

a crisis by declining to assent till the government had proved that it had the support of the House of Commons. Instead, he approved the Order-in-Council at once, and then, apparently, put it in his pocket, knowing that if the government were defeated, either in the House or at the polls, P.C. 1711 would be a dead letter. It can hardly be mere coincidence that Mackenzie's second memorandum is dated on the very day on which Parliament was dissolved, still less that P.C. 1711, with the memorandum of January 2, was not forwarded to London till January 26, and so could not possibly come before the British government before the results of the election were known. The text of the two memoranda follows.

Ottawa.

EUGENE FORSEY

CONFIDENTIAL MEMORANDUM
ON
SENATE APPOINTMENTS

The 26th Section of the British North American Act provides as follows:—

"If at any time, on the recommendation of the Governor-General, the Queen thinks fit to direct that three or six members be added to the Senate, the Governor-General may, by summons to three or six qualified persons (as the case may be) representing equally the three divisions of Canada, add to the Senate accordingly."

This provision was obviously intended to give relief from the rigidity consequent on having a fixed number of appointed Senators holding their positions for life, and find a way to avoid possible complications or inconveniences by giving some elasticity to the system. The only question that can arise at present is whether the existing circumstances are such as may fairly justify the administration in asking the Assent of Her Majesty to the proposal to make the additional appointments.

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The only question that can arise at present is whether the existing circumstances are such as may fairly justify the Administration in asking the Assent of Her Majesty to the proposal to make the additional appointments.

Without venturing to enumerate or anticipate all the cases which might arise justifying the exercise of the authority vested in the Crown by the Act, I wish to point out the existing circumstances which, in my opinion, seem to be a sufficient justification for asking for the authority.

The Government of Canada is carried on, as are all the Governments of the Empire, by the means of active political organizations of a party character. The Senate must be composed of gentlemen holding the political views of one or both of the two great political parties into which political society is divided. Regard must therefore be had to the political complexion of the Senate by every government, as its existence may be to some extent affected by an extremely hostile majority therein.

During the time when the terms of confederation were discussed in the old Provincial Parliaments the Legislative Councils of the then Provinces were nearly equally divided between the two parties. A tacit agreement was made that [illegible] of the two parties should nominate respectively one half of the members of the Senate. It might be said to be "so nominated in the bond." Without such a stipulation the negotiation could not be carried on successfully for although the conservative element was the strongest in the Government the liberal element was strongest in the legislature.

Without venturing to enumerate or anticipate all the cases which might arise justifying the exercise of the authority vested in the Crown by the Act, I wish to point out the reasons which seem to be sufficient, in my opinion, to justify the Government in asking the Assent of the Crown for making additional appointments. The Government of Canada is carried on, as are all the Governments of the Empire, by means of active political organizations of a party character. The Senate must necessarily be composed of gentlemen holding the political views of one or the other of the two great parties into which political society is divided.

The political complexion of this body cannot therefore be regarded with indifference by any Government, as a large and hostile majority in the Senate may affect the Government very seriously, acting in conjunction with a powerful minority in the Commons.

When the terms of Union were under discussion in the old Provincial Parliaments, the Legislative Councils of the then separate Provinces were nearly equally divided between the two parties. An agreement was then entered into by the leaders of the respective parties that the members of the Senate should be nominated by them in equal numbers, that is that each party should nominate one half. This was not, for obvious reasons, provided for in the Act, but nevertheless it might be said to be "so nominated in the bond," as the 14th Resolution of the Quebec Conference states that "due regard shall be had to the claims . . . of the Opposition in each Province so that all political parties may as nearly as possible be fairly represented." Without such a stipulation, the negotiations could not have been carried on with success: for, although the conservative element was strongest in the