

constitutions from that which has taken place in the United States is that, where divergent interests or tendencies in relation to questions other than those of peace and war exist among the members of a confederacy, despotic coercion being out of the question in an association formed on the principle of freedom, the safeguard against disruption is to be sought in local independence rather than in centralization—in the elasticity rather than in the tightness of the federal bond.

The framers express their desire to follow the model of the British constitution so far as their circumstances will permit. Their circumstances are those of an American community, which, like the other Anglo-Saxon communities of America, has left behind it, in its passage over the ocean, the ceremonies of the feudal system—hereditary aristocracy, primogeniture, entails, and the Established Church—institutions peculiarly characteristic of the structure of British society, to which, under the general law connecting the political system of a nation with its social state, the British constitution is adapted. The Established Church has been deliberately rejected by the Canadians; and aristocracy, the introduction of which was distinctly provided for by Mr. Pitt's Canadian Act, has been, if not deliberately rejected, decisively repelled by the nature of the case. In no form has the hereditary principle, so essential to the orthodox creed of British constitutionalists, found its way into the colonies; for the impotence of the hereditary sovereign, who receives at a distance the nominal homage of a self-governed dependency, is delegated to a representative on the spot; and this representative is not hereditary, but the nominee of those who represent the majority in the British Parliament for the time being.

The new North American Parliament is to consist of two Houses. The Upper House is called the Legislative Council; the Lower House is called the House of Commons—a relative term, in itself unmeaning, to which the authors of the

scheme would probably think it too adventurous to give a meaning by calling the Upper House a House of Lords.

The members of the Legislative Council are to hold their seats for life, and are to be nominated by the Executive. This arrangement certainly avoids the objection to which a double chamber in a popular government is generally liable as a futile attempt to make the sovereign people put a check upon itself, which is apt to result rather in a dissipation of the sense of responsibility than in the imposition of a real restraint upon the action of the Lower House. But, on the other hand, it is one the nature and consequences of which ought to be fairly looked in the face before it is irrevocably adopted. It involves, as was before hinted, an important, though indirect, and, perhaps, unconscious fulfilment of the wish expressed by the framers to perpetuate the connexion of the dependency with the mother country. The absolute nomination of a whole branch of the Legislature by the Executive may, perhaps, be endured while the power is exercised by the representative of a monarch, and in the monarch's name. But such a power, exercised by the Executive nakedly and without disguise, would scarcely be tolerated by any community accustomed to responsible government and attached to popular liberty. If the governor-general should ever be withdrawn, this part of the constitution remaining as it was, nobody could step into his place but a king.

The members of the Council are required to have a continuing qualification of four thousand dollars; and (except in the case of Prince Edward Island and Newfoundland) it is to be in real property. The political distinction between real and personal property was, of course, intelligible enough in feudal times, and as connected with feudal duties and services; and it is not surprising that it should be found remaining, together with other traces of feudalism, in the semi-feudal constitution of England. But with reference to modern institutions it would seem to be obsolete,