion remained that England "had no interest in the country north of the Molopo River, except as a road to the interior,"[1] and so when in 1885 Khama proposed to put his whole country under the protection of the Queen, Colonel Stanley was "not prepared to entertain the offer made to transfer the vast territory" which Khama claimed, "extending as far north as the Zambesi."[2]

German South-West Africa.

The year 1884 was a memorable one in the history of Africa, because it witnessed the beginning of that scramble which within a few years caused the greater portion of Africa to be divided up between the different European Powers. The propelling cause of such partition was undoubtedly the appearance upon the scene of Germany as an active Colonial Power. Those who are sceptical as to the uses of diplomacy will note that not long before this departure in German policy, that very able diplomat Lord Odo Russell[3] was in complete ignorance of the trend of events. It is even now doubtful how far Prince Bismarck was in genuine sympathy with the new movement, in any case he was able to enter upon it *con amore* so far as it involved the bamboozling and snubbing of liberal England. It has already been noticed that Sir Bartle Frere had prevailed upon the British Government to allow the occupation of Walfisch Bay, although little was done by the Cape Colony to render that occupation effective, and at times there had been question of its abandonment. Sir Bartle had clearly realised the danger from Germany. He had called attention to a significant article in a German periodical by Herr Weber, advocating the acquisition of Delagoa Bay, and the steady influx of German immigrants into the Transvaal[4] "to secure the future dominion over this country and to pave the way for the foundation of a German African Empire of the future." The English ambassador at Berlin, however, attached no importance to these lucubra-

1878.

[1] *Parl. Pap.*, 1884-5, Sir H. Robinson, August 1885. [2] *Parl. Pap.*, 1884-5.

[3] Sept. 18, 1880. "The German Government feel more want of soldiers than of Colonies . . . Under present circumstances, therefore, the plan for a German Colony in S. Africa has no prospect of success."—*Parl. Pap.*, 1884.

[4] *Parl. Pap.*, 1884-5.

tions. Meanwhile, the state of things was this—England had consistently refused to take over Damara Land and Namaqua Land. By a curious irony, the first application for British protection had been made by Rhenish missionaries in 1867, and had been supported by the Prussian Government, but the Duke of Buckingham declined to interfere. Sir Bartle Frere had advocated the annexation of the whole country, but the Home Government again refused to act save with respect to Walfisch Bay. To complaints by the German missionaries, the answer had been given that Great Britain had no power over the native chiefs. In 1880 Prince Bismarck enquired how far England was prepared to protect German as well as English interests, and received for answer that Damara Land and Namaqua Land were outside the sphere of British responsibility. In the instructions to Sir H. Robinson, in 1880, it was expressly stated that the Orange River was the north-western boundary of Cape Colony, and that no encouragement could be given to the establishment of British jurisdiction beyond, with the exception of Walfisch Bay. Such being the state of matters, it occurred to the German Colonial party that here was just the place where the beginning might be made of a German African Empire. Prince Bismarck was approached on the subject, who so far sympathised as to practise his diplomatic wiles on Lord Granville. In an interview in Feb. 1883 with Sir Julian Pauncefote, Count Herbert Bismarck[1] stated that a Berlin merchant was about to establish a factory on the coast. The German Government desired "to know whether Her Majesty's Government exercise any authority in that locality. If so, they would be glad if they would extend British protection to the German factory. If not, they (*i.e.* the German Government) will do their best to extend to it the same measure of protection which they give to their subjects in remote parts of the world, but without having the least design to establish any footing in South Africa." A more cunning method of putting to sleep British suspicions could not have been devised. The idea was implanted that what Bismarck

[1] *Parl. Pap.*, 1884-5.

was anxious about was protection for the German factory. As Lord Granville afterwards admitted, Lord Derby throughout "had acted in the belief . . . that it was their (the German Government's) desire that the German settlers should receive British protection."[1] It was indeed evident[2] that there had been misunderstanding on the one side, if not on the other. To the plain question, did or did not Great Britain claim Sovereign rights over the territory, Lord Granville could only reply that, although they had not proclaimed the Queen's Sovereignty, "any claim to sovereignty or jurisdiction by a Foreign Power between the southern point of Portuguese jurisdiction at latitude 180 and the frontier of the Cape Colony would infringe their legitimate rights." International law, however, knew nothing of such vague 'legitimate rights,' and Germany was clearly entitled to press for information as to the title on which England's claims were based, and as to what means she had taken to protect German subjects, so as to relieve Germany from the necessity of protecting them herself. The British Government communicated with the Cape authorities upon the question, and such delay ensued that the reply of the Government intimating that the Colony would recommend Parliament to undertake the control of the whole coast was, in fact, subsequent to an intimation from the German Consul at the Cape that Herr Lüderitz and his possessions were placed under the protection of the Empire. As Mr Keltie well remarks,[3] "The Home Government and the Cape Government cannot afford to cast stones at each other." If Prince Bismarck fooled to the top of his bent Lord Granville and Lord Derby, "the contemptuous dog-in-the-manger policy of the Cape authorities," the neglect, when Angra Pequena had been taken, to act with regard to the other points along the coast-line, the ostrich-like statesmanship, which refused to recognise patent facts, were at least as evident as British blundering. Moreover, Damara Land and Namaqua Land, which were formally annexed to Germany in August 1884, have not as yet proved

[1] *Parl. Pap.*, 1884-5.
[2] *Ibid.*
[3] *The Partition of Africa*, p. 189.

desirable possessions, and while England maintains the supremacy of the sea, it is very doubtful whether it is not in the long run to her interest that the great Continental Powers should set up hostages to fortune in the shape of Colonies beyond the seas.

German intrigues on East Coast.

A more serious attempt to interfere with British interests was made on the east coast. Intrigues were undoubtedly set on foot between Boers of the new Republic in Zululand and German subjects, the object of which was the annexation by Germany of St Lucia Bay. We have seen that it had been granted to England years before by Panda, and in December 1884 the British flag was formally hoisted. Moreover, in the following May, an agreement between Germany and England with regard to their several claims on the Guinea Coast and in interior contained a further clause under which Germany declared herself "ready to withdraw her protest against the hoisting of the British flag at St Lucia Bay and to refrain from making acquisitions of territory or establishing protectorates between the Colony of Natal and Delagoa Bay."[1]

Cameroons.

The next step, after the acquisition of Damara Land, in the expansion of Germany, was the annexation of the Cameroons. Here again the familiar methods of dealing with Lord Granville were put in motion. Dr Nachtigal was to visit West Africa "to complete the information now in the possession of the Foreign Office at Berlin on the state of German commerce on that coast."[2] He was "authorised to conduct negotiations connected with certain questions." The British Colonial authorities were enjoined to give all possible assistance. It proved that the 'negotiations' were to annex the territories of chiefs, who had been for some time vainly clamouring for British protection, but who finally succumbed to German promises. Here, again, England was ready to act when too late. Consul Hewitt was able, however, to secure to Great Britain the district of the Oil rivers at the mouths of the Niger.

The annexation of Damara Land and Namaqua Land and

[1] *Parl. Pap.*, 1884-5. [2] *Ibid.*

of Togoland and the Cameroons, showed Germany's determination to become an African Power. Her interest in African affairs was further shown by the Conference held at Berlin in 1884-1885. The immediate cause of the Conference was to come to an understanding with regard to the Congo basin, but in a very striking memorandum Sir E. Malet expressed his recognition of the indirect good done, in enabling the representatives of the various Powers to understand each other's points of view. The general Act of the Conference enacted freedom of trade within the region watered by the Congo and its affluents; freedom of navigation along both the Congo and the Niger—such freedom to be enforced on the Congo by the International Commission, and on the Niger by Great Britain and France, in respect of those sections of the rivers which were within their Sovereignty and protection. On the question of occupation, the Act laid down the principle that occupation on the coast of Africa must be effective in order to be valid, and any such occupation henceforth was to be notified to the Powers signing the Treaty, for the purpose of enabling opposing claims to be put forward. During the holding of the Conference the recognition was formally announced of the Congo Free State by all the Powers with the exception of Turkey.

German East Africa.

The proverb that "*l'appétit vient en mangeant*" has been certainly illustrated in the development of German Colonial policy. Having acquired possessions in South-West and West Africa, Germany next proceeded to deal with the East coast. As usual, England stood in the way. Relations between England and Zanzibar had been of the closest. British influence was supreme from 1875 to 1884. In 1878 the Sultan offered to make over the commercial exploitation of the country to Mr Mackinnon. Mr Mackinnon urged that he might be authorised to accept the offer, and that Zanzibar might be declared a British Protectorate, but the Government of Lord Beaconsfield was at the time unwilling to assume new responsibilities. When, therefore, in 1885 the German East Africa Company

acquired a solid block of 60,000 square miles on the mainland, they undoubtedly interfered with the professed rights of an old ally of England. Experience, however, of Prince Bismarck had taught Lord Granville meekness. The strongest pressure was brought to bear upon the Sultan to make him acquiesce in German claims. And Sir John Kirk, the English Resident who had practically ruled the country, found himself, to his disgust, obliged to adopt a tone which was as unfair to the Sultan of Zanzibar as it was humiliating
May 1885. to England. Note the language of Lord Granville when timidly announcing the designs of what afterwards became the British East Africa Company: "The supposition that Her Majesty's Government have no intention of opposing the German scheme of colonization in the neighbourhood of Zanzibar is absolutely correct. . . . A scheme has been started in this country, under which, if it is realised, the efforts of German enterprise may be supported indirectly by British enterprise. You will explain that some prominent capitalists have originated a plan for British settlements . . . and for its connection with the coast by a railway. . . . Her Majesty's Government have the scheme under their consideration, but they would not support it unless they were fully satisfied that every precaution were taken that it would in no way conflict with the interests of the territory that has been taken under the German Protectorate."[1] Mr Keltie suggests that Lord Granville's real motive may have been "to divert Bismarck's attention from a region far more valuable than that which Dr Peters had snatched, as it were, from under the paws of the British lion,"[2] but such a theory must ignore the probabilities arising from Lord Granville's past record upon colonial questions,[3] and appears somewhat far-fetched. In any case the important point was that, by whatever means, British East Africa was secured to the Empire. The tide of expansion was flowing strong, and the reluctance of Liberal statesmen proved powerless against its force.

[1] *Parl. Pap.*, 1886. [2] *The Partition of Africa*, p. 233.

[3] A friendly critic of the book has pointed out that to Lord Granville belongs the credit of having revived the policy of expansion by means of chartered companies by the grant of the North Borneo Charter.—*Athenæum*, December 18, 1897.

BOOK V

THE PERIOD OF GREATER BRITAIN

1886 ONWARDS

"Also, we will make promise. So long as the blood endures,"
"I shall know that your good is mine: ye shall feel that my strength is yours."

CHAPTER I

PROBLEMS OF EMPIRE

THE space at my command is nearly exhausted, but it remains to notice the period, to which the former periods may be regarded as a mere introduction. All important, however, as this last period may prove to be, it is too early to attempt even to trace its history. At first sight, indeed, it may appear that Colonial Policy is travelling on the old familiar lines. The Parliamentary papers with regard to the granting of responsible government in Western Australia[1] and Natal[2] wear a familiar air; and yet, when we look more closely, it becomes apparent that a new spirit has appeared upon the scene. This new spirit shows itself, in the case of the self-governing Colonies, on the side of the Mother country in a deepened sense of their value and of their claims; on the side of the Colonies in a wider Imperial patriotism, and in a more serious recognition of the difficulties entailed upon the Mother country by her European and Imperial responsibilities. More generally the new spirit shows itself in an apprehension of the truth that the "Empire is one great whole," "an organism which must have room for development and expansion."[3]

The new spirit.

An outward and visible expression of this new spirit was given in 1887 by the holding of a Colonial Conference in London. Sir C. Dilke[4] has borne testimony to the tact and discretion shown by Mr E. Stanhope in the circular summoning the Conference, and to his wisdom "for having seen in advance exactly what could and what could not be done." The question of Imperial Federation was at the time emphatically among the things which could not be done, and was therefore strictly excluded. The actual results of the

Colonial Conference of 1887.

[1] *Parl. Pap.*, 1889 and 1890.
[2] *Parl. Pap.*, 1890-1891.
[3] Keltie, *Partition of Africa*, p. 86.
[4] *Problems of Greater Britain*, 2nd ed., Vol. II. p. 468.

Conference—including, as they did, a scheme of naval defence for the Australian Colonies, under which they provided in part for additional ships to be stationed in their waters—were by no means unimportant. At the same time, the true significance of the Conference[1] was that it was "the beginning of a state of things which may have great results in the future." Lord Salisbury added that Imperial Federation was "a matter for the future rather than the present. . . . These are grand aspirations. . . . They are doubtlessly hazy, but they are the nebulous matter that, in course of ages—in much less than ages—will cool down and condense into material from which many practical and business-like resolutions may very likely come." It was undoubtedly a great gain that representatives of a world-embracing Empire should meet and exchange views on a footing of absolute equality. Nor was it otherwise than well that British statesmen should be obliged to listen to plain speech, such as the language of Mr Deakin, one of the Victorian representatives. Making all allowances for England's difficulties, there was surely some foundation for his complaint that, in the past, there had been too great readiness to admit a distinction between Imperial and Colonial interests. "We hope that, from this time forward, Colonial policy may be considered Imperial policy; that Colonial interests will be considered and felt to be Imperial interests; that they will be carefully studied, and that, when once they are understood, they will be most determinedly upheld."

Ottawa Conference, 1894.

Important and interesting as was the London Conference of 1887, the Ottawa Conference of 1894 in some ways possessed yet greater interest. That such a conference between the self-governing Colonies should be held, with an Imperial representative present, merely to show the approval and sympathy of the Mother country, and to give information when necessary, spoke volumes for the healthy state of Imperial relations. Well might Lord Jersey "record his conviction that the sense of connection and cohesion . . . has been of late years steadily growing stronger." The great dis-

[1] *Parl. Pap.*, 1887.

cretion which has been observed at home . . . has inspired, and is continually augmenting, a feeling of confidence in and respect for the Mother country, which is economically and politically beneficent." The Conference was occupied with three subjects: the construction of a submarine cable between Vancouver and Australia, the establishment of a quick mail service between Great Britain and Australia, *via* Canada, and lastly, the trade relations of the Colonies with Great Britain and with one another. On the last subject the Conference, after declaring that any impediments by Treaty or otherwise in the way of reciprocity between the different portions of the Empire should be removed, resolved,[1] "Whereas the stability and progress of the British Empire can be best secured by drawing continually closer the bonds that unite the Colonies with the Mother country, and by a continuous growth of a practical sympathy and co-operation in all that pertains to the common welfare. And whereas this co-operation can in no way be more effectually promoted than by the cultivation and extension of the mutual and profitable interchange of their products. Therefore . . . this Conference records its belief in the advisability of a Customs arrangement between Great Britain and her Colonies, by which trade within the Empire may be placed on a more favourable footing than that which is carried on with foreign countries . . . that until the Mother country can see her way to enter into Customs arrangements with her Colonies, it is desirable that, when empowered so to do, the Colonies of Great Britain . . . take steps to place each other's products . . . on a more favourable Customs basis[2] than is accorded to the

[1] *Parl. Pap.*, 1894.

[2] An explanation may be given of the difficulties in the way of inter-colonial differential treatment. With regard to the Australian Colonies, the prohibition against differential treatment was contained in their Constitution Acts, and the Customs Act of 1873 only removed that prohibition, so far as the inter-colonial trade between the Australian Colonies themselves was concerned. An Imperial statute was therefore necessary before Victoria could put Canada on the same footing as she might New South Wales. In the case of Canada and of the Cape there was no Imperial statute barring the way, and, as a matter of fact, the Home authorities readily assented to the Cape Colony statute giving differential treatment to the Orange Free State under the South African Customs Union.

like products of foreign countries." More remarkable in some ways than these resolutions was the language employed by the various speakers. Again and again there was shown a complete apprehension of the point of view of the Mother country. Men, who believed in protection in the Colonies, avowed that in England they would be Free Traders. It was openly recognised that while Great Britain was continually enlarging the value of its imports of colonial products, the Colonies were by no means responding with an equal increase of imports of British manufactures.

Imperial Federation.

A notice of the Colonial Conferences of 1887 and 1894 naturally leads to some discussion of the larger question of Imperial Federation, of some form of which these conferences may be regarded as the precursors. No candid observer can deny that the Imperial Federation League did good service in the cause of creating more friendly relations between the Mother country and the Colonies. Just as, in the darkest hour of the night of *laissez-aller*, the Colonial Institute was started to resist the policy of drift, so, in the dawn of the daytime of Greater Britain, the Imperial Federation League was formed to give a practical embodiment to the vague aspirations of the time. Neither is it possible to exaggerate the importance of the indirect work of the League. It preached a most needed sermon on the text of the old Dutch proverb—*onbekend maaks onbemind*. In a variety of ways it sought to bring out the underlying unity of the different portions of the Empire. The appointment of colonials to positions of trust outside their particular Colony was one of the measures urged by the Imperial Federation League. Commissions in the army are now reserved for young colonials, and a movement is at the present time on foot in Canada to put again upon a territorial basis the Prince of Wales Royal

No difficulty would seem to arise from the provisions of Imperial Commercial Treaties, so far as the preferential treatment is limited to the inter-colonial trade, and does not extend to the trade of the Mother country. The prohibition against differential treatment of other Colonies was removed by the Australian Colonies Duties Act, 1895 (58 and 59 Vic., c. 3).

Canadian Regiment,[1] by which means the connection between the regular army and the military forces of Canada would become closer than has been hitherto possible.[2] In this and in other ways, such as the introduction of Colonial judges into the Privy Council, the feelings called forth by the Imperial Federation League have played a great part. Moreover, its founders were no mere dilettante amateurs, they consisted for the most part of statesmen well versed in practical politics; and, in passing, we may note, that not the least of the good results of the League was that it broke the vicious tradition, under which, for the last twenty years or so, Liberalism had seemed identified with an attitude of indifference, if not hostility, towards the Colonies; the League counting among its most prominent supporters Lord Rosebery. When, however, we pass to an examination of particular proposals of the League, we are on less firm ground. So many forms of Federation have been proposed, and there is room for such wide difference of opinion between advocates of different plans, that it is impossible to discuss the subject in detail. The underlying assumption, however, on which all such proposals are based, is that things cannot go on as they are, either the ties connecting the different portions of the Empire must be drawn closer and become more regulated, or else, sooner or later, we may hope later, but inevitably, the Empire will dissolve. Now, with regard to this, very little is to be learnt from history. The British Empire of to-day, it cannot be too often repeated, is without a precedent in the past. Even this, indeed, hardly expresses the truth. Consider the case of Sir G. Cornewall Lewis. He was both a very shrewd man of the world, and also a deeply learned student of the past, yet, writing not many years before the new departure in British Colonial policy, he was so far from anticipating the kind of independent dependency, which now

[1] The 100th Prince of Wales Royal Canadian Regiment was raised in the Dominion in 1858. It, however, subsequently lost its territorial connection and became linked to an Irish battalion.

[2] On this subject note the suggestions of Mr Chamberlain at the meeting with the Colonial Premiers. *Parl. Pap.*, 1897.

prevails in the case of the self-governing Colonies, that apparently he did not conceive its possibility even in thought. Moreover, whosoever remembers how very different have been the consequences arising from the granting of responsible government from those anticipated by the men best qualified to judge, will hesitate before embarking upon prophecy. So far, however, as experience does help, it seems to point in a direction the opposite to that of formal systems of Federation. The interminable discussions over Home Rule have at least shown the grave practical difficulties in the way of federal systems. It would seem[1] that a Federation of distinct communities can only naturally be brought about from the fear of some external danger. In this state of things, it is for the advocates of change to show its necessity. As I understand, Imperial Federation is advocated mainly on two general grounds. On the one hand, it is contended that the present state of things involves the Colonies in subjection, because they have no voice in directing the Foreign policy of the Empire. Upon the other hand, it is alleged that it entails upon the Mother country an unfair share of the burden of common defence. Now of course it is perfectly true that Foreign policy is settled by the British Cabinet, and to this extent there is a real grievance. But how much voice has the ordinary British elector in the Foreign policy of the nation? He has indeed a vote, which may go to return a member, who in turn may move a vote of want of confidence, which may result in the overthrow of a Ministry. At the same time, under the Constitution, executive power primarily lies with the Crown's Ministers, and any change which tended to throw the direction of policy more into the hands of a deliberative body would be, in the opinion of many, a change for the worse. But the alternative is an Imperial Cabinet existing side by side with the British Cabinet, a state of things which, under democracy, would involve great difficulties. Moreover, the original argument is a two-edged sword. Because, if the Colonies

[1] See Freeman, *Greater Greece and Greater Britain*, p. 54.

were going to discuss questions of Foreign policy in a spirit of antagonism, it is easy to foresee what friction and trouble might result. Take the question of the Mediterranean. The Australian representatives might insist that Great Britain should loose her hold of the Mediterranean, so as to acquire a stronger grasp of the Pacific. In the present state of things, as to population, etc., could it be endured that the policy of Great Britain, as to India, should be dictated even by kinsmen so near to us as are the colonists? I do not say that such a temper would manifest itself, but neither do I believe that the colonists feel the grievance which is put into their mouths. Doubtless, as the Colonies grow in wealth and population, they will need to have a voice in the direction of Imperial policy, but such a voice could perhaps better find expression in an improvement in the status of the Colonial Agents-General and in their being admitted as Privy Councillors to Cabinet Councils on particular occasions, than in throwing into a Medea's cauldron the whole constitutional relations of the Empire, the final issue of which no man could predict.

But if the first argument in favour of Imperial Federation is somewhat fanciful, the second is surely somewhat dangerous. The Colonies, it is suggested, do not sufficiently tax themselves for the purpose of Imperial Defence, therefore let a brand new body take the subject in hand. But this entails the fallacy that mere representation is enough to satisfy practical men. Really and truly, the underlying assumption, which causes the rule of the majority to be meekly borne, is that the minority have the expectation of, some day or other, becoming the majority. If that hope be taken away, that very complicated and artificial system, government by Parliamentary majority, tends to break down. But, where money questions are concerned, nothing can be more certain than that, under a federal system, Provincial representatives will stand side by side. A remarkable object-lesson in this truth has been often afforded in Ireland, where men, divided by all that can most keep apart, by race, by religion, by memories of blood feuds, find themselves stand-

ing side by side under the pressure of common financial interests. I can imagine no more serious strain upon friendly relations than that a Federal Parliament should impose burdens upon a particular Colony, against the united efforts of its representatives. A popular Colonial Assembly will almost certainly vote generous contributions, — especially in these days when the taxes are largely paid by those who have little voice in imposing them,—but the dreary history of the past would be repeated, were an attempt to be made to enforce contributions against the will of the people. The subject of Imperial Defence has been carefully excluded from these pages, because it should be and is abundantly treated by experts, but there appears a fallacy in the arguments of Imperial Federalists upon this question. What is wanted, is that there should be a common organisation for putting the defences of the Empire into the best possible condition. The Mother country and each Colony should state what amount it is prepared to contribute, and then the organisation belongs to the naval or military expert. From the language sometimes used, it would seem as though effective organisation were impossible under the present system. But is this really so, or would Imperial Federation remedy the difficult cases which now occur? The rough and ready rule is that each self-governing Colony should provide for its own proper defence, and that Great Britain should undertake the fortification of purely Imperial positions and coaling stations. The difficulty arises in the case of places [1] which can be regarded in either light. But in such cases it is difficult to see how Imperial Federation would mend matters. What is required is patience, and time, in the end, solves many difficulties. Thus Western Australia, growing in wealth and importance, will be as ready to provide for its own defence, as are New South Wales and Victoria.

The suggestion of Sir C. Dilke that the Colonies should be "represented on the general staff, which is to constitute the

[1] Note the discussion on King George's Sound at the Colonial Conference of 1887, *Parl. Pap.*, 1887.

brain of the nation on military questions," was no doubt most valuable, but when it was asserted to be "a remarkable instance of past Imperial carelessness, that the very principle upon which the burden of defence should be divided between ourselves and the Colonies, and the proportions in which it should be borne, have never been settled," the retort seems obvious, that the circumstances of those Colonies have been so changing, that it has been hitherto impossible to enact any cut and dried scheme of adjustment of burdens, which should continue fair over a term of years. If this is so, the omission has been due not to carelessness but to an honest recognition of the difficulties in the way.

I have dealt with some aspects of the question of Imperial Federation, but a preliminary objection remains to be stated. If the present relations between Great Britain and the Colonies were unhealthy, you would expect to find bad results. "A good tree cannot bring forth evil fruit, neither can a corrupt tree bring forth good fruit." But compare those relations to-day with what they were at periods of ten years' interval since the self-governing Colonies settled down to the full enjoyment of responsible government. If you compare the state of things in 1877 with what prevailed in 1867, you find great improvement, from 1877 to 1887 you find further improvement, and careful observers are agreed that the rate of improvement has increased during the subsequent years. I have quoted the emphatic language of Lord Jersey, who, as having been Governor of New South Wales, had good opportunities of judging. Afterwards, Mr T. A. Brassey, who visited Australia in 1896, and who was mainly occupied with the thorny question of Imperial Defence, bore testimony to the greater cordiality towards the Mother country, which is now felt than was felt some ten years ago. It would seem as though some, at least, of Imperial Federationists altogether misread the signs of the times. There is in the Colonies, I gather, abundant loyalty to the Queen and to the British flag, but there is little loyalty to the Imperial Parliament, while there is no desire to set up any substitute in its stead. Already under Confederation, in Canada

and in Australia, the two great Federations under the British Flag, it is necessary to find competent members for two elected bodies, and the strain might well seem intolerable if, in addition, an Imperial Parliament had to be provided for. By Imperial Federation is here meant some form of popular Council or Parliament, which shall represent the scattered portions of the Empire. But, even if, as an ultimate goal, Imperial Federation may seem a Will-o'-the-Wisp, here, as so often, the chase may still prove more profitable than the quarry. For example, the pregnant suggestion of Sir F. Pollock is open to none of the objections I have laboured. "Why should there not be a Colonial and Imperial Committee of the Privy Council, on which the interests of the various parts of the Empire might be represented, without the disturbance of any existing institution whatever, and whose functions might safely be left to a large extent to be moulded and defined by experience? . . . It might be summoned to confer with the Cabinet, the Foreign or Colonial Minister, the Admiralty or the War Office, at the discretion of the Prime Minister or of the Department concerned; and its proceedings would be confidential. . . . It is hardly needful to mention the Agents-General of the self-governing Colonies as the kind of persons who should be members of the Committee here suggested, being, of course, first made Privy Councillors. . . . I believe that such a Committee might give us something better than a written Constitution for the British Empire; it might become the centre of an unwritten one."[1]

Australian Federation.

Whatever, however, be our opinion as to Imperial Federation as the best way of attaining that union of hearts and hands about the need of which we are agreed, there can be little question as to the expediency of Australian Federation, both from a Colonial and from an Imperial

[1] His proposals have been further amplified and defined by Sir F. Pollock himself and others, but their gist remains the same.

standpoint. That such Federation would come in time seemed certain, but there were special causes, which for long postponed its accomplishment. In the first place, Australia was not confronted like Canada by a long line of foreign frontier. Unless Canada was to be absorbed into the United States, Confederation or Union was a matter of necessity. Moreover, the jealousies between the rival Australian Colonies were perhaps more difficult to allay, just because they had no valid basis in the history of the past. In this state of things, although the full significance of the Imperial Act of 1885 was at once recognised by Australian statesmen, the full fruits of the measure took time to reap. "The exercise of Imperial authority had been transferred to the statesmen of Australia by conferring on them the power to legislate on matters beyond their own territorial limits."[1] "By uniting us in one solid body we become a buttress of that Empire, whose history we are all delighted to recall, whose glories we are all proud to share, and whose Sovereign rules in the hearts of all British peoples throughout the world." Australia has doubtless gained by being able to speak in the Councils of the Empire with one voice. "The embryo of a great consolidated Dominion, which must hereafter be paramount in the seas of the Pacific," will have to be reckoned with in the moulding of Imperial policy. But the benefit to Great Britain under the new system has been equally great. With one Governor-General for Australia, appointed by the Crown, the chances of friction have been much diminished. It is true that the example of Canada was not followed in the case of the Commonwealth of Australia, and the State Governors are still appointed by the Crown, but the gain has none the less been great to the British connexion. There is less chance of action being taken on some hasty impulse. The somewhat petty view that England has anything to gain by the division or weakness of her Colonies has been once and for all proved wrong by the

48 and 49 Vic., c. 60.

[1] *Parl. Pap.*, 1886, speech of Mr Service.

case of the Commonwealth no less than by that of Canada.

Be this as it may, it must be admitted that Australian Federation was a plant of most reluctant growth. New South Wales and South Australia stood aloof from the first Australian Federal Convention. New Zealand, although its point of view has occasionally varied, upon the whole, finds, as has been well said, a thousand reasons for not joining, in the thousand miles of sea which separate it from Australia. Even in May 1897, when elected delegates framed a Federal Constitution vesting the exclusive power of imposing and collecting customs and excise, and the exclusive military and naval control in the Federal Parliament, and proposing that trade and intercourse between the federated Colonies shall be absolutely free, it was still doubtful whether some hitch might not occur, occasioned probably by the clauses relating to the powers of the Upper House in the Federal Parliament. At last, however, Australian Confederation was accomplished, and another link forged in the chain which binds Great and Greater Britain.

An Imperial *Zoll-verein.*

In treating of Imperial Federation, all mention was purposely omitted of the question of an Imperial *Zollverein.* Imperial Federation might take place, and yet there might be no common Customs Union, while there might be a *Zoll-verein*, although the different parts of the Empire remained under their distinct Parliaments. This is not the place to discuss the general question of Free Trade, but the remark may be ventured that, while the present generation of Englishmen are less inclined to regard Free Trade as an ultimate law of nature, admitting of neither question nor argument, the practical difficulties in the way of any form of protection do not tend to diminish with the passing of years. The most recent experience would seem to show that, while Protection may in good times force the pace of prosperity, Free Trade supplies the means for weathering periods of depression in a way unknown to protectionist communities. In this state of things it for long seemed improbable that Great Britain would abandon the system she deliberately

adopted in the past. It must be remembered that in the Colonies the difficulties in the way of even inter-colonial Free Trade are great. The revenue in many of them is so largely made up of the proceeds of Customs Duties that it might be impossible to introduce such Free Trade without the imposition of new taxes, a step which would hardly conduce to the popularity of the Imperial connection. The most that is offered, so far as responsible statesmen are concerned, is that the Mother country should receive some kind of preferential treatment. In the arguments on the subject, it used to be generally assumed that this could only be given in return for similar treatment by England. But the cases are wholly different. Supposing the tariff of a Colony to average 20 per cent., English goods might be admitted at say 15 per cent., but, in return for this, England, which now admits colonial and foreign goods free, would have to impose a duty of 5 per cent. upon foreign goods, and to disturb its whole fiscal system. It is unnecessary to labour the point, because the Colonial representatives at the Ottawa Conference recognised that, as things are now, the proposal, to use a common expression, was not good enough, and that the consideration of the matter must be postponed until the proportion of colonial as against foreign imports into Great Britain has altered considerably. Of course, it is tempting to hope by a retaliatory tariff at once to punish the American manufacturers and to benefit the Canadian and Indian wheat-grower, but the practical difficulties in the way are great, and by no means limited to the existence of commercial Treaties with foreign nations. Moreover, there is a further point to be considered. We have seen how colonial questions were for a long time outside the controversies of party; how then, most unfortunately, they fell into the hands of party, and how lastly, in great measure owing to the personality of Lord Rosebery, they were again rescued from its clutches. It is difficult to conceive any more disastrous fate for the cause of Greater Britain than that it should be plunged into the Maëlstrom which boils around questions of fiscal policy. Those, at least, who have observed the facility with which a rise in

the price of bread can be used for party capital, will not care that it should be open to anyone to tell audiences of English workmen that the cost of the necessaries of life had been increased for them by the preferential treatment of the Colonies. It may well be that Mr Rhodes was right in the opinion that "it is a pity that when responsible government was given to the Colonies provision was not made at the time that duties should not exceed a certain amount"[1]; and it is quite possible that the Colonies might have remained content with a system which allowed them to obtain a revenue by Customs Duties, but which prevented an artificial fostering of manufactures. It is, however, too late in the day to retrace our steps, at least in this direction.

Be this, however, as it may, a very important new departure was taken in 1897 by the Canadian Government in the direction of preferential treatment of the trade of the Mother country. The Conservatives had always been in favour of such treatment, while at the same time demanding a *quid pro quo*; the Liberals, on the other hand, were supposed to favour reciprocity with the United States. Provoked, however, by the Dingley Tariff, and anxious to give expression to their Imperial patriotism, the Liberal Ministry determined to give preferential treatment to such countries as admit Canadian products practically duty free. In fact, England and New South Wales appeared the only countries to which at the time such a clause could apply. The matter, however, was complicated by the provisions of the Belgian and German Treaties, giving to the imports from those countries the "most favoured nation" treatment in the colonial markets. It would appear to be impossible to support the distinction between preferential treatment caused by the non-acceptance by another Power of a particular offer, and preferential treatment caused by the offer itself being addressed exclusively to the Mother country. The question, however, has become of mere academic interest since the decision of the British government to denounce the German and Belgian Treaties "by which

[1] *Parl. Pap.*, 1894.

I am prevented from making with my Colonies such fiscal arrangements within my Empire as seem to me expedient."[1]

The period of Greater Britain has other problems to solve besides the settlement of the future relations between the Mother country and the self-governing Colonies; it has also to find an answer to the question how to recognise the necessity of development and expansion without laying a heavy burden on the present generation of taxpayers. The answer was found in the revival for a time of the system of Chartered Companies, a system which played so great a part in past colonization. At a critical moment to the Empire these again did good service in Africa. At the outset we may note the happy coincidence which produced at the right moment the right men to retrieve the mistakes of Governments. So far as Uganda and Nigeria[2] are concerned, it seems clear that but for Sir W. Mackinnon and Sir George Goldie they would have been lost to Great Britain. The question with regard to Rhodesia is less clear, though its development would as yet hardly have begun but for the action of the British South Africa Company. It is certain that in 1885 an agent[3] of the German Government was in Matabeleland, doubtless with some ulterior object in view, and the Boers were continually hankering after expansion towards the north. At the same time, so far as the Boers were concerned, a definite policy had been arrived at, which would assuredly have been maintained, quite apart from the action of the Chartered Company, and the Treaty concluded[4] by

[1] Queen's Speech in proroguing Parliament, Aug. 6, 1897. The curious may consult for arguments against such a denunciation Lord Ripon's circular despatch to the Colonies (*Parl. Pap.*, 1895). In 1893 the exports to Germany from Great Britain had been about £41,000,000, and to all the self-governing Colonies together about £35,000,000.

[2] The date of the Charters to the Royal Niger and British East Africa Companies were July 1886 and September 1888.

[3] *Parl. Pap.*, 1886.

[4] *Parl. Pap.*, 1888.

Feb. 11, 1888. Mr Moffat with Lobengula should have been sufficient to keep out German interference.[1]

In discussing the general question of development by means of Chartered Companies, a broad distinction must be drawn between Companies administering lands where Europeans can only go and trade, as on the Niger, and Companies administering lands where the climate permits European immigration, as in Rhodesia. The main business of the former is trade and, like the East India Company, they become rulers only in consequence of trade. In their case, there seems no question as to the usefulness of the system of Chartered Companies. Their "true work" is, in the words of Sir George Goldie, "the establishing of a state of things which would offer sufficient security for the creation of a vast commerce with, and the much needed means of communication in, the rich regions of the Central Soudan. When that work was completed, the time would have arrived for the absorption of the Company by the Imperial Government." An important forward movement was taken by the Royal Niger Company as the inevitable consequence of the Niger Campaign of February 1897. The Capture of Bida has been compared in its probable consequences to the Battle of Plassey. So far as Southern Nupé is concerned, the Royal Niger Company for a time undertook the direct work of government. In its successive phases the Company has remained an excellent example of the uses of Chartered Companies.[2]

[1] Under this Treaty Lobengula undertook not to enter into any correspondence or treaty with any foreign State or Power to sell, alienate, or cede, or permit, or countenance such alienation or cession of the whole or any part of the Amandabele country without the previous knowledge and sanction of the British authorities. I observe that Mr Rhodes' biographer asserts this Treaty to have been insufficient because under the Berlin agreement occupation must be effective to count. But this provision only applies to occupation along the sea-coast. It may be, as "Imperialist" also asserts, that Mr Rhodes was the real author of the Lobengula Treaty. If so, before the Charter of the British S. Africa Company, he had already saved Rhodesia for Great Britain.

[2] The Company afterwards lost its political powers, but retained its Charter as a Trading Company.

In such cases, we may accept Sir Charles Lucas's language,[1] "As skirmishers in front of the main body of organised British possessions, let Trading Companies go on and do their work, to be absorbed hereafter in the fulness of time." As I understand the matter, the British East Africa Company undertook more than it was able to perform. It did, however, a valuable work, in forcing the hands of Lord Rosebery's Ministry. But when the other kind of Company is in question, the answer is more difficult. It is easy to draw false conclusions from the conspicuous case of the British South Africa Company.[2] It will not happen once in a thousand years that a Chartered Company has behind it, concentrated in one person, the wealth and capacity of Mr Rhodes. Consider what must have happened, apart from that wealth and that capacity. Conceive the thirty thousand shareholders, saddled at the most trying moment with the cost of an expensive war. In the feverish atmosphere of the Stock Exchange, alarm must have bred panic, and panic disaster, until, in the general *dégringolade*, the British Government must have stepped in to carry on the cost of administration. It was not merely Mr Rhodes' money-bags which saved the Chartered Company, it was the tacit recognition that, in the moment of danger, there was the master-mind, ready and willing to fulfil the responsibilities of generalship. Amidst the calumnies of interested enemies and the flatteries of interested friends, it is difficult to form a clear conception of this remarkable man. It would seem, however, that Mr Rhodes was one of those puzzling persons who pursue great and simple objects by methods which certainly sometimes appear tortuous. We have seen his attitude towards Mr Mackenzie and Sir C. Warren. It does not follow, however, that he was really actuated by anti-Imperial motives. His immediate task was to build up a majority, for himself and his ulterior views, in the Cape Parliament, and for this purpose he had presumably to concil-

[1] Introd. to G. C. Lewis' *On the Gov. of Dependencies*, p. xxiii.

[2] The date of the Charter was Oct. 29, 1889.

iate the prejudices of the Afrikander Bond. The £10,000 given to the cause of Home Rule was dictated probably more by a desire to make friends with the most troublesome portion of the British Parliament, than by any speculative views on Imperial Federation. It is needless to comment upon his subsequent behaviour, behind the backs of his colleagues and of the High Commissioner. Make all allowances you may. Grant the reality of the Uitlanders' wrongs. Grant that the High Commissioner had been apparently appointed for a second term in his old age to fulfil the purposes of his great Prime Minister, still the conviction comes home that Mr Rhodes, in his public life, too often did violence to his own best self. By nature an idealist, a dreamer of dreams, a seer of visions, he did not perhaps show sufficient faith in the power of ideals in influencing men, and he thus unhappily seemed to have "o'er-leapt" himself, and so far as the main body of the Dutch colonists is concerned, to have "fallen on the other." Distasteful as must be to every believer in the expansion of England, the task of prying into the faults and failures of this great master-builder of Empire, it yet became necessary, in considering what should be the future of the vast territories known as Rhodesia. Had Mr Rhodes been the Stock Exchange manipulator he was sometimes represented, or had the rule of the British South Africa Company been the licensed infamy it appeared to the excited brain of Olive Schreiner, the matter would have been simple enough. But there was nothing to point to the conclusion that Mr Rhodes' motives were sordid ones, while the management by the Company of the native question, in spite of grave errors in the past, did not upon the whole compare unfavourably with the management of this question in the other portions of South Africa. Doubtless in the Matabele war, wherein the first European sufferers were women and children, reprisals took place, as at the time of the Indian Mutiny, in themselves horrible enough. But it does not appear that charges of cruelty were brought home against the regular administration of the Company's officials; whilst in its treatment of the Liquor question the Company set

an excellent example to the other Governments in South Africa.[1]

Of course in the abstract there is very much to be said for the direct administration of the Crown. We may well believe that, just as the State is—according to old-fashioned views—especially ill-fitted to carry on the business of trade, so Trading Companies are wise in leaving to the State its own peculiar province of administration. We have already seen in the past the friction and antagonisms caused by the combination in the same individuals of private and proprietary rights and public and political powers. The words of Franklin, already quoted, have still their application. Moreover, it is hardly possible that a private Company should be able to secure the same general level of excellence in its officers, as can the State. Some of the greatest Englishmen of the past were servants of the East India Company, but there is little doubt that the type of the average official has greatly improved since the abolition of the Company. Be this as it may, we must not confuse things as they are and as we may think that they ought to be. There is one argument in favour of continuing the present administration which seems conclusive. It has been already pointed out that the British South Africa Company is by no means an ordinary example of a Chartered Company, and that, but for an extraordinary combination of circumstances, it would have been by this time a thing of the past. But given this extraordinary combination of circumstances, there can be no question but that the work of development is being far more rapidly carried on than would be possible under Imperial administration. The key of the whole situation is to be found in Sir H. Robinson's words: "Hitherto

[1] There can, I suppose, be little doubt but that compulsory labour was exacted by the Company, in the sense that 'Indunas' were called upon to supply labour, and, in the event of their failing to do so, the native police 'collected' it; the pay being 10s. per mens. The main practical grievance appears to have been the exaction of labour from the 'Abezansi' or higher-class natives as well as from the 'Holes' or lower-class. (See Evidence of Native Commissioners contained in Sir R. Martin's Report on the native administration of the British South Africa Company. *Parl. Pap.*, 1897.)

annexations and protectorates seem to have been decided on, only to be followed later by a perpetual wrangle with the Treasury for the means of maintaining a decent administration."[1] The British Treasury would never have sanctioned the expenditure of an annual sum sufficient to develop the country, and, in the absence of a system under which the lands might be opened out, by means of a loan guaranteed by England, to be repaid by a sinking fund, coming into force (say) seven years from the date of the loan, British control must have spelt stagnation, at least for some years. Again, there is a further consideration. The fame of the wealth of Matabeleland and Mashonaland had been bruited abroad, and it is not necessary to sympathise with the British South Africa Company, to recognise that the last state of Lobengula might have been even worse, had he been left to be the prey of rival concession-mongers in their thirst for gain. £100 per month and one thousand Martini-Henrys, along with ammunition,[2] may not seem a very great consideration for the virtual loss of a kingdom, but it must be remembered that this concession gave no right to the land and that it was necessary to buy up the concession already granted to Mr Lippert before the Company could assume territorial rights. Upon the whole, it would appear that Mr Mackenzie, whose animus against Mr Rhodes was natural and justifiable enough, was beating the air in his attack upon the Chartered Company.[3] The alternative was not between an ideally administered British Crown Colony and the rule of the Chartered Company, but between things as they are and the continuance of a savage despotism, interference with which would at first have been limited to the exclusion of German and Boer claims, while the vultures of the concession seekers were gathering around, to assist at the devouring of the Matabele carcase. Mr Rhodes, on more than one occasion,

[1] March 1889, *Parl. Pap.*, 1890.

[2] Agreement of October 30, 1888, between Lobengula on the one part and Messrs Rudd, Maguire & Thompson, on the other.

[3] *Contemporary Review*, March 1897.

taunted the British public with its love for philanthropy on the cheap, and there can be little question but that, unless and until, on occasion, the public conscience is thoroughly aroused, the charge is well founded. But if this is so, we can hardly afford to throw away, unless compelled, an instrument such as the British South Africa Company, which is willing to undertake the work of the Empire, more especially, now that its claws have been cut, by the control of its military forces being placed under an officer directly responsible to the Imperial Government. Special circumstances may well have contributed to the outbreak of the Matabele war, but in any case it is doubtful how far a great military power, such as that of the Matabeles, could pass away, without some ground-swell of war and bloodshed; and with regard to the future, which after all was what really mattered, Mr Rhodes showed himself especially qualified to bring about satisfactory relations with the natives.

British South Africa.

Turning for a moment to a more general consideration of British South Africa, we recognise that its history is a drama wherein the last acts have yet to be written. Yet there are certain conclusions which it is impossible to escape. The fathers have eaten a sour grape, and so, in due course, the children's teeth are set on edge. Or we may shift the metaphor and compare South African politics to a maze, wherein, at each critical point, England has taken the wrong turning, and so, naturally, it has become difficult to find the outlet. Let us once more recapitulate those wrong turnings. First there were the methods adopted to carry through slave Emancipation. Then there was Lord Glenelg's policy, with its attendant Boer exodus. Then there was the treatment of the exiles, the hesitation between a policy of expansion and the frank recognition of independent Dutch communities. Even then, however, the fates were forgiving, and, with the assumption of the Orange River Sovereignty, England had the opportunity to wipe out past mistakes. That Sovereignty, however, was only assumed to be promptly

abandoned. Even then, Sir George Grey's policy of Confederation offered yet another opportunity, which was at once refused. Henceforth, the problem became tenfold more difficult; the time being given to the Dutch republics to cultivate an independent patriotism. In spite, however, of sentimental considerations, the material and economic forces making for the union of South Africa were so strong that it seemed, at the beginning of the seventies, that that consummation might soon come to pass. But then, the annexation and the subsequent retrocession of the Transvaal intervened to make peaceful Confederation more distant than ever. "If this is at all a faithful summary of past history, there is room," it was said, in the first edition of this book, for more than one capable secretary of State or Colonial Governor, were they heaven-born, to give the final answer to the riddle of the South African Sphinx. On the other hand there is every ground for hope. The European population of South Africa belongs to kindred stocks. In Natal and in Rhodesia there would appear to be no racial antagonism, and in Cape Colony it requires to be flogged into being by the energies of politicians. In this state of things, the need for caution is obvious. Any policy, however apparently right, which should have the consequences of driving the Dutch Cape colonists into line with their kinsfolk in the Republics, would be disastrous in the extreme. Dutch patriotism, it is clear, is largely fostered by opposition. Mr Kruger is, it must be remembered, an old man, and in 1895 there were not wanting signs, pointing to the ultimate triumph of progressive views. The excitement caused by the unhappy Raid, strengthened, as was only natural, the hands of the party of reaction, and of the Hollanders, who make use of reaction to encourage anti-English sentiments. But even the Raid will soon be forgotten, and, just as, when the blood is in a healthy condition, a wound gradually heals, even so the natural human relations between Dutch and English will,

we may hope, in the end prove stronger than the forces making for enmity. To keep in touch with the sentiments of the Dutch Cape colonists—not of the leaders of the Afrikander Bond, but of the general body of the law-abiding Dutch community—while at the same time, not shocking the English colonists by any show of the white feather; to keep the command of the sea, and to ensure that no other Power, save Portugal, shall possess a South African port; such appears the utmost at which British statesmanship, at the present time, can aim."[1]

It may be said that the manner in which appeal was constantly made to the terms of the London Convention of 1884, amply refuted the view maintained above of that document. But the importance of the Convention lay not so much in its actual provisions as in the fact that it remained the only outward and visible sign of the pre-eminence of Great Britain in South Africa. It was not of course suggested that Great Britain should relinquish her claim to be paramount, or that, in the circumstances existing, it would be possible to abrogate the Convention. It may still be contended that the London Convention pursues a desirable end in the most doubtful and dangerous manner. The fire-eaters, whose one desire was to avenge Majuba Hill, regarded the question from another standpoint, but, in the eyes of those who believed that war in South Africa, undertaken in defiance of the feelings of the Dutch Cape Colonists, would be—whatever its immediate military results—a very serious thing, the provisions of a Treaty, under which the alternative might be thrust upon us of either submitting to a humiliating diplomatic reverse, or else of being forced into a quarrel about some minor matter, seemed fraught with danger. They furnished a useful instrument for the hands of the Transvaal politician, hostile to this country, and tended to keep sores always open. It is true, of course, that there were limits beyond which it was impossible to allow the South African

[1] For the situation as it developed see next chapter.

Republic to pass, in its dealings with Foreign States, if Great Britain was to remain paramount in South Africa. But in the present European situation, the sanction of such limits lay, not in Article IV. of any Convention, but in the answer to the question whether the sea power of England was great enough to render any interference with her possessions over the sea a vain venture. Article XIV. of the Convention was open to criticism on other grounds, even while we may rejoice at Mr Chamberlain's diplomatic victory. At first sight it seems plausible enough that the paramount Power should secure that all persons other than natives should have full power to reside in the Republic, but assume, as is stated to be the fact, that a large influx of Russian Jews has been taking place into the Transvaal, is it reasonable that Great Britain should be able to enforce their admission, while she would have none of the responsibility, were economic and social difficulties to be occasioned by such admission? Of course, the sting of the action of the South African Republic lay in the fact that it appeared directed against British subjects, many of them in every way qualified to become good citizens, except from the Hollander point of view. In these circumstances it was impossible to say beforehand at what point England ought to interfere. It was clear, however, that, while under conceivable circumstances she might be called upon to interfere quite apart[1] from the provisions of any Treaty, yet, unless substantial wrong was being done, it might not be expedient to insist upon the letter of the agreement. In the face of subsequent events such considerations may seem of an academic character; but it is well to note how matters appeared before the crisis had been precipitated.[2]

West Indies.

Space forbids to discuss colonial policy with regard to the West Indies under the period of Greater Britain. Circumstances prevented Mr Chamberlain from devot-

[1] Note Mr Chamberlain's telegram of Nov. 1, 1896, "Independently of conventional rights, . . . the closing of the drifts (*i.e.*, fords) . . . is so unfriendly an action as to call for the gravest remonstrance."

[2] Note Sir J. Gordon Sprigg's words in Cape Parl., April 30, 1897, "Moderation and patience—everlasting patience—in fact, patience seemed to him to solve almost every question in South Africa."

ing that attention to the "undeveloped estates" of the Empire, which he promised at his accession to office. To a great extent, however, the burden of the West Indies is not want of development but over-development in a particular direction. Once more the familiar moan of the West Indian sugar grower was heard, and his grievous state 1897. was once more enquired into, this time by a Royal Commission. Never, certainly, had his situation appeared so serious, since it was now doubtful whether, under the most favourable conditions of economic production, the West Indian grower could hold his own, confronted as he was, not merely by hostile European bounties, but by a public taste which preferred a more attractive-looking, though less good article. It would seem as though, if the West Indies are ever to prosper, new products and industries will have to supersede, over large areas, that sugar cultivation which was largely the outcome, the *hæreditas* (*damnosa* as things have turned out) of negro Slavery. So far as the cost of administration is concerned, economies may probably be made by reducing the number of separate governments, but it must be confessed that the general outlook, in spite of some improvement, is still somewhat gloomy.

There would be no profit in attempting to deal in a few lines with the boundary question between British Guiana and Venezuela. A very ordinary incident in the experience of a world-Empire became suddenly of extreme importance through the appearance of President Cleveland's message. The original Monroe doctrine[1] was "that the American continents, by the free and independent conditions which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European power. . . . With the existing Colonies or dependencies of any European Power we have not interfered and shall not interfere. But with the Governments, who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we

[1] Message to Congress, Dec. 1823.

could not view any interposition, for the purpose of oppressing them, or controlling in any other manner this destiny, by any European Power, in any other light than as the manifestation of an unfriendly disposition towards the United States." It is obvious how wide is the gulf between this doctrine and the claim that the United States have a controlling voice in every dispute, of whatever character, between an American community and any American dependency of a European Power. Meanwhile, the settlement of the Venezuela boundary concerned in itself more closely the history of Foreign than of Colonial Policy.

CHAPTER II

PROBLEMS OF EMPIRE, 1897-1905

IF happiness be reckoned by the absence of history, the last few years of the British Empire have been singularly unfortunate. The proceedings at the Diamond Jubilee of 1897 were an overt proclamation that a new idea of the Empire was taking shape, and that, in the future, the Mother Country, as her children attained to manhood, would be content to be *prima inter pares*. Two years later a war was waged, which had its origin entirely in questions of Colonial policy, and which was carried on by the self-governing Empire as a whole, in a manner which was a revelation to the world. Whatever there may have been which is matter for regret or apology in the incidents of that war, all will agree that it brought to the light of day the vast potential military resources of the British Empire. The extent of these resources led naturally to a demand for their better organisation, and so, in the years after the war, we find a note of hurry and anxiety altogether alien from the slow, cautious procedure of old-fashioned Colonial policy. The same statesman, who, as Colonial Secretary, had done more than all his predecessors to consolidate the Empire, after a journey to South Africa, in which he had boldly emphasised Colonial responsibilities in questions of Imperial defence, on his return, startled the Empire, and indeed the civilised world, by declaring that unless a new departure, or retrogression as it seemed to many, was made in the fiscal policy of Great Britain, sentimental ties might be powerless to hold the Empire together permanently against the disintegrating force of separate material interests. To deal in an adequate manner with these burning topics in the closing chapter of a book, the aim of which is to aid research and not to invite controversy, is of course impos-

sible. Moreover, the recent history will be no less familiar to many readers than to the writer. Nevertheless, it has been thought inevitable that, in a supplementary chapter of a history of Colonial policy, some mention should be made of the events of recent years.

In South Africa it will be remembered that the Jameson Raid occurred at the close of 1895. That occurrence undoubtedly proved the decisive factor in precipitating the issue of events. Its results showed themselves in three separate ways. In the first place, the fact of the Raid naturally furnished fuel for Kruger's habitual suspicion and dislike of the paramount Power, and caused him to adopt a more and more distinctly hostile attitude toward Great Britain. At the same time it threw the more moderate and progressive Boers into line with the President, and thereby rendered more hopeless the plight of the Outlanders. While these were the results in the Transvaal, the fiasco of the Jameson Raid and the connexion with it of the Cape Prime Minister weakened for the time Mr Chamberlain's position, and led to the postponement of a demand for remedial measures. But, whatever may be thought of the men who planned and carried out the Raid, the fact remained the same that the Outlanders had very distinct grievances, which became greater as time went on. At the first moment of the Raid, under the undoubted panic thereby caused to the Transvaal authorities, a strong British High Commissioner might perhaps have obtained real measures of reform. Unfortunately, Sir H. Robinson, in his then state of health at any rate, was not a strong man, and showed himself only zealous for the personal safety of Dr Jameson and his fellow raiders, and not for the grievances of the Outlanders. To Mr Chamberlain's appeals he gave the same answer—that the moment was inopportune. When once the weakness of the invasion was demonstrated, the only result was to harden Kruger's heart, and to make him more resolutely determined to keep his own little chosen people free from the odious contamination of the foreign intruders. The legislation of 1896 afforded ample proof of this temper.

A new Press Law gave in effect to the President autocratic powers over the Transvaal newspapers. Laws against the immigration of aliens and to provide for their expulsion were also passed. The former was withdrawn under the protest of Mr Chamberlain; it being clearly in violation of the 1884 Convention. A motion was passed in the Volksraad in 1897 in favour of the revision of the latter law, C. 9345, 1899 on the ground that it gave too great power to the Executive. It was, however, in substance re-enacted in 1898. As early as 1890 the Franchise Law had been altered, so as, in effect, to prevent the possibility of the Outlanders obtaining votes. The great majority of these were British subjects, who, coming from democratic communities, keenly resented the denial of all political rights. The municipal government of Johannesburg was, so far as the Outlanders were concerned, a parody on self-government, while even the most careless with regard to political rights resented the grievance of an inefficient and venal police. In 1897 a measure was passed giving to the resolutions of the Volksraad the force of law, and forbidding the Law Courts to consider how far such resolutions were in agreement with the constitution. Side by side with these political grievances were economic grievances, the full force of which was revealed by the Report of the Industrial Commission, which sat in 1897. C. 9345. It was shown that the provisions of the Liquor Law were wholly neglected, and that the illicit sale of strong drink to the natives was freely carried on. It was shown that the dynamite monopoly involved an excess charge of about 40s. C. 9317. to 45s. per case, which did not benefit the State, but served to enrich persons for the most part resident in Europe. It was shown that the Netherlands Railway Company might have reduced their tariff by at least 25 per cent., and yet have secured a fair profit. The Commission finally recommended the appointment of a local Mining Board to deal with the Liquor Law, the Pass Law, and the law relating to gold thefts. The Commission consisted of Boer officials, with no representative upon it of the mining interest. The Report, however, led to no practical reforms,

and all classes of Outlanders, whether capitalists or working men, came more and more to realise that no hope of better things was possible so long as the existing system of government remained in force.

But while so much must be said with regard to the Outlanders, the second effect of the raid was bearing its full fruit. Hitherto it had been reasonable to hope that in South Africa time was on the side of progressive influences. It seemed as though at the death of an ignorant and obstinate old man, a happier state of things might be expected in the Transvaal. When the results of the Jameson raid could be more closely studied, they were found to give a rude shock to such cheerful prophecies. The raid seemed to kindle afresh the torch of racial patriotism, and henceforth the full force of young and militant Dutch Afrikanderdom was thrown into the scale, upon the side which maintained Dutch pretensions. The gradual replacement in the Transvaal of Hollander mercenary officials by Afrikander patriots had a significance, which at the time was hardly recognised. At the close of the nineteenth century that horrible and deplorable thing, a blood feud, seemed imminent. Two rival forces were confronting each other. Upon the one hand were the English intruders, often arrogant and ill-mannered, with national traditions behind them, which everywhere, except in South Africa, were glorious. Upon the other side was a dour, stiff-necked race, the fit descendants of the men who, in the sixteenth century, wore down the power of Spain. The struggle in some ways promised to be an even one, but there was on the side of the Dutch the crowning advantage, the importance of which, with the progress of science, tends to increase year by year, that they had behind them the material resources of government, directly in the Transvaal, indirectly in Cape Colony, so long as, under responsible government, the population of the country districts could maintain a majority in the Assembly, and so long as Great Britain itself did not intervene.

In this state of things, the Machiavellian policy for Kruger would have been, while in fact safeguarding the political

supremacy of the Dutch minority, to have adopted the most conciliatory attitude in his dealings with the Colonial Office. Unhappily for his own future, Kruger was no Machiavellian, and the resentment which he, perhaps not unnaturally, felt for the Power which had always been in his way found full expression in his behaviour towards Great Britain. When after the raid it was proposed that he should visit England, the tone of his qualified acceptance showed the utter uselessness of such a visit. His "Government could tolerate no C. 8063.
interference in its internal relations, and the official discussion of affairs with the object of requiring changes will have to be avoided." He demanded the complete supersession of the Convention of London. It was "injurious to the dignity of an independent republic." "The very name, and the continued arguments on the question of suzerainty, which, since the conclusion of the Convention, no longer exists, are used as a pretext, especially by a libellous press, for wilfully inciting both white and coloured people against the lawful authority of the republic." Mr Chamberlain's reply was that in any case the clause which forbade the conclusion of any treaty with any state, other than the Orange Free State, without the consent of the British Government, would be retained. Mr Chamberlain went on to offer, "as part of a general settlement, to give a complete guarantee, on behalf of Her Majesty's Government, to the South African Republic, against any attack upon its independence, either from within any part of British dominions, or from the territory of a foreign power."

At the same time Mr Chamberlain suggested a form of Home Rule for the Rand which would have afforded undoubtedly a *modus vivendi*. The Boers, however, were in no mood for compromise, and proposed, on the subject of the Convention, "as the aggrieved and injured party, to content themselves with the postponement of the question." The Home Government at the time were assuredly in no bellicose mood, and it was not until driven by the legislative measures of 1896, to which reference has already been made, that Mr Chamberlain again protested against the doings of the

Transvaal. The Boers yielded so far as to withdraw the Aliens' Immigration Law, but in such a manner as to acknowledge no right of interference. At the same time it was proposed that other differences should be referred to the decision of an independent arbitrator (May 7, 1897, c. 8721). Mr Chamberlain was in no hurry to reply, his despatch being dated October 16, 1897. He then maintained that under the Convention "Her Majesty holds towards the South African Republic the relation of a suzerain who has accorded to the people of that republic self-government upon certain conditions, and it will be incompatible with that position to submit to arbitration the construction of the conditions on which she accorded self-government to the republic." In a further reply (April 16, 1898, c. 9507) the Transvaal maintained "that the present independence of the South African Republic derives its formal acknowledgment by the British Crown—in no sense, however, its real origin—from an international agreement, acknowledged as being equally binding on both parties," but no right had been reserved to the British Government making it the sole judge "of a document between two parties and affecting two parties." Mr Chamberlain's despatch of the following December reiterated the assertion of suzerainty as explained by the terms of the London Convention, and again expressed the determination of Great Britain not to allow foreign interference in the domestic concerns of the British Empire. On the practical question of Article IV. of the Convention, Mr Chamberlain warned the Transvaal that unless treaties with foreign powers were submitted for approval before conclusion, it would be necessary to refuse approval. Meanwhile the situation was growing more dangerous, and a new note of defiance rings in the
C. 9507. answer of the Transvaal State Secretary, dated May 9, 1899. "The now existing right of absolute self-government," he alleged, "of this Republic is not derived from either the Convention of 1881 or that of 1884, but simply and solely follows from the inherent right of this Republic as a sovereign international state." In a final despatch Mr Chamberlain expressed the opinion that the Transvaal contention was

warranted neither by law nor history, and was altogether inadmissible.

It has since been maintained that thus to argue over the term suzerainty was a tiresome logomachy, aggravating a situation already sufficiently serious; but, in justice to Mr Chamberlain, it must be remembered that his Boer antagonists were no fools fighting for mere shadows. At the time of the London Convention Lord Derby had said, "Whatever suzerainty meant in the Convention of Pretoria, the condition of things which it implied still remains. Although the word is not actually employed we have kept the substance. We have abstained from using the word because it was not capable of legal definition, and because it seemed a word which was likely to lead to misconception and misunderstanding." In fact the absence of the word, if it was intended to keep the substance, was the occasion of far greater misconception and misunderstanding. The real claim of the Transvaal was that it was a sovereign state, with all the rights attendant on such *status*, and that claim must have been, in any case, either complied with or directly challenged. In the absence of goodwill, the provisions of the London Convention were the only means, clumsy and inadequate at the best, by which Great Britain could in any way safeguard the interests of British subjects in the Transvaal, and it was impossible, in the condition of things, that such right should be foregone. And yet, even with the Convention, but little could be done. "The whole spirit of the Convention," Mr Chamberlain said in the House of Commons, July 28, 1899, "is the preservation of equality as between all the white inhabitants of the Transvaal, and the whole policy of the Transvaal has been to promote a position of inferiority on the part of certain classes."

Despatches and remonstrances had failed to bring about any agreement, there remained the question whether the removal of the Outlanders' grievances from the field of discussion might not pave the way to happier relations. The presence of a strong man as English representative in South Africa enabled the new plan to have a fair trial. Sir Alfred

Milner had been High Commissioner since 1897, and knew well the dangers of the situation. In a remarkable speech at Graaff Reinet on March 3, 1898, he said, "It is not any aggressiveness on the part of Her Majesty's Government which now keeps up the spirit of unrest in South Africa. It is that unprogressiveness—I will not say retrogressiveness—of the Government of the Transvaal, and its deep suspicion of the intentions of Great Britain, which makes it devote its attention to imaginary external dangers, when every impartial observer can see perfectly well that the real dangers which threaten it are internal. Now I wish to be perfectly fair. Therefore let me say that this suspicion, though absolutely groundless, is not, after all that has happened, altogether unnatural. I accept the situation that at the present moment any advice that I could tender, or that any of your fellow British citizens could tender in that quarter, though it was the best advice in the world, would be instantly rejected because it was British. But the same does not apply to the Dutch citizens of the Colony, and especially to those who have gone so far in their sympathy for the Transvaal as to expose themselves to these charges of disloyalty to their own flag. Their goodwill, at least, cannot be suspected across the border, and if all they desire—and I believe it is what they desire—is to preserve the South African Republic, and to promote good relations between it and the British Colonies and Government, then let them use all their influence, not in confirming the Transvaal in unjustified suspicions, not in encouraging its government in obstinate resistance to all reform, but in inducing it gradually to assimilate its institutions and, what is more important than institutions, the spirit and temper of its administration, to those of the free communities of South Africa, such as this Colony or the Orange Free State." But the only result of this speech was to fill the Cape Dutch with distrust of Sir A. Milner, and cause them more loudly to espouse the cause of their Transvaal kinsfolk. Sir A. Milner no doubt saw in what direction things were drifting, and a consideration of the Outlanders' petition to the Queen, of March 1899, suggested a way out

the *impasse*. The Bloemfontein Conference, the first meeting of which was held on May 31, 1899 (c. 9404), proved how far Sir A. Milner was willing to go with the view of averting the risk of war. He recognised to the full the uselessness and danger of continued protests against misgovernment. In his own words, "the only effective way of protecting our subjects is to help them to cease to be our subjects." South Africa could "prosper under two, three, or six governments, but not under two absolutely conflicting social and political systems, perfect equality for the Dutch and British in the British Colonies, side by side with permanent subjection of British to Dutch in one of the republics. It is idle to talk of peace and unity under such a state of affairs."

At the opening of the Conference Sir A. Milner pointed out that in his "personal opinion the cause of many points of difference and the most serious was the policy pursued by the South African Republic towards the Uitlanders, among whom were many thousands of British subjects. The bitter feelings thus engendered in the Republic, the tension in South Africa, and the sympathy throughout the Empire with the Uitlanders, led to an irritable state of opinion on both sides, which rendered it more difficult for the two governments to settle differences amicably." In this state of things he proposed that the Outlanders should be given a real voice in the government of their adopted country, by the granting of the franchise to duly qualified persons who should have resided in the Transvaal five years. It would also be necessary that the gold producing districts should be given a fair representation in the first Volksraad. These proposals were put forward as an irreducible minimum, and Sir A. Milner, from the first, maintained that it was out of the question to treat the franchise as part of a general bargain with the Boers. The proposal was made in the interests of the Transvaal and its future, and was in no way a favour which Great Britain would buy, by yielding something in return. What would have happened in South Africa had the Boers even at this last hour seen the ways belonging to their peace, it is difficult to say. Undoubtedly a genuine

acceptance of reform would have meant in time the ruin of the system with which Kruger was identified. Dykes, to preserve the dominance of the Dutch oligarchy, would doubtless in time have yielded to the steady pressure of the advancing tide of democracy. But what effect the presence of an aggressive, vigorous, largely Anglo-Saxon Republic would have had upon the position of Great Britain as an imperial power in South Africa is a difficult question, to which it would be rash to hazard the answer. It should be remembered, in any case, that a strong imperialist, as was Sir Alfred Milner, was willing to run this risk in the interests of peace. To Kruger, however, the proposal appeared impossible. The Boers "had paid for that country by their blood, and they would be outvoted if your proposal was accepted." With regard to his own alternative proposals respecting the franchise, it should be noticed that, in his own words, they were to be "considered as conditional and dependent on the satisfactory settlement" of the question of arbitration and on the High Commissioner submitting to the Colonial Office his request for the incorporation of Swaziland in the South African Republic.

The Bloemfontein Conference was over, but there was still room for compromise. A franchise bill was brought before the Volksraad, which somewhat extended the provisions of the measure sketched out by Kruger. At the same time the bill was, as in the words of the respected Afrikander Chief-Justice of Cape Colony "so obscure that the State Attorney had to issue an explanatory memorandum." In this state of things, it was not unreasonable that Mr Chamberlain should demand a joint inquiry so as to insure that the measure did not take away with one hand what it gave with the other. To Chief-Justice De Villiers this proposal seemed "an olive branch," but it was far from commending itself to the rulers of the Transvaal. The weighty warnings, delivered privately, of the Chief-Justice remained unheeded. "I have always been a well-wisher of the Republic," he wrote, "and if I had any influence with the President I would advise him no longer to sit on the boiler to prevent it from bursting." Again: "I

Cd. 369.

don't think that President Kruger and his friends realise the gravity of the situation." "As one who signed the Convention of 1881, I can assure you that my fellow-commissioners would not have signed if they had not been led to believe that President Kruger's policy towards the Uitlanders would have been very different from what it has been. . . . I confess I look with horror on a war to be fought by Afrikanders to bolster up President Kruger's régime. I could understand a war in defence of the South African Republic after it had made reasonable concessions to the demands of the newcomers, and after it had displayed the same desire to secure good government, as is seen in the Orange Free State, but of such a desire I have not seen the faintest trace." In the face of such a verdict it is surely idle to say that the only difference between the English and Boer proposals lay in the distinction between a term of five or of seven years. In fact the difference was far more fundamental. Sir A. Milner's contention was that whatever was given should be given at once and absolutely. He set his face resolutely against any period of suspense, during which a man should cease to be the citizen of one country and yet not acquire the new citizenship. Moreover, the proposals as to registration were so many pitfalls which might be worked in such a manner as to make permanent the Outlander's disfranchisement. In spite of the advice of their well-wishers in Cape Colony, the Transvaal authorities were unable to agree to the proposal of a joint inquiry. A further proposal with regard to the franchise was, however, made, which seemed to promise a settlement. On August 19, the Transvaal Government were "willing to recommend to the Volksraad and the people a five years' retrospective franchise, as proposed by the High Commissioner on June 1." They were further "willing to recommend to the Volksraad that eight new seats in the first Volksraad, and if necessary also in the second Volksraad, be given to the population of the Witwatersrand." These proposals, however, were made on the assumption that "(*a*) Her British Majesty's Government will agree that the present intervention shall not be a C. 9521.

precedent, and that in the future no interference in the internal affairs of the Republic will take place; (*b*) that Her Majesty's Government will not further insist on the assertion of the suzerainty, the controversy on this subject being allowed tacitly to drop; (*c*) that arbitration, from which foreign element other than Orange Free State is to be excluded, will be conceded so soon as the franchise has become law." In a further despatch, on August 21, the State Secretary, Reitz, again pointed out that the proposals respecting the franchise were expressly conditional on the British Government agreeing as to not interfering with internal affairs, as to suzerainty, and as to arbitration. The acceptance of these terms would have tied the hands of the British authorities so as to prevent any care for the interests of those British subjects who might not be able or willing to obtain Boer citizenship. Moreover, the actual proposals contained less than had been understood by Mr Plunkett Greene, the British agent at Pretoria, would be given. The peremptory refusal of the State Secretary to consider the suggestion that the new members should be allowed to use their own language in the Volksraad showed the temper in which the Transvaal was making its proposals.

Henceforth the issue for Great Britain was either to yield or else to make good its claim as the paramount Power. In fact, as time went on, the question of the franchise had tended to take a secondary place. A Natal politician reflected a general opinion when he wrote on September 11, "The franchise matter is dead. The issue now is British supremacy or Boer supremacy." The Governor of Natal, Sir W. Hely Hutchinson, was no rabid jingo; yet he wrote "since 1881, and in a greater degree since 1895, the Dutch have apparently begun to look to Pretoria as to a national centre. Race feeling, which has been aroused in the Transvaal, has begun to extend beyond its borders, and there have been many signs of late years of the baneful influence of Pretorian politics on the relations of the two races in this Colony. Notwithstanding an uneasy feeling that the Dutch were being taught to regard themselves as a race apart, and that South Africa belonged really

to them, and that the English were to be regarded merely as interlopers, moderate men strove to shut their eyes to this." C. 9345. Nor were the Dutch and English in South Africa, and the English at home the only people concerned in the controversy. The Colonies, especially Australia, had contributed to the Outlander population, and they were observing anxiously, not without suspicion, the line which the Mother country would take in the critical moment. As early as the beginning of July offers of assistance were received from three of the Australian Colonies in the event of war. Nor was the attitude of Canada more doubtful. The resolutions passed unanimously by the Canadian Parliament in July undoubtedly voiced the convictions of the self-governing British Empire: "That this House has viewed with regret C. 9518. the complications which have arisen in the Transvaal Republic, of which Her Majesty is suzerain, from the refusal to accord to Her Majesty's subjects now settled in that region an adequate participation in that government. That this House has learnt with still greater regret that the condition of things there existing has resulted in intolerable oppression and has produced great and dangerous excitement among several classes of Her Majesty's subjects in Her Majesty's South African possessions. That this House, representing a people which has largely succeeded, by the principle of conceding equal political rights to every portion of the population, in harmonising estrangements and in producing general content with the existing system of government, desires to express its sympathy with the efforts of Her Majesty's authorities to obtain for the subjects of Her Majesty, who have taken up their abode in the Transvaal, such measures of justice and political recognition as may be found necessary to secure them in the full possession of equal rights and liberties."

Of the temper of British citizens throughout the empire there was no question. The great majority of them endorsed Mr Chamberlain's claim on October 19, that Great Britain was going to war to maintain the principle that "we are bound to show that we are both willing and able to protect

British subjects everywhere when they are made to suffer from oppression and injustice," and that "in the interests of South Africa and in the interests of the British Empire Great Britain must remain the paramount Power in South Africa." On the side of the Boers the issue was no less clear. According to them, "from Slagter's Nek to Laing's Nek, from the Pretoria Convention to the Bloemfontein Conference" the British had "ever been the treaty-breakers and robbers. The diamond fields of Kimberley, the beautiful land of Natal were robbed from us, and now they want the gold fields of the Witwatersrand. . . . Brother Afrikanders! the day is at hand on which great deeds are expected of us! War has broken out! What is it to be? A wasted and enslaved South Africa, or a free, united South Africa?" But between these fiercely opposed opinions there was a third party, small perhaps in number, but eminent for its capacity and uprightness. This party consisted of those who were at once Dutch Afrikander patriots and loyal British subjects. It must be recognised that for such men the situation had become a terribly difficult one. With the full approval of Sir A. Milner they had tried hard to make peace counsels prevail with the Transvaal authorities. Possibly more might have been effected, had they said openly what they wrote in private letters, but the difficulty of their position must be recognised. It was the fear of alienating these moderate men, represented at the time by the authorities of the Orange Free State, which, according to Lord Kimberley, was the real key to the British behaviour after Majuba. It was again the fear of alienating the Dutch in Cape Colony which caused some Englishmen to prefer to take any course rather than to be exposed to the risk of a civil war. Mr Chamberlain himself had said in May 1898, "a war in South Africa would be one of the most serious wars that could possibly be waged. It would be in the nature of civil war. It would be a long war, a bitter war, and a costly war, and it would leave behind it the embers of a strife which, I believe, generations would not extinguish." But in the same speech he had recognised that in certain

Manifesto by Reitz, Cd. 43.

circumstances war would have to be faced, and these circumstances, as he at least believed, had now arisen. Be this as it may, the position of the Cape Prime Minister, Mr Schreiner, was none the less difficult. Trusting to the promises of the Boers not to wage an offensive war, he hoped to keep Cape Colony untouched by the contagion. "If war was to come," he said (August 28), "it was the duty of everyone on either side to maintain this Colony at any rate as a little place of peace—a little port, perhaps, in South Africa that is not to be riddled and rent by storms and thunder. . . . I shall do my best to maintain for this Colony the position of standing apart and aloof from the struggle, both with regard to its forces and with regard to its people!" Such a claim to neutrality sounded no doubt strange in the mouth of the Prime Minister of a British Colony. Nevertheless, considering the special circumstances of the case, Mr Schreiner's attitude was probably the wisest he could have taken in the interests of Great Britain; that the policy completely failed was due not to him, but to the aggressive conduct of the Boers in invading Cape Colony and in calmly claiming to annex whole districts to their own Governments. Cd. 43.

It is useless to attempt to summarise the negotiations which went on throughout August and the beginning of September. There can be no question that both parties came more and more to realise that war was inevitable, unless the other gave in. Unfortunately, both remained to the end wholly deceived with regard to the attitude of its antagonist. At last the British Government came to the conclusion that nothing was to be gained by prolonging such negotiations, and in a despatch, dated September 22, the Boers were informed that "the refusal of the Government of the South African Republic to entertain the offer then made, coming as it does at the end of nearly four months of protracted negotiations, themselves the climax of an agitation extending over a period of more than five years, makes it useless to further pursue a discussion on the lines hitherto followed, and Her Majesty's Government are now compelled to consider the situation afresh, and to formulate their own proposals C. 9530.

for a final settlement of the issues which have been created in South Africa by the policy constantly followed for many years by the Government of the South African Republic. They will communicate to you the result of their deliberations in a later despatch."

That later despatch never came, because in the interval the Transvaal authorities had sent forth an ultimatum to which there was no possible reply save war. The ultimatum was finally settled on September 27, and the delay in its publication appears to have been due to military considerations; the task of providing transport for the forces which had been called out involving greater delay than had been anticipated. The ultimatum demanded the instant withdrawal of all troops on the borders of the Republic, that all reinforcements which had arrived in South Africa since June 1, 1899 should be removed from South Africa within a reasonable time; the Transvaal Government being prepared, on compliance therewith, to withdraw the armed burghers from the borders of the Republic; and, finally, that the troops on the high seas should not be landed in any part of South Africa. It will hardly be maintained that such conditions could be assented to by any self-respecting Power, but it is more plausibly suggested that the ultimatum was an act of madness, to which the Boers were driven by the long course of British interference. It is impossible in the space here available to enter upon the thorny controversy of the justice or injustice of the South African war. A living historian, whose historical studies have not possibly included an impartial study of the South African Blue Books, has described it as "the least inevitable of modern wars." If so, it was clearly unjust. Considering what war involves, to be just it must always be also necessary. But there are others, and those by no means all of Mr Chamberlain's party, who will subscribe to the language of Lord Milner (September 8, 1902): "I do not regard this war as having been a struggle for the mines, but for British supremacy in South Africa. I hold that, as we can see now, that struggle was bound sooner or later to come, and the great influx of British people

Cd. 1552.

into the Transvaal, which was due to the mines, though it may have precipitated the struggle, was, from another point of view, the salvation of the British position in South Africa." The present writer can claim no special authority, but to him at least it seems clear that, throughout this period, the Mother country was on its trial, and that to have yielded at the last to Boer pretensions would have given a shock to British sentiment throughout the Empire, which would probably have had calamitous results for its future.

But, if those who came, however reluctantly, to the conclusion that the war was necessary and therefore just, need not repent of their conviction because it afterwards proved most costly in blood and treasure, none the less must the light-hearted insouciance with which it was entered upon be a cause for shame to thoughtful Englishmen. The words in which Mr Chamberlain had described the gravity of a war in South Africa have been already quoted, but, for some reason or other, in 1899 the general opinion appeared to be that the Boers would at the last always climb down. The opinion of Mr Rhodes was strong to this effect, and seems to have prevailed generally. Sir A. Milner himself wrote to Mr Schreiner on August 27 that he did not expect war. But because Kruger had in the past cared little for his personal dignity when essentials were not concerned, it by no means followed that he would not fight when his whole system of government was seriously threatened. Moreover, had the information supplied by the Intelligence Department of the War Office been carefully read and digested in the proper quarters, it would have been noticed that the Transvaal, so far as its own needs were concerned, had become a great military power, and that a war with it would involve a strain upon English military resources for which they were very indifferently prepared. It is terrible to think what might have happened, had the Boers forestalled the arrival of the troops from India on their invasion of Natal, or had they advanced straight to the heart of Cape Colony without the entanglements caused by the siege of Ladysmith or the perverse and futile siege of Mafeking. Even as things were,

had the Boers shown a little more dash and enterprise, so as to avail themselves of the consequences of their successes, the position would have been serious. With the events of the war we have here no concern, save to note the old moral written large on its every page, that a huge oversea Colonial Empire, which does not in the last resort have military force behind it, is a bubble waiting only to be pricked. Fortunately for Great Britain the forces of the Boers were so few that it wanted only patience and perseverance, when once the military situation had been put on a good footing by Lord Roberts and Lord Kitchener, for the resistance to be overcome. Moreover, whatever else it revealed, the South African war gave an object lesson in the sea-power of Great Britain, such as secured safety in the face of the hostile newspapers and nations of Europe. But the main lesson of the war, for present purposes, was that, in the words of the Cd. 1789. Report of the Royal Commission on the war: "If the war teaches us anything, it is this, that throughout the Empire, in the United Kingdom, the Colonies and dependencies, there is a reserve of military strength, which for many reasons we do not wish to turn into a vast standing army, but to which we may be glad to turn again in our hour of need, as we did in 1899." The Commissioners were, unfortunately, obliged to add that they were "not satisfied that enough is being done to place matters on a better footing in the event of another emergency."

Although the Orange Free State and the Transvaal were formally annexed to the British Empire on May 28 and September 1, 1900, the war did not cease till May 31, 1902, Cd. 1096. when terms of surrender were signed by the Boer leaders. Under those terms, military administration in the Transvaal and Orange River Colony was to cease at the earliest possible date, and to be succeeded by civil government. "As soon as circumstances permit, representative institutions, leading up to self-government, will be introduced." No decision on the subject of granting the franchise to the natives was to be taken till after the introduction of self-government. "As soon as conditions permit, a Commission, in which the local

inhabitants will be represented, will be appointed in each district of the Transvaal and Orange River Colony . . . for the purpose of assisting the restoration of the people to their homes, and supplying those who, owing to war losses, are unable to provide themselves with food, shelter and the necessary amount of seed stock, implements . . . indispensable to the resumption of their normal occupations. His Majesty's Government will place at the disposal of these Commissions a sum of £3,000,000 for the above purposes. In addition to the above-named free grant of £3,000,000, His Majesty's Government will be prepared to make advances on loan for the same purposes, free of interest for two years, and afterwards repayable over a period of years with 3 per cent. interest. No foreigner or rebel will be entitled to the benefit of this clause."

Meanwhile, Lord Milner had not waited for the cessation of hostilities before seriously considering what was to be the future of the new Colonies. In a despatch, dated January 25, he gave full expression to his views. "The question is whether British Administration is to be undertaken on a large and effective scale under government control, and with government assistance, or to be left to take care of itself with whatever little help and sympathy an administration, devoid of any general plan, and with no special funds devoted to that particular purpose, can give it. . . . If we do nothing, we shall be confronted sooner or later with an influential urban population rapidly increasing, and almost wholly British in sentiment, and, on the other hand, a rural population wholly Dutch and agriculturally unprogressive. It is not possible to contemplate such a state of things without grave misgivings. . . . To satisfy these demands it is clear that no small and makeshift scheme will suffice. Land settlement must be undertaken on a large scale; otherwise, however useful, it will be *politically* unimportant. . . . I make no doubt whatever that we could get ten thousand or more agricultural settlers within a twelvemonth, if we were able to provide for them. Our great difficulty is not to get the men, but to get the land of suitable quality on which to plant

them. . . . The idea of settlement is in the air both in South Africa, at home and in the oversea Colonies, but, in the absence of any bold initiation, I am greatly afraid that the whole movement will end in smoke, and we shall presently settle down to the old state of agricultural stagnation, and a sharp social and political division between town and country. The time is fast approaching when it will be absolutely necessary to raise loans for both new colonies to meet expenses immediately arising out of the war. I wish to place on record my profound conviction that, unless in raising these loans we provide a substantial sum for the purchase of land and the settlement thereon of farmers of British race, an opportunity will be lost, which will never recur, and the neglect of which will have a most prejudicial effect on the future of South Africa." Again writing later, Lord Milner said: "The immigration of British people to take up industrial occupations can, in the main, take care of itself. But their introduction on the land . . . is subject in South Africa to very special difficulties. Without continuous care and effort on the part of the Government it will come to nothing. Nevertheless my conviction is as profound as ever, that it only needs such care and effort, continuous but unprecipitate, to make it ultimately a great success."

Cd. 1163.
Cd. 1551.

The foregoing passages seem to give the clue to Lord Milner's policy since the war. Looking back, it is easy to see that the new Colony started from the first on too ambitious lines. The great volume of imports, which was necessary to repair the ravages of the war, caused for a time a fictitious prosperity, but such expenditure, however inevitable, belonged to capital account and made time still more necessary before trade could return to normal channels. But in order that there should be a great influx of British settlers on the land, it was necessary that there should be a heavy outlay in railway extension and irrigation works. In the beginning, the stars in their courses fought against the prospects of the new Colony, and drought was added to the cares of Lord Milner.

The one hope for the obtaining a large revenue was a

revival in the gold-mining industry. But here, again, the hopes of the most sanguine were greatly disappointed. The main difficulty lay in the scarcity of native labour. The native mind had been sorely unhinged by the war. In Sir G. Lagden's words, it "had bewildered them; many of them were full of money and very independent; some had had their homes destroyed, the repair of which was a first charge upon their time; some required repatriation; the army of occupation was absorbing tens of thousands for labour purposes; there was a certain want of confidence as to the safety of travelling; there was a great demand from all sides for native labourers, and the white people returning by thousands to the gold-fields were clamouring for employment which could not be given until native labour set the mining machinery in motion, and produced something wherewith to pay salaries." March 3, 1903, Cd. 1551.

In this scarcity of labour, and when it was found that the increased efficiency of the Kaffirs under a strict administration of the Liquor law was apparently less than had been anticipated, men's minds began to turn more and more to the direction of imported Coolie labour. The objections to it were plain enough. That another race should be poured into South Africa, where the racial question was already the main difficulty, seemed monstrous. But as time went on the step appeared to many to have become inevitable. At the Conference of Representatives from the different South African Colonies held in March 1903, it was agreed that "the permanent settlement in South Africa of Asiatic races would be injurious, and should not be permitted; but that, if industrial development positively requires it, the introduction of unskilled labourers under a system of Government control only, by which provision is made for indenture and expatriation, should be permissible;" and a Royal Commission, consisting, however, exclusively of representatives of the mining interest, recommended in the same year the introduction of indented labourers. Meanwhile opinion in Johannesburg among the working classes, which had at first been strongly opposed to the movement, appeared less unfavourable. The Ordinance, which was finally passed by Cd. 1599.

a large majority in the Legislative Council, excited little protest. Lord Milner had written on January 3, 1904, "I notice the gravity of this decision, but have no shadow of doubt as to its wisdom. There are no signs of an adequate amount of labour being obtained from existing sources of supply. The consequent depression in every kind of business is increasing daily, the revenue is falling off, many people are out of work, and, if the situation does not soon change, a considerable exodus of the white population is inevitable." The attitude of the Boers on the subject was for the most apathetic. The leaders protested against Chinese immigration, but the country farmers, in their hearts, may well have approved a plan which would leave more native labourers for agriculture. Very different was the reception of the Ordnance in England. The indignation it aroused was due to several causes. Although it was tolerably plain that, unless prices and wages were greatly reduced, it would be impossible to work the mines wholly by white labour, and although it was equally clear that Englishmen and Kaffirs could not work side by side as common labourers, it seemed to many a sorry outcome of a war waged in the interests of British working men that Great Britain should be introducing Chinese labour. Moreover, the details with regard to the introduction of Coolie labour in tropical colonies were very imperfectly known to the general public, and much seemed revolting at first sight, which in fact had been in operation elsewhere. A further consideration caused criticism. Whatever might be said against Coolie immigration elsewhere, it had for the most part resulted in an indirect form of State-aided immigration, beneficial both to the immigrants and to the colony, but the circumstances of South Africa were such that a rigid system of repatriation would need to be enforced. The rules with regard to segregation and repatriation were in the circumstances necessary, they none the less jarred on the popular conscience as inhuman. Had time allowed, it might have been expedient to have taken the votes of the inhabitants of the Transvaal on the question, so as to leave

to them the responsibility of the decision. The British electors in 1906 decided that Chinese immigration should be abolished; but it was necessary to obtain the consent of the Transvaal democracy.

There is another subject on which the after results of the war have been full of disillusion. Among the grievances against the Boer oligarchy, the treatment of British Indian subjects bulked very large; but, with the triumph of the British arms, the only result to our Indian fellow-subjects was that restrictions, which had remained largely inoperative under the old régime, were now to be strictly enforced. So strongly did the Indian Government feel with regard to the treatment of Indians, that it refused to consider the question of Indian Coolie immigration while the grievances remained. Under the existing law it was held by the Supreme Court that Indians must reside but need not trade in separate locations, and the Home authorities refused leave to the Transvaal Legislative Council to extend the law. "His Majesty's Government," they wrote, "holds that it is derogatory to national honour to impose on resident British subjects disabilities against which we had remonstrated, and to which even the law of the later South African Republic rightly interpreted did not subject them." An Immigration Act, enforcing an educational standard in English, was at the same time allowed. It must be confessed, that if to think imperially means to have a common sympathy for the individual interests of each part of our common Empire, our fellow-subjects in the colonies have as much to learn in the matter as we at home. Cd. 2014.

On other grounds there is far greater cause for congratulation. It is unnecessary, here, to enter into details with regard to the various sums which were earmarked for the purposes of Boer repatriation, and for the compensation of losses suffered by the war. Mistakes were doubtless made, and there was delay, sometimes inevitable, and sometimes due to red tape, but on the whole it may be said that never were such great responsibilities so freely undertaken after a

successful war, and so loyally fulfilled. That a main cause of complaint of the Boer generals, Botha and De La Rey, Cd. 1284. in their interview with Mr Chamberlain, was that permanent provisions had not been made for the widows and children of burghers killed in battle, is eloquent to show the attitude of Great Britain.

With regard to constitutional developments, progress has been made on the lines sketched out in the terms of the surrender. From May 1903 the Legislative Council consisted of thirty members, sixteen official and fourteen non-official. An attempt was made to secure the services of the Council of the Boer leaders, but they preferred for the time to remain outside the domain of politics. During 1905 the Council was made elective.[1] When the Liberals came into power in Great Britain in 1906, full responsible government was conceded in both the Transvaal and Orange River Colony. It may be admitted that security could not for long have been found in the maintenance of a system which granted power while it denied responsibility.

In these days things move quickly, and though the memories of a terrible war might seem to bar the way, it is probable that before many years federation will become an accomplished fact in South Africa, as it has in British North America and Australia. A Conference of Repre- Cd. 1599. sentatives from the different Colonies of South Africa in 1903 prepared the way for a common policy with regard to such subjects as railway rates, customs, and the treatment of natives. A very able State Paper on the federation of South Africa (Cd. 3564), issued by Lord Selborne in 1907, gave a stimulus to the movement, and delegates have been now (1908) appointed to a conference to consider the question. It may well be that in the working of a South African Federation may be

[1] The Legislative Assembly, under the Letters patent, transmitted March 31, 1905, consisted of the Lieutenant Governor and of not less than six nor more than nine official members, and of not less than thirty nor more than thirty-five elected members.

found that rest from racial conflict which is the one thing needful for the future well-being of these Colonies.

The time has not yet come to form the final judgment on the great Governor, who, after eight years of arduous labour retired in 1905 from South Africa. His doings are still involved in the smoke of controversy. But if, in the fulness of time, British South Africa works out its own salvation, and Dutch racial patriotism takes a more sentimental form, compatible with political patriotism to a common Empire, it will largely be due to the determination and courage, which shirked no difficulty, and looked squarely in the face even the horrors of war, rather than that South Africa should remain an exception to the general history of British development, along the lines of progress and freedom.[1]

During the last ten years, Rhodesia has continued to develop surely though somewhat slowly. In 1898 a change was made in the form of government. A resident Commis- C. 9138.
sioner now directly represents the Secretary of State. The Legislative Council now consists, apart from the official and the "nominated" members, of a certain number of elected members. Suggestions have been made that the interests of the South African Company should be acquired by the Colonists, but it is not likely that any material change will be made for some years. Meanwhile the steady increase in the output of gold cannot but strengthen the financial position of the Colony.

In Australia the cause of federation at length triumphed, contrary to the expectations of many. Delegates from the different Colonies were elected to prepare a scheme of federation, and met at Adelaide in March 1897. They met again

[1] "I shall live in the memories of men in this country, if I live at all, in connection with the struggle to keep it within the limits of the British empire. And certainly I engaged in that struggle with all my might, being, from head to foot, one mass of glowing conviction of the rightness of our cause. But, however inevitable, however just, a destructive conflict of that kind is a sad business to look back upon, what I should prefer to be remembered by is the tremendous effort subsequent to the war, not only to repair its ravages, but to restart these Colonies on a higher plane of civilisation than they had ever previously attained."—Last speech at Johannesburg, March 31, 1905. Cd. 2482.

at Melbourne at the beginning of 1898, and a Bill was adopted which, in accordance with the Federation Enabling Acts which had been passed in the several Colonies, was submitted to the popular vote for acceptance or rejection. In New South Wales this Bill failed to secure the requisite majority the first time. But, after a conference of Premiers, held in January 1899, it was again submitted, and this time accepted by New South Wales, as it had been by Victoria, South Australia, Tasmania, and Queensland. Western Australia did not fall into line till a later date. The Commonwealth of Australia resembles the United States rather than the Dominion of Canada, in that the Federal Legislature has only those powers which have been expressly delegated to it. The six States, of which the Commonwealth is composed, remain self-governing Colonies, and their Governors are still appointed by the Crown. At the same time, in Mr Chamberlain's words (November 25, 1902), "the aim and object of the Commonwealth of Australia Act was not to create merely a new administration and legislative machinery for the six States, united as the Commonwealth, but to merge the six States into one United Federal State or Commonwealth, furnished with the powers essential to its existence as such. . . . By the Act a new state or nation was created, armed with permanent power not only to settle the more important internal affairs relating to the common interests of the united peoples, but also to deal with all political matters arising between them and any other part of the Empire, or (through His Majesty's Government) with any Foreign Power."

63 and 64 Vic., c. 12.

Cd. 1587.

The only real difference of opinion between the Australian delegates and the Home authorities with regard to the measure lay respecting the language of the 74th section, which limited the right of appeal to the Privy Council in certain cases. No appeal is allowed from any decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any state or states, or as to the limits *inter se* of the constitutional powers of any two or more states, unless the High Court shall certify that the question is one which ought to be

determined by His Majesty in Council. With regard to the right of the Court in other cases to give special leave of appeal, the Commonwealth Parliament has authority to make laws limiting the matters in which such leave may be asked. It must be confessed that the line taken by the Australian delegates in London, that the Bill having been accepted by the people of Australia must be accepted whole by the Imperial Parliament, was not calculated to foster the growth of a wider imperial patriotism. As was well said by Mr Reeves, the New Zealand Agent-General, "No matter which concerns two distinct portions of the Empire is a matter purely of domestic concern to one of them. No matter which requires imperial legislation is a matter of domestic concern. For this Bill to become operative is an imperial concern, requiring imperial interference, and imperial settlement." Cd. 124.

Cd. 124.

New Zealand asked to come under the scheme of federation for certain purposes, and meanwhile to be given time for a decision whether eventually to become a member of the Federation. It was held, however, that any such modification of the measure was impossible.

Although the cause of federation has succeeded, it has by no means scotched the snake of local jealousies. A Commonwealth tariff has been passed which necessitates the abandonment by New South Wales of her Free Trade attitude, though the tariff is claimed to be a compromise, and does not meet the views of the extreme Protectionists. The Federal Parliament has hitherto been weak, owing to the existence of three fairly balanced parties, none of which is strong enough to govern without the co-operation of a second. Hitherto it is the Labour party which has generally been able to make its views to prevail. Serious efforts are being made to consolidate the debts of the various States, but as yet unsuccessfully.

Federation necessitated the abandonment by Queensland of Kanaka labour for its sugar plantations, and, with the Labour party dominant, the cry of a white Australia has grown more clamorous. That cry has come in some conflict with imperial interests over the refusal to allow the mails to be

sent out by vessels employing Lascar labour. As the Lascars are British subjects, such an attitude does not make the path of British Empire more easy. In connexion with this policy there may be further questions looming ahead. Hitherto, in the cheery glow of Anglo-Saxon self-sufficiency, the Japanese have been considered as on the same level with other coloured people. The Commonwealth may have to come to terms with the new world Power, which was the outcome of the Russo-Japanese war.

In Canada recent years have witnessed an extraordinary development. The absence of further virgin soil in the American Western States has caused an exodus of the best kind of American settlers to Manitoba and the North-West provinces. In 1905, the new provinces of Alberta and Saskatchewan were carved out of the North-West territories. In this state of things it is inevitable to ask what effect this new blood largely entering from the United States will have upon the relations of the Dominion with the Mother country. It would seem that for the most part the new settlers are perfectly content with the government they find existing, and have little theoretic prejudice in favour of a republic. They cannot be expected to feel the passionate loyalty which still thrills in the veins of the descendants of the United Empire Loyalists, but they are shrewd observers, and recognise that in many ways the essentials of law and order are better secured under the twentieth century monarchy than under republican government, while government "by the people for the people through the people" is at least as much of a reality.

In Newfoundland the Anglo-French Convention of 1904 has put an end to a state of things which was continually menacing the friendly relations of the two countries. Under it France renounced "the privileges established to her advantage by Article XIII. of the Treaty of Utrecht, and confined or modified by subsequent provisions." French citizens have still the right of fishing in the territorial waters along the coast between Cape St John and Cape Ray. At the same time the old dispute as to whether

shell-fish were fish was settled to the advantage of the French. Great Britain agreed to compensate French citizens damnified by the arrangement, and also to cede to France Yarbutenda, on the Gambia, and the Iles de Los, opposite Kina Kry. Concessions were also made in favour of French trade along the Niger. C. 1003.

The signing of the Sugar Convention of 1902 by the European Powers, which abolished, so far as the parties to the treaty were concerned, bounties on either the production or the export of sugar, has brought about some recovery in the West Indies. It should be noted that under the Convention Great Britain, while "reserving in principle entire liberty of action as regards the fiscal relations between the United Kingdom and its Colonies and possessions," agreed that "during the continuance of the Convention no preference will be granted in the United Kingdom to Colonial sugar as against sugar from the contracting States." The economic condition of the West Indies had been exhaustively considered by a Royal Commission, consisting of Sir H. Norman, Sir D. Barbour, and Sir E. Grey, having as their expert adviser, Dr Morris. The condition of affairs they found to be very gloomy. "The sugar industry," they reported, in the West Indies "is in danger of practical extinction. No industry or series of industries can in the space of a few years supply its place; some of the Colonies will for a time be unable to meet the necessary and unavoidable cost of administration, including payment on account of the public debt. . . . And we consider that in one form or another pecuniary sacrifices by the Mother country on behalf of the Colonies are inevitable." With regard to the question of foreign bounties, while the majority, the Chairman dissenting, were unable to support the imposition of countervailing duties, they said: "The benefit which the British Empire, as a whole, derives from any lowering of the price of sugar due to the operation of the bounty system is too dearly purchased by the injury which that system imposes on a limited class, viz., your Majesty's West Indian and other subjects, dependent on the sugar industry. We have

1897. C. 8655-7, 8669, 8799.

therefore, no hesitation in saying that the abolition of the bounty system is an object at which your Majesty's Government should aim." Great Britain, they considered, was responsible for the existing state of things. "We have placed the labouring population where it is, and created for it the conditions, moral and material, under which it exists, and we cannot divest ourselves of responsibility for its future. . . . There is also another consideration which, in our opinion, ought not to be overlooked. The distress, which is beginning to be felt by the population, the difficulty in which some of them are already, or may soon be placed, of finding a livelihood; the still more certain difficulty of providing for their government and education, will be due to the failure of the sugar industry, which is in turn, partly due to the protective policy of other countries, or to the bounties which some of them grant on the production or export of sugar. To some extent, at any rate, these bounties and this policy have made sugar cheaper outside the countries in question, a result by which the British consumer has gained very largely. Whilst, therefore, it is unfair to say that the cause of the depression in the West Indies is due to any act of the British Government, we cannot overlook the fact that the British people have been reaping great benefit from precisely that set of circumstances, which has been a factor in bringing the West Indies to the verge of serious disaster." The best immediate remedy, they recognised, would be the abandonment of the bounty system by Continental nations, but, as immediate measures, they recommended: 1. The settlement of the labouring population on small plots of land as peasant proprietors. 2. The establishment of minor agricultural industries. 3. The improvement of the means of communication between the different Colonies. 4. The encouragement of a trade in fruit with New York, and possibly at a later date with London; and 5, the grant of an imperial loan for the establishment of a central factory in Barbados. With the removal of the feeling of uncertainty caused by the foreign bounties, under the guidance of able men, the West Indian interest has re-

gained confidence. Already the trade in fruit to Great Britain, although on a small scale compared to the trade done with the United States, is assuming respectable dimensions. While sugar must always remain the staple product, there is room for the development of other products, to which increased attention is being given. The great rise in the price of sugar in the British market, occasioned by the coincidences of drought on the Continent and the effects of the Sugar Convention, caused bitter criticism of that Convention. On the other hand, it may be contended that the prosperity, which rested on artificially-produced cheapness, was itself artificial, and therefore insecure; and that, if there is any meaning at all in the responsibilities of Empire, a temporary sacrifice of private interests was justified, the first outcome of which was to give a fair field and no favour to the capital and labour of our fellow-subjects in the West Indies.

Having traced briefly and imperfectly some landmarks in the history of the great Colonies in recent years, it remains to note the more general questions which have come to the fore. We have already seen that one result of the war was to give an object lesson in the latent power residing in the Empire. Moreover, as I have written elsewhere,[1] "the tendency of the times is in the direction of great nations. During the nineteenth century, first Italy and then Germany accomplished the fulfilment of their aspirations after national unity, and in the case of Germany the full results of this movement may not yet have taken final shape. Every decade, since the great civil war, has seen the central authority of the United States growing in influence at the expense of the separatist tendencies inherited from the Colonial period. . . . In this state of things it is natural for men to ask themselves, cannot the ties which bind the various portions of the Empire to each other be made closer? Has not the time almost come to transform the vague aspirations of imperial patriotism into an organism representing the full imperial life? We are told that we are

[1] *The Origin and Growth of the English Colonies*, p. 181.

at the parting of the ways. Either the British Empire must find a concrete embodiment of its unity, or else, under the dissolving forces of separate interests and mutual ignorance, it will in time fall to pieces and perish, as have perished the other Empires of the past. Upon the other hand, there is the opposite danger of premature action. In singularly impressive words, Lord Salisbury in 1902 asserted: 'There is nothing, there is no danger that appears more serious for the time that lies before us than an attempt to force various parts of the Empire into a mutual subordination and arrangement for which they are not ready, and which may only produce a reaction in favour of the old state of things. . . . If we will be patient and careful, there is a tremendous destiny before us; if we are hasty, there may be a reverse of such a destiny. There may be the breaking apart of those forces which are necessary to construct the majestic fabric of a future Empire. . . . Remember, that out of the confusion which recent events have caused, that out of the troubles and difficulties that have arisen, there is arising a state of things perfectly new to the world, a condition in which an Empire, depending not on any territorial contiguity, not merely upon the action of its naval defences . . . is slowly arising out of the sea, that it has behind it the feelings and affections of some of the most vehement races upon the face of the world, that the future destinies of the Empire depend upon the prudence and judgment with which those forces are guided.'"

With those difficulties confronting us we are driven to consider more closely than has been necessary in the past, the real nature of the connexion between the various portions of the Empire. We have seen that for a time the view was widely, though for the most part tacitly, held that the connexion between the Mother country and the self-governing Colonies was, in the nature of things, temporary, and that in time they would take their places as independent nations. Upon the other hand, a brilliant historian, the late Sir John Seeley, put forward the opposite view in its most extreme form, that Colonials were but Englishmen across

the seas, and that Canada or Australia were but another gigantic Yorkshire or Lancashire. Facts, however, are stubborn things, and it is a fact, whether we like it or not, that our Colonial fellow-subjects consider themselves distinct nations, in a sense, which embraces nearly all the attributes of nationhood. In the complexity of modern life, there is room indeed for several co-existing nationalities. There is the nationality of origin, there is the nationality of citizenship, and there is the nationality of connexion. For instance, a French Canadian is a French patriot, a loyal citizen of the Dominion, and a loyal subject of the British Empire. The question is, can the two last be more closely merged, so as to obtain a new unity? Lord Grey has lately proclaimed to the Canadian people the need of another Alexander Hamilton to do for the British Empire what he did for the United States. But consider the difference of the situation. The separate American States were distinct polities, having had in the past little communication with each other, save through the medium of the British superintending authority. With that authority removed, the result was anarchy, unless a new general constitution could be evolved. It was generally recognised that freedom of trade between the different parts was a *sine quâ non* to the very existence of the United States. How different is the present situation. Whether or not satisfactory, no one can call the present arrangements anarchic; and the Colonies have reached a stage of nationhood when they are in a very different position from the Massachusetts or New York of the eighteenth century. More than twenty-six years ago a great Canadian statesman, himself an enthusiastic upholder of the British connexion, and the leader of a great party which especially prides itself on its loyalty to the British Crown, appealed to the Canadian people to support a "national policy," meaning thereby a policy which should enable Canada to be, as far as possible, self-supporting in its industries.

It is indeed highly probable that in the fulness of time some closer form of union between the scattered portions of the Empire may become necessary, but it by no means

follows that that union need take the form of such federations as have been in the past. It is possible that loyalty to a common crown may remain the only direct connecting link between distinct communities, and yet the imperial policy be directed by a Cabinet containing Colonial representatives for this purpose; Colonial contributions for Imperial naval and military needs being made through their Colonial legislatures. The present difficulty is that, while it is comparatively easy to frame, on paper, schemes of Imperial Councils, such Councils would need in fact to be in touch with the Colonial no less than with the British Parliaments. Some form of connexion, preserving the separate political and social interests for which the Colonies are naturally jealous, and yet at the same time allowing the Empire to speak and to act as one in the hour of need, may in the fulness of time solve the problem.

In any case it is generally admitted that any closer form of union can only result as the outcome of the action of the self-governing Colonies themselves. There is no evidence to show that up to the present they are of a different mind from what they were in 1897, when a majority of the members of the Conference expressed the opinion that "the present political relations between the United Kingdom and the self-governing Colonies are generally satisfactory under the existing condition of things." It is true that Sir Wilfrid Laurier once said, "If you want our aid, call us to your councils," and that Mr Chamberlain replied that we do want such aid, and are prepared, should the Colonies be willing to take any proportionate share in the burdens of the Empire, to meet this in any proposal for giving them a corresponding voice in the policy of the Empire; but as yet the difficulties in the way seem insuperable.

Meanwhile periodic conferences between the Home Government and the Premiers are a distinct step in the right direction. At the Conference held in 1902 it was agreed that it would be to the advantage of the Empire if conferences were held, so far as practicable, at intervals not exceeding four years, "at which questions of common interest, affecting

the relations of the Mother country, His Majesty's dominions over the sea, could be discussed and considered as between the Secretary of State for the Colonies and the Prime Ministers of the self-governing Colonies."

The two main questions which were treated at the 1902 Conference were the question of Imperial defence and the question of the trade relations of the Empire. With regard to the first, "the rapid growth in recent years of the expenditure upon the British army and navy, rendered necessary, at least to a great extent, by the increase of the fleets of foreign Powers and by the growing responsibilities of our world-wide Empire, has had the inevitable result of calling attention to the unequal manner in which the different portions of the Empire provide for its defence. The weary Titan, staggering under the burden of heavy taxation, would fain enlist his stalwart kinsfolk to take some share of the load. The estimate for 1902 involved an expenditure of 29s. 3d. per head of the population of the United Kingdom for naval and military expenditure. In Canada such expenditure amounted to 28s. a head, and in Australia to about 3s. 6d. Moreover, the splendid services performed by the Canadian, Australian, and New Zealand troops in the late war called attention to the mine of military strength which exists in the outlying portions of the Empire."[1] At the Conference it was suggested by Mr Brodrick that a special body of troops in the Colonies should be reserved for Imperial service. In the opinion, however, of the representatives of Canada and Australia, "to establish a special force set apart for general Imperial service, and practically under the control of the supreme Government, was objectionable in principle as derogatory from the powers of self-government enjoyed by them, and would be calculated to impede the general improvement in training and organisation of their defence forces, and consequently their ability to render effective help should it be required." In the memorandum concerning defence, issued by the Canadian representatives, it was stated that while the Canadian Government are obliged to dissent from the

[1] *The Origin and Growth of the English Colonies*, pp. 184-5.

measure proposed, they fully appreciate the obligations of the Dominion to make the expenditure for the purpose of defence in proportion to the increasing population and wealth of the country. They are willing that these expenditures should be so directed as to relieve the taxpayers of the Mother country from some of the burdens which he bears; and they have the strongest desire to carry out their defence schemes in co-operation with the Imperial authorities, and under the advice of experienced Imperial officers, so far as that is consistent with the principles of local self-government, which has proved so great a factor in the promotion of Imperial unity." In accordance with this pledge the Canadian Government, in 1905, expressed their willingness to take over from the Imperial authorities the defence of Halifax and Esquimault, being unwilling, also in accordance with the policy shown above, to make a money contribution towards the cost to the Imperial Government. Considering the events of recent history, the Colonies may be forgiven if for the time they feel some natural mistrust of the British War Office and its methods; but it may be hoped that before long some scheme may be evolved under which, should war arise on the Indian frontier, the War Office may be able to count upon the presence with the British forces of a certain number of troops from Canada and Australasia.

In naval matters the situation is rendered difficult by cross-currents making in a direction opposed to naval ideals. In Lord Selborne's words, "the sea is all one, and the British Navy is all one; and its solitary task in war must be to seek out the ships of the enemy wherever they are to be found and destroy them. . . . If, on the contrary, the idea should unfortunately prevail that the problem is one of local defence, and that each part of the Empire can be content to have its allotment of ships for the purpose of the separate protection of an individual spot, the only possible result would be that an enemy who had discarded this heresy and combined his fleets, would attack in detail and destroy those separated British squadrons, which united could have defied defeat." "Nevertheless the instinct which desires an

outward and visible sign of the protection afforded is strong in the unregenerate man, both at home and in the Colonies. Moreover, a sounder reason makes the Australian reluctant to show his interest in Imperial defence by a mere money contribution to an Imperial fleet. Both the Canadian and the Australian peoples are sea-going peoples, whose interests in the navy cannot be limited to a cash payment. Lord Brassey and others have called attention to the potential resources of the Colonies in the matter of providing men for the Royal Navy; and the Canadian memorandum, quoted above, states that on the sea coast of Canada there is a large number of men admirably qualified to form a naval reserve, and it is hoped that at an early day a system may be devised which will lead to the training of these men, and to the making of their services available for defence in time of need."

At the Conference of 1902 the Australian representatives undertook that Australia would increase its contribution to £200,000 a year towards the cost of an improved Australian squadron, and the establishment of a branch of the Royal Naval Reserve. The New Zealand representative undertook that New Zealand would increase its annual contribution towards such purpose to £40,000. The Cape Colony and Natal representatives promised £50,000 and £35,000 a year respectively "towards the general maintenance of the navy"; while Newfoundland promised £3000 annually (and a capital sum of £1800 in fitting up and preparing a drill ship) towards the maintenance of a branch of the Royal Naval Reserve of not less than 600 men.[1]

Small as are doubtless these beginnings from the point of view of those longing to organise at once the resources of the Empire for the purposes of Imperial defence, they will not be despised by those who know how to respect the day of small things. In the face of the attitude assumed by many in England towards the contribution of the Colonies, it is necessary always to remember that no policy could be more fatal in its results than such an insistence upon the moral claims of the Mother country as should irritate our colonial fellow

[1] On all these questions the leading authority is now the Minutes of the Proceedings of the Colonial Conference of 1907 (Cd. 3523).

subjects. The history of the relations between the Mother country and the Colonies during the last twenty years has shown the part played by tact in the dealings between parent and grown-up children; heaven forbid that statesmen should leave this track to plunge into the dangerous morass of expostulations and threats.

More pressing in its claim upon immediate attention is the question of trade relations. In the earlier portion of this volume, I have endeavoured to bring out that the final cause of the old Colonial system was trade ascendency, and that it was the assertion of this claim which helped to wreck the first British colonial Empire. The change brought about by Free Trade involved a complete revolution in theories respecting the Colonial system. It took some time, however, for men to realise the full consequences of Free Trade at home, and complete autonomy in the Colonies. Colonial reformers of the type of Lord Durham, Charles Buller and Gibbon Wakefield had never imagined that it would be in the power of Colonies to levy hostile tariffs against the goods of the Mother country. Nevertheless, full powers in all local matters having been granted, among such powers was not unnaturally claimed the right to raise revenue by fiscal regulations. The claim put forward in the fifties has been already quoted. "Self-government would be utterly annihilated if the views of the Imperial Government were to be preferred to those of the people of Canada." In this spirit of detachment from all selfish claims, the Mother country encouraged and assisted the negotiation of a treaty of commercial reciprocity, in 1854, between Canada and the United States. Such conduct was indeed partly an act of reparation. Some mention has already been made of the preference granted to Colonial products in the English market. Preferential rates of duty in favour of the Colonies were allowed on imported sugar continuously from 1660 to 1854, and by means of these a monopoly had been virtually obtained for the British Colonies up to 1844. With regard to corn, preference had been given since 1766 to the Colonies. As

late as 1842, the preference had been largely increased. In 1843, Canada having imposed a duty on wheat imported from places other than the United Kingdom or British possessions, the British rate of duty on Canadian wheat or flour was reduced to 1s. a quarter for wheat and to 4½d. per cwt. on flour, so long as the Canadian tariff remained in force. The ceasing of this preference in 1849, and the shock thereby occasioned to the flour mill industry, which had been artificially encouraged by British legislation, was the main cause of the distrust of the British connexion which was so marked in Canada about 1850. In this state of things the least the Mother country could do was to help Canada to seek for trade compensation in other directions. The Reciprocity Treaty came to an end in 1865, and not even Lord Dufferin's diplomacy availed to persuade the Americans in 1874 to renew the treaty. By this time, however, a strong manufacturing interest had grown up in Canada, which looked with suspicion on a measure which might expose their not yet fully fledged industries to the competition of the United States. It was mainly by the strength of this feeling that Sir John Macdonald's "national policy" of protection to Home industries finally triumphed in 1878. But as the Canadian people grew in wealth and prosperity they were not unmindful of the claims upon them of the Mother country. In England itself a change of feeling had taken place upon the subject. To the purists of the gospel of Free Trade an agreement to secure preferential terms for the goods of the Mother country in the colonial market would have seemed a tampering with the accursed thing, Protection, just as the Commercial Treaty with France, arranged by Cobden, appeared to the stricter sect of Free Traders a violation of first principles. The fierce competition to which trade is subject at the hands of the United States and Germany has had the effect of emphasising the importance of the Colonial market. The preference, therefore, of 12½ per cent., which was afterwards raised to 33⅓ per cent., was received with genuine gratification by Great Britain. The question of trade preferences was the most prominent

subject of discussion at the Colonial Conference of 1902.[1] The Conference recognised that this principle "would stimulate and facilitate mutual intercourse, and would, by promoting the development of the resources and industries of the various ports strengthen the Empire." It further recognised that "in the present circumstances of the Colonies, it is not practicable to adopt a general system of Free Trade as between the Mother country and the British dominions beyond the seas." "With a view, however, to promoting the increase of trade within the Empire, it is desirable that those Colonies which have not already adopted such a policy should, as far as the circumstances permit, give substantial preferential treatment to the products and manufactures of the United Kingdom." At the same time the Prime Ministers "respectfully urge on His Majesty's Government the expediency of granting in the United Kingdom preferential treatment to the products and manufactures of the Colonies, either by exemption from or reduction of duties now or hereafter imposed." The Colonial representatives were prepared to recommend to their Parliaments, in the case of Canada, the existing preference of 33⅓ per cent., and an additional preference on a list of selected articles—(*a*) by further reducing the duties in favour of the United Kingdom; (*b*) by raising the duties on foreign imports; (*c*) by imposing duties on certain foreign goods now on the free list; in the case of Australia, preferential treatment, not defined either in nature or extent; in the case of New Zealand, a general preference of 10 per cent. all round reduction of the present duty on British manufactured goods, or an equivalent in respect of a list of selected articles on the lines proposed by Canada; in the case of Cape Colony and Natal, a preference of 25 per cent., or its equivalent on dutiable goods other than specially rated articles to be given by increasing the duties on foreign imports. In 1903 an Intercolonial South African Conference, consisting of representatives of Cape Colony, Natal, the Transvaal, the Orange River Colony, and Southern Rhodesia, agreed to the 25 per cent. preferential treatment

[1] And again in 1907. Mr Deakin's speech, pp. 229-264 of Blue Book mentioned in preceding note, should be especially consulted.

of British goods. In New Zealand the Premier's undertaking has been endorsed by Parliament, the preference, however, being extended to foreign countries which give similar advantages; and Australia has given something in the way of preferential treatment, an earnest of more to follow, should Great Britain modify her policy in the matter.

A needless pother has been made over the question whether or not there has been an "offer" on the part of the Colonies. It is obvious that there was an offer, couched in an alternative form. It is also obvious to anyone, who has followed the course of Colonial discussion of the matter, that whatever is given will be given, for the most part, in the shape of raising still higher the duties against foreign countries, and not by lowering those which affect trade with the Mother country. Already there is much grumbling from the Canadian woollen manufacturers at the effect upon their industry of the British preference. Whatever else is doubtful in this confused controversy, it is clear that the road of trade preference is not one leading towards an Imperial Zollverein. Were this in fact the goal, there are many who, realising the vast resources in the future of such an union, might be content to make some sacrifices of present advantage and conviction. But, if the Colonies were in favour of freedom of trade, they would not need a Zollverein. While, so long as they adhere to Protection, a "National Policy," in the narrow sense of the word, will require protection against British, as well as against foreign competition. In this state of things it is misleading to talk of the road of preference as one leading to consolidation and union. In fact, by recognising the different portions of the Empire as separate treaty-making states, it seems rather to emphasise the necessary abandonment of any idea of treating the Empire as a fiscal unit.[1] But if this is so, offers of preference, if made on condition of some return, must be closely examined on strictly business lines.

It must be remembered that even with a preference of 33⅓ per cent. the Canadian tariff, according to the Board of Trade's estimate, still represents a barrier of about 16 per

[1] Since writing the above I find that Mr Jebb in his suggestive *Studies in Colonial Nationalism* expressly favours Mr Chamberlain's policy on this ground.

cent., as against the 25 per cent. of the German tariff. Before the granting of the preference British exports to Canada had decreased in a remarkable degree. The granting of preferential trade greatly checked the decline.[1] While the total imports of Canada increased 62 per cent. from 1896-7 to 1901-2, and articles free of duty increased 62 per cent., the imports on which there was a preference only increased 55 per cent. It must be always remembered that, in spite of the preference to British goods, Canadian policy remains protectionist, and, as such, prefers the importation of raw materials to that of manufactured goods. "Although, therefore," in the words of the Board of Trade Memorandum of 1903, "British goods enjoy a preference compared with the same goods imported from other countries, the average *ad valorem* rate of duty on British imports, *taken as a whole*, is still higher than the average duty levied on all imports, and much higher than the average duty levied on imports from the United States." In some cases the distance from Great Britain affects the question. Thus, in the case of bituminous coal, a preference of 10d. a ton, and, in the case of pig-iron, a preference of 4d. a ton, would be far from compensating the cost of freight. At the Colonial Conference of 1902 "the Canadian Ministry desired to have it understood that they took this course with the strong hope and expectation that the principle of preferential trade would be more widely accepted by the Colonies, and that the Mother country would at an early date apply the same principle by excepting the products of the Colonies from customs duties. If, after using every effort to bring about such a readjustment of the fiscal policy of the Empire, the Canadian Government should find that the principle of preferential trade is not acceptable to the Colonies or the Mother country, then Canada shall be free to take such action as might be deemed necessary in the presence of such conditions." At that Conference, however, Mr Chamberlain distinctly avowed that "the very valuable experience which we have derived from the history of the

[1] An elaborate statement on the effect of the Canadian preference Tariff will be found in the *Times* "Commercial Supplement," July 10, 1905.

Canadian tariff shows that while we may most readily and most gratefully accept from you any preference which you may be willing voluntarily to accede to us, we cannot bargain with you for it; we cannot pay for it unless you go much further, and enable us to enter your home market on terms of greater equality." It must be remembered, in connexion with the Canadian Memorandum, that a war tax of 1s. a cwt. on imported wheat, had been imposed by Great Britain. So long as free importation was allowed to all, Canada, to judge from the proceedings at the Ottawa Conference of 1894, appeared fairly content; it was the imposing a new tax, which applied to Canadian as much as to American wheat, which appears to have been the main cause of trouble. But the Canadian representatives would surely have allowed that a tax, imposed for an extraordinary purpose for a limited time, stood on a wholly different footing from a tax imposed to carry through a settled policy. Moreover, with the full facts before him, Mr Chamberlain must have brought home to the minds of the loyal and imperial-minded statesmen present at the Conference the conviction that some return in the way of preferential trade was only fitting, considering the proportion of imperial burdens borne by the Mother country. It might well be that for some years it would be inexpedient to ask the Colonies to bear a greater share of these burdens, but at least we might ask them to continue in this policy of trade preference, without claiming to dictate in return the commercial policy of the Mother country. The full proceedings of the Conference were not published, owing to the objections of some of the Colonial Governments, but it is impossible to doubt but that a statesman of Mr Chamberlain's courage and power took care to make the most of the argument which was so ready to hand.

In the beginning of 1903 Mr Chamberlain went to South Africa, and there the burden of his speeches was that, splendid as had been the work of the Colonies during the South African war, they had still hardly borne their due share of the imperial load. Again and again he appealed to loyalty and sentiment. "The conception of Empire is not to be

gained if you treat it in a huckstering spirit." The men who would run the Empire on business lines knew nothing of the business.

In the face of such utterances, it was impossible not to be surprised, when, on his return to England, Mr Chamberlain launched a new policy, which, if it meant anything, meant that Great Britain was guilty of stupid ingratitude, in not making advances to embrace the colonial offers. It is difficult to deal in a book, treating merely of Colonial policy, with a line of argument, in which the case for preferential trade with the Colonies became inextricably mixed with the case for relief from unfair foreign competition. It is true that, at the outset, something was said of sacrifices for imperial interests, but if the state of British trade were so parlous, owing to blind adherence to worn-out economic shibboleths, there did not seem much occasion for sacrifice in accepting the proffered remedies. It is this confusion of the case for colonial preference with the case for home protection, which makes it almost impossible to isolate the one from the other. Take the proposal to put a 2s. per quarter duty on foreign corn. Experience seems to prove that the price of bread does not immediately vary with the price of corn. Moreover, in the face of active competition from the Colonies, which were enjoying a preference, part of the duty might well fall on the foreign producer. Had the 1s. duty on corn, which formerly existed, never been taken off, and had its proceeds been rigorously earmarked for the purpose of the defence of the shipping trade in time of war, much might have been said for such a tax. It might be reasonable that those upon whom, in the event of a panic, the main suffering would fall from a rise in prices, should pay some small premium against war risks. Such a tax would have had the further advantage that it might have been taken off when wheat came from a Colony, which could show that it was doing its fair share in the matter of imperial defence. But the new scheme is put forward, not only as a measure of colonial preference, but as a measure for assisting British agriculture. It may be, and shrewd observers say

that it is the fact that even a 2s. duty would be of much benefit to the Canadian wheat grower, but, so far as I know, no practical English farmer believes that a 2s. duty would go far to benefit the English wheat grower. Other nations have begun with a small duty and ended where we now see them. If protection be the object intended, what logic is there in stopping short of measures which really protect? It is because they believed that the whole movement raised hopes, which could only be satisfied by measures disastrous to the great body of the British people, that Free Trade Imperialists felt themselves bound, in spite of their imperialist sympathies, to oppose a *non possumus* to what in itself might seem a small measure of conciliation.

It must further be remembered that wheat is not the only staple product of the Colonies. Yet the exigencies of British trade forbade Mr Chamberlain to propose a preference on Canadian timber, which would be of great benefit to the Dominion, or on Australian wool. It is impossible, we are told, to tax raw materials; but in this connexion it is pertinent to note that F. List, one of the most scientific of protectionist writers, expressly condemned taxes on food on this very ground that, from the point of view of the manufacturer, labour is raw material employed in the output of manufactured articles. Mr Chamberlain proposed to put a small tax of about 5 per cent. on foreign meat and dairy produce, excluding bacon, because it "is a popular food with some of the poorest of the population." He proposed to give a substantial preference to the Colonies upon Colonial wines and perhaps upon Colonial fruits.

To further complicate matters, Mr Balfour set before the nation an alternative policy. Believing that at present the British people were unwilling to accept proposals involving a tax on wheat, he was prepared to welcome a Colonial Conference, wherein the whole matter might be discussed. The principle of Colonial conferences had been generally accepted, and discussions among reasonable men could not but be useful; at the same time there would seem to have been much force in Mr Chamberlain's

contention that, unless the members entered it with some mandate so that their conclusions might have authority, the practical results cannot be great. We know the Colonial "offer," it would be unreasonable to press them for details, until the Mother country has made up her mind upon principles. There would seem to be much force in the contention of a Canadian Conservative newspaper (the *Citizen*), which said: "Until the people of England are educated up to the protection idea for Great Britain's own sake, irrespective of the basis it would afford for Imperial trade and federation, it would be decidedly hazardous to enter into any inter-imperial arrangement based on a protective policy. With every other nation equipped with tariff walls against her, Great Britain must sooner or later, in self-defence, erect similar barriers; but until her people see and recognise the necessity, it would be unwise to attempt to cajole them into protecting themselves, ostensibly at the solicitation of the Colonies. It is very doubtful if any of the Colonies would care to be placed in that position. They can all stand the *status quo* if the people of Great Britain are satisfied." But, if this represents at all a general feeling, it is clear that Mr Chamberlain misinterpreted their temper. The majority of Colonials probably consider that we are foolish to adhere, almost alone in the world, to the policy of free imports; they agree with the large-minded and imperialist Colonel Denison, that we run grave risks in not taking measures to foster our agricultural interests; they would welcome us into the Protectionist fold, and gladly then arrange plans for mutual preference. But, even as things are, they know the value of the free British market, they recognise to the full the generous treatment which, whether wise or unwise, from our point of view, has secured for them fiscal independence, and, with few exceptions, they do not use the exaggerated and unfair language put into their mouths by Mr Chamberlain.

With the main platform of Mr Balfour's policy, viz. retaliation, we need have here little question. Although Mr Chamberlain said that in principle he and Mr Balfour

were agreed, his most able followers, including the very brilliant writer, who contributed the fiscal supplements to the *National Review*, frankly recognised that the policies might come in conflict. To take an example which concerns us. Mr Chamberlain proposes his 5 per cent. duty on foreign dairy produce and his 10 per cent. duty on foreign manufactures. Denmark supplies us with a very large proportion of our dairy produce. She is already moving in the direction of Free Trade, and it might be that sooner than have any interference with her valuable export trade in butter, she could be made to remove all taxes on English imported manufactures. Here would be a triumph for Mr Balfour and retaliation; but Mr Chamberlain and the imperialist idea would step in and say, "You cannot do this, or you will be tampering with the Colonial preference." I have given this example, but it must not be thought that retaliation would often be of so easy a character. If, in the attempt to retaliate, an artificial stimulus were given to trade, which was removed by the signing of a new commercial treaty, the state of things under a systematically applied system of retaliation might have all the evils without the compensating advantages of avowed protection. In any case, the policy of retaliation, whatever it may mean, does not pretend to advance Imperial interests.

Mr Chamberlain himself, in a suggestive passage of his speech at Newcastle (October 20, 1903), gave the clue to his policy. He had tried to advance, he said, along the line of an Imperial Council. "I have done everything in my power to bring it about. I have ventured to speak on behalf of my countrymen here, and to say to our kinsmen beyond the seas, 'We want your aid. We call you to our Councils; come and take part in them,' and they have decided they will not advance along that line and federate in that way. . . . I tried next in connexion with Imperial defence. Again, I was beaten by the difficulties of the situation; but I did not on that account give it up, and I come back, therefore, to this idea of commercial union which will bring us together, which will necessitate the

Council, which Council in time may do much more than it does in the beginning, and may leave us, though it will not find us, a great united, loyal, and federated Empire."

In these words Mr Chamberlain confesses that on two occasions he has been too sanguine, what reason is there why things should be different on the third? What difference is there between commercial *union* and an elaborate system of duly balanced preferences! Again, why should detailed bargaining with separate Colonies necessitate an Imperial Council? You might as well settle the details of European commercial treaties at a European Congress. It is noteworthy, moreover, that Sir Wilfrid Laurier has expressly said that any gain of trade preference might be dearly purchased were it obtained at the sacrifice of fiscal independence. Lastly, why should bargaining with a view primarily to commercial profit (or else why bargain?) lead us, as a matter of course, to more friendly relations?

To those who believed in the gospel of Greater Britain, and who recognised in Mr Chamberlain its tireless apostle, it could not but be distasteful to differ from one whom they have hitherto followed, and to find themselves described as Little Englanders and men of narrow vision; nevertheless they could but judge according to their lights, and, so judging, the most insignificant might enter his protest against what he honestly believed to be dangerous. Already questions of deep Imperial concern have been plunged into the maelström of British party politics. Already the British working classes have been taught to think that their interests and those of their kin beyond the seas are in conflict. Already, according to some, the step forward we had all made has again been lost, and the interests of the Empire can only with safety be entrusted to one political party. Lord Salisbury's weighty words recur to us, and we seem already to see the perilous results of statesmen and politicians in a hurry. But beyond and above these sinister omens there is still room for hope. It was not by the enterprise or wisdom of statesmen or politicians that the Empire was won, and

more will be required than the janglings of statesmen and politicians for it to be lost. The enterprise and courage of individual men, the pride in a common history, the loyalty to a common country and king, these things were the foundations of the Empire, and though, in the fulness of time, it may be necessary that on those foundations should be laid a structure of a more systematic character, still it is on the strength of the foundations that, in the last resort, we depend for safety, and, while these remain as they are, the rain may descend and the floods come, and the winds blow and beat upon the house and it will not fall, because it was founded upon a rock.

Conclusion.

The task undertaken has been fulfilled, although inadequately and jejunely enough. We have traced the history of Colonial Policy from its tentative beginnings, through the confident claims of the Mercantile system, through the disappointment which followed on the failure of that system, through the revival of interest in colonization aroused by the men of 1830, through the granting of responsible government, through the years when Free Trade and the creed of the orthodox economist appeared to represent the whole duty of political communities, until at last we seem to have emerged into a clearer air. The story has been largely a chronicle of mistakes and failures, sins of omission and commission, for some of which we are suffering to-day. But behind the mistakes and failures of individuals and generations, there grows upon us, as we study the history, the sense of an unseen superintending Providence controlling the development of the Anglo-Saxon race. Through the vistas of the ages the voice is heard, "Be fruitful and multiply, and replenish the earth." And to this latest generation the secret[1] has been revealed,

[1] The consideration of the important subject of the effect upon the relations between the Mother country and the Colonies of the discoveries of science must be briefly noticed. The first regular steamer between England and America ran in 1838. The first steamer from England to Australia did not run till 1852. Direct telegraphic communication between England and America began in 1866; between England and Australia in 1872; between England and New Zealand in 1876; and between England and South Africa in 1879. The importance of the

that the fulfilment of this destiny need not mean the loss of a single element of common nationhood, or the waste of a single link in the chain, which binds us to a common past. Wiser in this than our fathers, we recognise that the tie which unites us under a common Crown is not "the slight and temporary thing" it seemed to Merivale.[1] Wiser in

submarine telegraph in the work of Imperial Defence cannot be overrated. On the other hand it is sometimes complained that the effect of constant communication with England may be to weaken the efficiency and paralyse the sense of responsibility of Imperial officials. But with complete knowledge of the facts, it is less likely that statesmen, if reasonable men, and most statesmen *in office* are reasonable men, will interfere with the discretion of the man on the spot. Certainly, such study as the present writer has been able to make of the past does not lead to any exaltation of its proceedings at the expense of the present. The effect of scientific discovery in diminishing the time of transit, in cheapening the cost of travel and of postage, should be all in the direction of keeping together the scattered portions of the Empire. Although, for reasons which have been emphasized, it does not seem likely that colonials will ever care to attend an Imperial Parliament, the effect of scientific discovery is to keep them in touch with the Mother country in a way which was impossible even thirty years ago. Compare the present fixed and regular steam-service with the irregular and spasmodic intercommunication of the days of sailing vessels. There is nothing in the public life of to-day which need fear the "fierce light" which beats about the throne of King 'Demos', and it would seem that with increased knowledge the English Press throughout the Empire will play an ever-increasing part, in combating the narrow provincialism which is largely the product of ignorance.

[1] The passage to which allusion is made closes Merivale's *Lectures*, and is the more noticeable from the usual reserve of his style. "Rash, indeed, would he be who would presage more than a temporary duration for that calm of prosperity and contentment which our Colonial Empire now enjoys. We can count but little on the permanence of common interests; on the permanence of friendly tempers and considerate feelings hardly at all. As the wealth of earth and the flower of human strength fades, so, says the tragic poet, decay leagues and alliances.

καὶ τᾶισι θήβαις εἰ τανῦν εὐημερεῖ
καλῶς καὶ πρὸς σε, μυρίας ὁ μυρίος
χρόνος τεκνοῦται νύκτας ἡμέραστ' ἰὼν,
ἐν αἷς τὰ νῦν ξύμφωνα δεξιώματα
ἐν δορὶ διασκεδῶσιν ἐκ σμικροῦ λόγου.

And whenever the disruption may arrive, it will probably be evident that it was a *σμικρος λογος*, some small and unforeseen matter which precipitated the event. But if we are but true to our principles, and can steer the vessel of our policy undisturbed by those fierce gusts of passion which such a catastrophe excites, we shall experience without a serious convulsion that result which was only attained in former days through blood and tears, and find that the tie of subjection to a common Crown, justly as we may value it, is in truth but a slight and temporary thing, while the alliance of blood and language and religion bids fair to subsist as long as human society endures."

this than our fathers, we recognise that the dreary forecast of the Greek tragedian, under which the passing of the years brings changes with it as a matter of course, may be made a false forecast, that the "slight cause" need never arise, and that it is but "the foppery of the world" to "make guilty of our disasters the Sun, Moon, and the Stars." It is at once the glory and the responsibility of nations that in their case no ceaseless law of change is operating, to make dissolution and decay inevitable. To each generation, in its turn, is given the privilege and power to shape its own destinies. Once in the past the wrong choice was made, but the fault did not go to the roots of the national character, and so it was remediable and new opportunities were given. In new ways and under new surroundings the unseen Powers are still making trial of us, still giving to each nation the fate which it deserves. May the lessons of the past be laid to heart, and may Great Britain not again squander her priceless national inheritance.

APPENDIX A

BIBLIOGRAPHY

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BEFORE beginning the direct study of British Colonial Policy, the reader should familiarise himself with the accounts of early voyages in Hakluyt's and Purchas' standard works, new editions of which have recently been published. The publications of the Hakluyt Society should also be read. By these means we are able to realise the circumstances under which a Colonial Empire became possible. Mahan's *Influence of Sea Power upon History* shows the conditions upon which alone such an Empire can be maintained. Seeley's *Expansion of England* must always serve as the starting-point for every student of colonial policy. The late Mr F. J. Payne's *Colonies and Colonial Federations*, 1904 (in the "English Citizen" Series), will be found very suggestive. The introductory volume to Sir Charles Lucas' *Historical Geography of the British Colonies*, entitled *The Origin and Growth of the English Colonies*, by H. E. Egerton, may also be consulted. Herman Merivale's *Lectures on Colonization and Colonies*, 2nd ed., 1861, still remains a standard work, while perhaps the best general account of European colonization is *De la Colonisation chez les peuples modernes*, by M. Paul Leroy-Beaulieu, 2 vols., 6th ed., 1908. A. G. Keller's *Colonization*, 1908, is a good general introduction to the subject. Sir Charles Lucas' introduction to the 1891 edition of Sir G. Cornewall Lewis' *Essay on the Government of Dependencies* should be consulted; and Sir Charles Dilke's *Problems of Greater Britain*, though it deals for the most part with the lessons to be drawn from the political and economical experiences of the Colonies, is full of suggestion with regard to subjects such as Federation, Imperial Defence, etc. The constitutional and legal aspects of British Colonial Policy should be approached with A. B. Keith's *Responsible Government in the Dominions*, 3 vols., 1912, and Tarring's *Statutes relating to the Colonies*, 2nd ed., 1893. On the subject of Chartered Companies consult the *Early Chartered Companies*, by G. Cawston and A. H. Keane, *Les Grandes Compagnies de Commerce*, par P. Bonnassieux, 1892; and *Joint Stock Companies* by W. R. Scott, 3 vols., 1910-2

Passing from general books, the main division will be between—*A*, Books relating to the American Colonies before the Revolution; and *B*, Books relating to the subsequent self-governing Colonies. The West Indies and Tropical Colonies form a class *C* by themselves.

A. Books relating to the American Colonies

I. *Bibliography*

The Literature of American History, ed. by J. N. Larned, Boston, 1902, is a model of what a bibliography should be.

For MS. Material there are: *The Guide to the Material for American History to* 1783 *in the Public Record Office*, and *The Guide to the MS. Material . . . in the British Museum, near London Archives, in the Libraries of Oxford and Cambridge*, by C. M. Andrews and F. C. Davenport, 1912 and 1908.

II. Contemporary Authorities

The Calendar of State Papers, Colonial Series, America and West Indies (fifteen of these volumes have hitherto appeared, 1860-1912, dealing with the years from 1574 to end of 1702. The summaries are sometimes too short, but the volumes are indispensable for a study of the subject).

Acts of the Privy Council, Colonial Series, ed. by W. L. Grant and J. Munro, 6 vols., 1908-12.

The three important series—*Documents relating to the Colonial History of New York*, ed. by E. B. O'Callaghan, 14 vols. and index, 1856-1883; *Documents relating to the Colonial History of New Jersey*, 22 vols., 1880-1900; and *Colonial Records of N. Carolina*, 10 vols., 1886-1890, contain so much of general interest that they should be mentioned apart from their separate Colonies.

Tracts relative to the Colonies, ed. by P. Force, 4 vols., 1836-1846, is a miscellaneous collection of great value.

Historical Collections, ed. by E. Hazard, 2 vols., 1792-4.

Parliamentary History of England, ed. by W. Cobbett.

Journals of the House of Commons, from 1547 onwards.

Select Charters and other Documents illustrative of American History, 1606-1775, ed. by W. Macdonald, 1899.

State Papers of John Thurloe, 7 vols., 1742.

The Reports of the *Royal Commission on Hist. MSS.* should be consulted.

The first two volumes of *American History told by Contemporaries*, ed. by A. B. Hart, new ed., 1902, deal with the colonial period.

On the individual Colonies there are for—

1. Virginia—

The Genesis of the United States, ed. by A. Brown, 2 vols., 1890 (deals with the first foundation, 1605-1616).

The Records of the Virginia Company of London, The Court Book, ed. by S. M. Kingsbury, 2 vols., 1906 (contains an exhaustive account of the Papers in America and England relating to the Company).

"Manchester Papers" calendared by the *Royal Commission on Hist. MSS.*, Report VIII., Part II. (of value regarding the dispute between the Sandys and Smith faction in the Company, on which the "Ferrar Papers" in Magdalene College Library, Cambridge, unpublished, also throw some light).

The Calendar of Virginia State Papers is still in course of publication.

The Virginia Magazine of History and Biography, 9 vols., 1893-1903 (contains many documents of importance).

Statutes at Large, 1619-1792, ed. by W. W. Hening, 13 vols., 1823.

The History of Virginia, by R. Beverly, 1722 (has the value of being almost contemporary with the events related).

The Calendars of State Papers and Force's *Tracts* are especially rich in matter relating to Virginia.

The Virginia Historical Society have published among their Collections—

"The Official Letters of Alexander Spotswood, 1710-1722," 2 vols., and "Official Records of R. Dinwiddie, 1751-1758."

2. Maryland—

The Archives of Maryland, 23 vols., 1883-1903.

Fund Publications of Maryland His. Soc., 37 vols., 1867-1901.

3. New England—

History of Plymouth Plantation, by W. Bradford, reprinted, 1898.

Journal History of N. England, 1639-1649, by J. Winthrop, ed. by J. Savage, 2 vols., new ed., 1853.

Records of Massachusetts Bay, 1628-1686, 6 vols., 1853-4.

Records of Plymouth, 12 vols., 1885-7 (Vols. IX. and X. contain the Records of the United Colonies).

The Colonial Records of Connecticut, 15 vols., 1850-1890.

Records of the Colony of Newhaven, 1638-1665, 2 vols., 1857-8.

Records of the Colony of Rhode Island and Providence Plantations, 1636-1792, 10 vols., 1856-65.

The Prince Society, Boston, has published much of great value. Especially important are—

The Hutchinson Papers, 2 vols., 1865.

The Andros Tracts, ed. by W. Whitmore, 3 vols., 1868.

Edward Randolph, by R. N. Toppan, 5 vols., 1898-9, and *Sir Ferdinando Gorges*, ed. by J. P. Baxter, 3 vols., 1890.

Among the more valuable material for understanding the New England character are—

Description of New England, 1660, by S. Maverick, N. Engl. Hist. and Genealogical Register, XXXIX. 33.

Letters from N. England, 1686, by J. Dunton, Prince Soc. *Publications*, 1867.

Diary of Sam. Sewall, 1674-1729, Mass. Hist. Soc. *Collections*, 5th Series, Vols. V.-VIII., and Roger Williams' "Letters," Narragansett Club *Publications*, 1st Series, No. 4, Vol. VI., 1874.

4. New York—

E. B. O'Callaghan, *op. cit.*

Documentary History of the State of N. York, same editor, 4 vols., 1850-1.

Valuable materials are contained in the N. York Hist. Soc. *Collections*, 1st Series, 5 vols.; 3rd Series, or *Publication Fund Series*, 27 vols.

5. New Jersey, Pennsylvania, and Delaware—

N. Jersey Archives, *op. cit.*

Colonial Records of Pennsylvania, 1683-1736, 3 vols., 1838-40.

Memoirs published by Historical Society of Pennsylvania, 14 vols., 1826-95, contain much original material relative to the life of Penn and the Settlement of Pennsylvania.

Register of Pennsylvania, ed. by S. Hazard, 16 vols., 1828-34.

6. The Carolinas—

The Records of N. Carolina, 16 vols., 1886-1892, contain much relating to South Carolina.

The S. Carolina Hist. Soc. has published in *Collections*, Vol. V., 1897, the full text of the all-important *Shaftesbury Papers*.

7. The Mercantile System—

England's Treasure by Forraign Trade, by T. Mun, 1664 (written earlier).

Discourse upon Trade, by Sir J. Child, 1668, reprinted with additions under title, *The New Discourse of Trade*, 1690.

A Discourse of Trade, by R. Coke, 1670.

Essays on Trade and *New Essays on Trade*, by F. Brewster, 1695 and 1702.

Dissertation on the Plantation Trade, by C. Davenant, 1775.

Observations on American Commerce, by J. B. Holroyd (Lord Sheffield), 1784.

Select Tracts relating to the Colonies (1029 E 15 in British Museum Catalogue).

8. The Dispute between the Mother Country and the Colonies—

Consult Toppan, *op. cit.*

As to proprietary government, see *The Logan Correspondence*, Vols. IX. and X., of the Publications of the Philadelphia Hist. Soc. and Franklin's works, *passim.*

For English Policy consult—

Memoirs of Sir R. Walpole and *Memoirs of the Pelham Administration*, by Coxe.

The Chatham Correspondence, 4 vols.

The Bedford Correspondence, 3 vols.

The Grenville Papers, 4 vols., 1852-3.

H. Walpole's *Memoirs of the Last Ten Years of George II.*, 3 vols.; *Memoirs of the Reign of George III.*, 4 vols.; and *Journal . . . from 1771 to 1783*, 2 vols.

Correspondence of W. Pitt with Colonial Governors, ed. by G. Kimball, 2 vols., 1906.

Autobiography of Duke of Grafton, ed. by Sir W. Anson, 1898.

Correspondence between George III. and Lord North, ed. by W. Donne, 2 vols., 1867.

Dartmouth, Sackville, and Shelburne Correspondence in Hist. MSS. Commission Reports.

The Controversy between Great Britain and her Colonies, 1769, *and Extra-Official State Papers*, 1789, by W. Knox.

The situation in America is described by P. Kalm and Burnaby in the 13th volume of Pinkerton's *Travels.* Note also *A Defence of New England Charters*, by J. Dummer, 1723. *American Archives*, ed. by P. Force, 9 vols., 1837-1853 (the portion relating to 1774-6 of a projected great collection of documents). J. Almon's *Collection of . . . Papers* (Prior Documents), 1777, and his *Remembrancer*, 17 vols., 1775-1784, are indispensable to the student of the Revolution, as are the masterly chapters in the *Annual Register* of these years, generally ascribed to Burke. Burke's *Speeches* are

the best statement of the case from the Whig point of view. Consult Tucker's *Tracts* for opposite view.

Among the more important writings of the time on the American Controversy are, on the American side—

The Works of J. Adams, 10 vols., 1856 (Vol. IV. contains "Novanglus").

Writings of J. Dickinson, Hist. Soc. of Pennsylvania, Memoirs, Vol. XIV., 1895 (contains "The Letters of a Farmer").

Complete Works of Benjamin Franklin, ed. by J. Bigelow, 10 vols., 1887-9.

Writings of T. Jefferson, ed. by P. L. Ford, 10 vols., 1892-9.

Writings of T. Paine, ed. by Moncure Conway, 4 vols., 1894-6.

Correspondence of the American Revolution, 4 vols., 1853.

Diplomatic Correspondence of the American Revolution, ed. by J. Sparks, 12 vols., 1829-1830.

Writings of George Washington, ed. by W. C. Ford, 14 vols., 1889-1893.

On the Loyalist side there are—

D. Leonard's *Massachusettensis*, 1775.

Galloway's *A Candid Examination of the Material Claims of Great Britain and the Colonies*, 1775.

History of New York during the Revolutionary War, by T. Jones, New York Hist. Soc., 2 vols., 1879.

T. Hutchinson's *Diary and Letters*, 2 vols., 1884-6.

(In this connection consult *The Literary History of the American Revolution*, 1763-83, by M. C. Tyler, 2 vols., 1897.)

On the French Alliance with the Americans in the Revolution—

Histoire de la Participation de la France à l'établissement dès Etats Unis d'Amérique, par H. Doniol, 5 t., 1886-1900.

Revolutionary Diplomatic Correspondence of the United States, ed. by F. Wharton, 6 vols., 1889.

Papers of Silas Deane, 1774-90, New York Hist. Soc. Collections, Publication Fund Series, V. 19-23, 1887-1891.

III. *Secondary Authorities*

1. Colonial Administration—

The Administration of the Colonies, by T. Pownall, 4th ed., 1768.

The Provincial Governor, by E. B. Greene, Harvard Hist. Studies, Vol. VII., 1898.
British Committees, Commissions, and Councils of Trade and Plantations, 1622-1675, by C. M. Andrews, John Hopkins Univ. Studies, 1908.
Colonial Executive prior to the Restoration, by P. L. Kaye, John Hopkins Univ. Studies, 1900.
English Colonial Administration under Lord Clarendon, 1660-7, by P. L. Kaye, John Hopkins Univ. Studies, 1905.
American Colonial Government, 1696-1765, by O. M. Dickerson, 1912.
See also *Introduction to the History of the Revolt of the American Colonies*, by G. Chalmers, 2 vols., 1782.

2. Mercantile System—

Adam Smith's *Wealth of Nations*, chapter on colonies.
Growth of English Industry and Commerce, Modern Times, Part I., *Mercantile System*, by W. Cunningham, new ed., 1903.
G. L. Beer's, *The Commercial Policy of England towards the American Colonies*, 1893;
Cromwell's Economic Policy, "Polit. Science Quarterly," Vols. XVI. and XVII.; and
British Colonial Policy, 1754-1765, 1907; and *The Old Colonial System*, 1660-1754, Part I., 1660-1668, 2 vols., 1912.
The best account of the *raison d'être* of the mercantile system is *The Mercantile System*, by Gustav Schmoller in Ashley's "Economic Classics," 1896.
Studies, Economic and Political, by W. J. Ashley, 1899.
The salient sections of the Acts are set out in *Select Charters*, etc., ed. by W. Macdonald. There is a useful epitome of *The Navigation Laws*, by E. Channing, 1890.

3. General Histories of the American Colonies—

History of the United States to 1782, by G. Bancroft, 10 vols., 1834-1874.
Student's History of the United States, by E. Channing, new ed., 1898.
History of the United States, by R. Hildreth, 6 vols. (of which three deal with colonial period), 1849-1852.
A Critical and Narrative History of America, ed. by J. Winsor, 8 vols., 1885 (contains very valuable bibliographical chapters and maps).
The Cambridge Modern History, Vol. VII. *The United States*, 1903.
The American Colonies in the 17th Century, by H. L. Osgood, 3 vols., 1904-7.
The History of the United States, Vols. I.-III., by E. Channing, 1905-1912.

"The American Nation, a History," ed. by A. B. Hart; *England in America*, by L. G. Tyler, 1904; and *Colonial Self-Government*, by C. M. Andrews, 1904.

Political Annals of the American Colonies, by G. Chalmers, 1780 (only one volume was written).

The Colonies under the House of Hanover, by J. A. Doyle, 1907.

The History of the Thirteen Colonies of North America, by R. W Jeffrey, 1908.

4. On Virginia—

History of Virginia, by W. Stith, 1747.

History of Virginia, by J. D. Burk, 4 vols., 1805.

Old Virginia and her Neighbours, by J. Fiske, 1897.

The English in America, Vol. I. *Virginia, Maryland, and the Carolinas*, by J. A. Doyle, 1882.

The First Republic in America, by A. Brown, 1898.

The Virginia Company, 1868, *Virginia Carolorum*, 1886, by E. D. Neill.

Institutional History of Virginia in the 17th Century, 2 vols., 1910, by P. A. Bruce.

5. On Maryland—

The History of Maryland, by J. L. Bozman, 2 vols., 1837 (covers the period 1634-1658).

Historical View of the Government of Maryland, by J. V. Macmahon, 1831.

Maryland, 1884, and *George and Cecilius Calvert*, 1890, by W. H. Browne.

Early Relations of Virginia and Maryland, by J. H. Latané, John Hopkins Univ. Studies, XIII.

The Beginnings of Maryland, 1631-1639, by B. C. Steiner, John Hopkins Univ. Studies, XXI.

6. On New England Colonies—

History of the Colony of Massachusetts Bay, 1628-1691, 1764;

History of the Province of Massachusetts Bay, 1691-1750, 1767; and

History of the Province of Massachusetts Bay, 1749-1774, 1828, by T. Hutchinson.

The English in America, Vols. II. and III. *The Puritan Colonies*, by J. A. Doyle, 1887.

History of N. England during the Stuart Dynasty, 1620-1689, 3 vols., 1858-64, and *History of N. England from the Revolution of the 17th Century to Revolution of 18th Century*, 2 vols., 1875-90, by J. G. Palfrey.

Beginnings of N. England, by J. Fiske, 1889.
Massachusetts, its Historians and its History, 1893, and *Three Episodes of the History of Massachusetts*, 1895, by C. F. Adams.
The Pilgrim Republic, by J. E. Goodwin.
History of Connecticut, by B. Turnbull, 2 vols., 1818.
History of Newhaven, by E. Atwater, 1881.
History of New Hampshire, by J. Belknap, 3 vols., 1784-1813.
History of Maine, by W. D. Williamson, 2 vols., 1832.
History of the State of Rhode Island and Providence Plantations, by S. G. Arnold, 1636-1790, 2 vols., new ed., 1894.
Rhode Island, its Making and Meaning, by J. B. Richman, 2 vols., 1902.

7. On New York—

The Middle Colonies in America, by J. A. Doyle, 1907.
History of New Netherland, by E. B. O'Callaghan, 2 vols., 2nd ed., 1855.
History of State of New York, by J. R. Brodhead, 2 vols., new ed., 1872.
History of the late Province of N. York, by W. Smith, N. York Hist. Soc. Collections, 2 vols., 1829-30.
Dutch and Quaker Colonies in America, by J. Fiske, 2 vols., 1899.

8. On New Jersey, Pennsylvania, and Delaware—

History of the Colony of New Jersey, by S. Smith, 1765, reprinted 1877 (includes letters and contemporary documents).
East Jersey under the Proprietary Government, by W. A. Whitehead, 1846, N. Jersey Hist. Soc. Collections, Vol. I., 2nd ed., enlarged, 1875.
History of Pennsylvania in N. America, 1681-1742, by R. Proud, 2 vols., 1797-8.
History of Friends in America, by J. Bowden, 2 vols., 1851-4.
Memoirs of William Penn, by T. Clarkson, 2 vols., new ed., 1849.
A History of the Original Settlements on the Delaware, by B. Ferris, 1846.

9. The Carolinas—

Sketch of the History of South Carolina to 1719, by W. J. Rivers.
South Carolina under the Proprietary Government, 1897; *S. Carolina under the Royal Government*, 1719-1776, 1899; *S. Carolina in the Revolution*, 2 vols., 1901 and 1902, by E. M'Crady.
History of N. Carolina, by F. L. Hawks, 2 vols., 1857-8.

S. Carolina as a Royal Province, by W. R. Smith, 1903.
N. Carolina, by C. L. Raper, 1904.

10. Georgia—

The History of Georgia, by C. C. Jones, 2 vols., 1883.
Memoirs of Gen. James Oglethorpe, by R. Wright, 1867.

11. Economic and Social Conditions. The Secondary books on this subject are few, but

Economic History of Virginia in 17th Century, 2 vols., 1892, and *Social Life of Virginia in 17th Century*, 1907, by P. A. Bruce, together with *Economic and Social History of N. England*, 1620-1789, by W. B. Weeden, 2 vols., 1890, are of great value and interest.

12. On Struggle between England and France for Supremacy in America—

History of Canada, by F. X. Garneau, 2 vols. in English translation, 4th ed., 1876.
Histoire et description générale de la Nouvelle France, par P. de Charlevoix, 3 vols., 1744.
Canada, by Sir C. Lucas, Vol. V., Part I., of his *Historical Geography of the British Colonies*.
Parkman's well-known series, of which *Frontenac*, *The Opening of the Great West*, *A Half-Century of Conflict*, and *Montcalm and Wolfe*, 2 vols., are of special value for present purpose.
The Fight with France for N. America, by A. G. Bradley.

See also—

Sir W. Alexander and American Colonization, by F. Shafter, 1873.
The First English Conquest of Canada, by H. Kirke, 2nd ed., 1908.
The Struggle in America between England and France, by J. Winsor, 1895.

On American Invasion of Canada, 1775—

Our Struggle for the Fourteenth Colony, by J. H. Smith, 2 vols., 1907 (contains admirable bibliography).

13. On American Revolution—

The American Revolution, by J. Fiske, 2 vols., 1891.
The Story of the Revolution, by H. C. Lodge, 2 vols., 1898.
The American Revolution, by Sir G. Trevelyan, 3 Parts, 1899, 1907.

The chapters in Lecky's *History of the Eighteenth Century*, and in Hunt's *Political History of England*, 1760-1801, are very valuable.

Flick's *Loyalism in New York*, Columbia Univ. Studies, XIV., gives a good account of the loyalist minority.

14. Biographies—

Life of Sir W. Raleigh, with his letters, by E. Edwards, 2 vols., 1868.
Cromwell's Letters and Speeches, ed. by T. Carlyle.
Life of Lord Clarendon, by T. H. Lister.
Life of Lord Shaftesbury, by W. D. Christie.
Life of J. Locke, by H. R. Fox Bourne, 1876.

Other lives are mentioned elsewhere.

Dr von Ruville's *Life of William Pitt, Earl of Chatham*, English translation, 3 vols., 1907, is not very full on the colonial side of his work.

Life of Lord Rockingham, by Lord Albemarle, 2 vols.
Life of Lord Shelburne, by Lord E. Fitzmaurice, 3 vols.
Life of J. Otis, by W. Tudor, 1823.

B. Books relating to British Canada, Australasia, and Cape Colony

I. *Bibliography*

Larned, *op. cit.*, contains an excellent bibliography of Canada, but for the British Colonies generally the most practically useful bibliography is the Catalogue of the Royal Colonial Institute Library, 1895; supplementary volume, 1901. *Review of Historical Publications relating to Canada*, ed. by Professor Wrong and Mr H. Langton,[1] of which the seventeenth annual volume appeared in 1913, contains a most useful bibliography of recent books.

II. *Contemporary Authorities*

1. British North America—

The publications of the Dominion Archives are of especial value. Mr D. Brymner brought out volumes calendaring the Public Papers relating to British North America to the time of the union of the Canadas. His successor, Dr A. G. Doughty, amongst other publications, has issued with Professor Shortt a very valuable collection of *Constitutional Documents*, 1759-1791, and, with Mr McArthur, *Constitutional Documents*, 1791-1818.

The Evolution of Canadian Self-Government, ed. by H. E. Egerton and W. L. Grant, 1907, and *Documents of the Canadian Constitution*, 1759-1915, ed. by W. P. M. Kennedy, 1918, contain contemporary matter of constitutional importance.

[1] Mr W. S. Wallace has now succeeded Mr Langton.

Debates in the House of Commons in 1774 on the Quebec Act, from Notes by Sir H. Cavendish, 1839.

Numerous Parliamentary Papers, of which the evidence before the House of Commons Committees of 1828 and 1857 on the State of Canada and on the Hudson's Bay Company's Territories are among the more important.

Lord Durham's Report on the Affairs of British North America, ed. with an Introduction by Sir C. P. Lucas, 3 vols., 1912 (Vol. III. contains the important matter of the Appendices to the Report).

Documents illustrative of the Canadian Constitution, ed. by W. Houston, 1891.

Joseph Howe's *Speeches and Letters*, 2 vols., 1853.

Selection from Papers of Lord Metcalfe, ed. by J. Kaye, 1855.

Letters and Journals of Lord Elgin, ed. by T. Walrond, 1872.

Confederation Debates, Quebec, 1865.

Documents on British North America Act, ed. by J. Pope, 1895.

Speeches and Addresses, by Lord Dufferin, 1882.

2. Australasia—

The Historical Records of New South Wales, ed. by F. M. Bladen, Vols. I.-VII., 1893-1901 (unfortunately the publication was abandoned when it reached the period of Macquarie's Government).

A Statistical, Historical, and Political Description of the Colony of New South Wales, by W. C. Wentworth, 1819.

Select Speeches of Sir W. Molesworth, ed. by H. E. Egerton, 1903 (contains Report of House of Commons Committee on Transportation).

Varieties of Vice-Regal Life, by Sir W. Denison, 2 vols., 1870.

Fifty Years in the Making of Australian History, by Sir H. Parkes, 2 vols., 1892.

The early history of New Zealand may be extracted from the evidence before the Parliamentary Committees mentioned in the text. See also *Adventures in New Zealand*, 1839-44, by E. J. Wakefield, 1908.

3. South Africa—

Records of the Cape Colony copied from MS. Documents in the Record Office, by G. M. Theal (some 35 volumes have been published, reaching to 1832. The publication is for the present discontinued).

Select Constitutional Documents illustrating South African History, 1795-1910, ed. by G. W. Eybers, 1918.

South Africa a Century Ago, Letters written 1797-1801, by Lady A. Barnard, 1901.
Lectures on the Dutch Emigration, by H. Cloete, new ed., 1899.

III. *Secondary Books*

1. Canada—

Garneau, *op. cit.*
History of Canada, by W. Kingsford, 10 vols., 1887-98 (Vols. V. to X. are concerned with British Canada. They contain a mass of information, but are badly put together, and often inaccurate in details).
History of Lower Canada, by R. Christie, 6 vols., 1848-1855 (contains many original documents).
The Last Forty Years; Canada since the Union of 1841, by J. C. Dent, 2 vols., 1881.
Le Canada sous l'Union, by L. P. Turcotte, 1871.
Canada, Vol. V., Part II., by H. E. Egerton, 1908, of Sir Charles Lucas' *Historical Geography of the British Colonies.*
Self-Government in Canada, by F. Bradshaw, 1903 (contains a good account of Durham's Misson and Report).
Canada in the Twentieth Century, by A. G. Bradley, 1903.
Federal Government in Canada, by J. G. Bourinot, 1889.
Law of Legislative Power in Canada, by A. H. F. Lefroy, 1897-8.

2. Newfoundland—

History of Newfoundland, by D. W. Prowse, 2nd ed., 1896.
Newfoundland, Vol. V., Part III., by J. D. Rogers of Lucas in *Hist. Geography of the British Colonies.*

Biographies—

The "Makers of Canada" Series has supplied lives of most Canadian Worthies. *Lord Dorchester*, 1908, by A. G. Bradley, supplied a want which was glaring.

Life and Times of W. L. Mackenzie, by C. Lindsey, 1862.
Life and Letters of Lord Durham, by Stuart Reid, 2 vols. 1906 (Vol. II. deals with Canada, and contains extracts from account of Durham's Mission, by Charles Buller).
Life of Lord Sydenham,[1] by G. P. Scrope, 1843.
Life and Correspondence of Lord Metcalfe, by Sir J. Kaye, 2 vols. 1854.
Life and Speeches of G Brown, by A. Mackenzie.

[1] A brilliant life of Sydenham by Professor Shortt in the "Makers of Canada" Series appeared in 1908.

Memoirs of Sir J. Macdonald, by J. Pope, 2 vols., 1894 (contains much documentary matter).
Sir W. Laurier and the Liberal Party, by J. S. Willison, 2 vols., 1903.

3. Australasia—

History of Australia, by G. W. Rusden, 3 vols., 1883.
A History of the Colony of Victoria, by H. G. Turner, 2 vols., 1904.
The History of the Australian Colonies, by E. Jenks (Cambridge Historical Series), 1896.
Australasia, Vol. VI., by J. D. Rogers, of Sir C. Lucas' *Historical Geography of the English Colonies.*
The Long White Cloud, by W. Pember Reeves, 2nd ed., 1899.
New Zealand and its Colonization, by W. Swainson, 1856.
History of New Zealand, by G. W. Rusden, 3 vols., 2nd ed., 1892.

On the Commonwealth Constitution consult—

The Constitution of the Commonwealth of Australia, by W. Harrison Moore, 1904.
The Early Federation Movement in Australia, by C. D. Allin, 1907 (is a good introduction to the subject).

Biographies—

Admiral Phillip, by L. Becke and W. Jeffrey ("Builders of Greater Britain" Series), 1899.
The Life of Sir George Grey, by G. C. Henderson, 1907.
Life and Letters of Lord Sherbrooke, by A. Patchett Martin, 1893.
Memoirs of G. Higinbotham, by E. Morris, 1895.

4. South Africa—

History of S. Africa, by G. M. Theal, 5 vols., 1891.
S. Africa, in "Story of the Nations," by the same author, 1894.
S. Africa, by C. P. Lucas, Vol. IV. of *Historical Geography of the English Colonies.*
Britain's Title in S. Africa, by J. Cappon, 1901.
S. Africa, 1895, and *Lord Milner's Work in S. Africa*, 1906, by W. B. Worsfold.

Books relating to the later phases of the South African question are too numerous to specify. The best statement of the case for the Boer War, from the Outlanders' point of view, is contained in *The Transvaal from Within*, by J. P. Fitzpatrick, 1899; *Rights and Wrongs of the Transvaal War*, by E. T. Cook, 1901; and "*The*

Times'" History of the War in S. Africa, ed. by L. S. Amery, Vol. I.

Biographies—

Autobiography of Sir Harry Smith, ed. by G. C. Moore Smith, 1903.

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APPENDIX B

ON COLONIAL ADMINISTRATION

(Compiled from the *Calendar of State Papers* (*Colonial Series*), Vol. III. of *Documents relating to Colonial History of New York*, Mr C. M. Andrews' Monograph, mentioned on p. 537, and the *Colonial Office List*.)

ON COLONIAL ADMINISTRATION

Although the subject of the early administration of the Colonies is dealt with in the text, it may be convenient to summarise certain conclusions here.

1. The first Virginia Charter appears to contemplate a separate Privy Council for colonial affairs.
2. With the failure of such a scheme the Privy Council was the natural authority to deal with colonial business.
3. The Privy Council would naturally act by committees, and so the transition is easy to the Commission (appointed April 28, 1634), to the Archbishops of Canterbury and York, the Lord Keeper, the Lord High Treasurer and some other officers of State, "for making laws and orders for the government of English colonies, &c. &c."
4. The names of the Special Commissioners appointed by Parliament in 1643 to deal with colonial matters should be noted.

Robert Rich, Lord Warwick (*President*).	Sir B. Rudyard.
	John Pym.
Lord Pembroke and Montgomery.	Oliver Cromwell.
Lord Manchester.	Dennis Bond.
Lord Saye and Sele.	Miles Corbet.
Lord Wharton.	Cornelius Holland.
Lord Roberts.	Sam. Vassall.
Sir G. Gerard.	J. Rolles.
Sir A. Haselrig.	Wil. Spurstowe.
Sir Henry Vane (junior).	

5. After 1648 plantation affairs were controlled by the Council of State or special committees of it. At the Restoration a Plantation Committee of the Privy Council was at once set on foot, and new Councils of Trade and Plantations were instituted, which were intended to be, to some extent, representative of trade interests.[1]

[1] Their establishment followed on lines proposed by two merchants, M. Noell and T. Povey.

6. Between 1665 and 1670 plantation affairs were controlled by the Privy Council and its committees; a standing committee for Trade and Plantations being set on foot in 1668. In 1670 the Council for Foreign Plantations was reorganised, its members being paid; and in 1672 the Council of Trade was amalgamated with it; but in 1674 its commission was revoked and its business transferred to a committee of the Privy Council, consisting of the Lord Treasurer, the Privy Seal, and seventeen other members.

[Note that John Locke was secretary of the Council of Trade and Plantations from Oct. 1673 till its dissolution.]

7. In May 1696 a new system was introduced by the institution of the new Board of Trade. The first Board consisted, in addition to certain officers of State, of the Earl of Bridgewater, the Earl of Tankerville, Sir P. Meadows, W. Blaythwayte, J. Pollexfen, J. Locke, A. Hill and J. Methuen. George Dunk, Earl of Halifax, was President of the Board from 1748 to 1761. Lord Shelburne was President for some months in 1763, and Lord Hillsborough from Sept. 1763 to 1772. The Board was finally suppressed by Burke's Act along with the American Secretary of State.

8. Under the Stuarts, although there were two Secretaries of State, there does not appear to have been a regular allocation of the work connected with the Colonies to one of them. Under James I., Sir Robert Cecil, Sir R. Winwood, Sir Robert Naunton and Sir G. Calvert[1] were among the Secretaries of State. Under Charles I. we find Sir Dudley Carleton and Francis, Lord Cottington. In the reign of Charles II. Sir H. Bennett was Secretary of State between 1663 and 1674, Sir J. Williamson between 1674 and 1678, and Lord Sunderland between 1678 and 1681.

9. The following is a list of the Secretaries of State for the Southern Department, which dealt with the Colonies, from the beginning of the eighteenth century till the creation in 1768 of a separate secretaryship for the American Department.

1702—Lord Nottingham.
1704—Robert Harley.
1707—H. Boyle.
1710—H. St John.
1714—Lord Townsend.
1717—J. Addison.

[1] Afterwards Lord Baltimore.

1718—T. Craggs.
1721—Lord Carteret.
1724—Duke of Newcastle.
1748—Duke of Bedford.
1752—Lord Holdernesse.
1754—Sir J. Robinson.
1755—H. Fox.
Dec. 1756—W. Pitt (resigned April 1757).
Reappointed June 1757—W. Pitt.
1761—Lord Egremont.
1763—Lord Halifax.
1766—Gen. Conway.
Aug. 1766—Lord Shelburne.

10. The Secretaries of State for the American Department were—
1768—Lord Hillsborough.
1772—Lord Dartmouth.
1775—Lord G. Sackville Germaine.

11. In 1782 the American secretaryship was abolished by Burke's Act, together with the Board of Trade, and between 1782 and 1786 colonial affairs were dealt with by the Home Office. Their management was transferred in 1786 to a committee of the Privy Council for Trade and Plantations established pursuant to Burke's Act.

12. In 1794 the new Secretary for War became also nominally Secretary for the Colonies, but the Departments were not actually united until 1801, by which time the Committee for Trade and Plantations had ceased to act.

13. The following is a list of Secretaries of State from 1801 to 1854, when the Departments of War and the Colonies were separated:—
1801—Lord Hobart.
1804—Lord Camden.
1805—Lord Castlereagh.
1806—W. Windham.
1807—Lord Castlereagh.
1809—Lord Liverpool.
1812—Lord Bathurst.
1827—F. Robinson (afterwards Lord Ripon).
1827—W. Huskisson.

1828—Sir G. Murray.
1830—Lord Goderich (afterwards Lord Ripon).
1833—E. Stanley (afterwards Lord Derby).
1834—T. Spring Rice.
1834—Lord Aberdeen.
1835—C. Grant (afterwards Lord Glenelg).
1839—Lord Normanby.
1839—Lord J. Russell.
1841—Lord Stanley (afterwards Lord Derby).
1845—W. E. Gladstone.
1846—Lord Grey.
1852—Sir J. Pakington.
1852—Duke of Newcastle.

14. The following is a list of Secretaries of State for the Colonies:—

1854—Sir G. Grey.
Feb. 1855—S. Herbert.
May „ —Lord J. Russell.
July „ —Sir W. Molesworth.
Nov. „ —H. Labouchere (afterwards Lord Taunton).
1858—Lord Stanley (afterwards Lord Derby).
1858—Sir E. B. Lytton.
1859—Duke of Newcastle.
1864—E. Cardwell.
1866—Lord Carnarvon.
1867—Duke of Buckingham.
Dec. 1868—Lord Granville.
July 1870—Lord Kimberley.
Feb. 1874—Lord Carnarvon.
„ 1878—Sir M. Hicks Beach.
1880—Lord Kimberley.
Dec. 1882—Lord Derby.
June 1885—Colonel Stanley.
Feb. 1886—Lord Granville.
Aug. 1886—E. Stanhope.
Jan. 1887—Sir H. Holland (afterwards Lord Knutsford).
1892—Lord Ripon.
1895—J. Chamberlain.
1903—A. Lyttelton.
1906—Lord Elgin.
1908—Lord Crewe.

It thus appears that since the beginning of the 19th century there have been forty-eight appointments to this office. The longest holders were Lord Bathurst (15 years) and Mr Chamberlain (8 years).

15. The following is a list of the permanent Under Secretaries of State for the Colonies:—

1825-1836—R. W. Hay.
1836-1847—Sir J. Stephen.
1847-1859—Herman Merivale.
1860-1871—Sir F. Rogers (afterwards Lord Blachford).
1871-1892—Sir R. Herbert.
1892-1897—Sir R. Meade.
1897-1900—Sir E. Wingfield.
1900-1907—Sir M. Ommany.
1907 —Sir F. Hopwood.

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