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THE CANADIAN AND AMERICAN CONSTITUTIONS

A COMPARISON

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IT has happened that I have within the last few years had occasion to attend meetings of bar associations in the United States, and to visit State and Federal courts. Nothing else upon these occasions has so attracted my attention and excited my wonder as the relative amount of discussion of constitutional questions. I do not think I exaggerate when I estimate the time occupied in such discussions at more than one-fourth of the whole. In Canada, on the contrary, perhaps not one per cent. of the time of such bodies is thus taken up.

This is an exceedingly curious or, rather, interesting, point of difference between two peoples largely of the same language, same origin, similar institutions and customs, and actuated by the same motives and aspirations. And it may not be entirely without advantage briefly to consider this difference.

It all rests on the fundamental fact that Canada has in substance the same constitution as the United Empire. The British North America Act of 1867 begins with the preamble "Whereas the Provinces of Canada, Nova Scotia and New Brunswick have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a con-

stitution similar in principle to that of the United Kingdom." This desire was granted.

Now the United Kingdom has in reality no constitution at all in the sense in which the word is used in the United States.

In Britain this or that is said to be "constitutional" or "unconstitutional" as it is conceived to conform or not to conform to the general principles, more or less vague, upon which it is thought the Empire is governed. What these principles are is often a matter of opinion. They are changing from generation to generation and have nowhere an authoritative presentation.

In the United States the fathers of the Union collected what they believed to be the true principles upon which government should be carried. Most of these they got from the Mother Country. These principles were reduced to writing, and so became fixed. No better illustration can be found of the truth of the saying "The letter killeth and the spirit giveth life" than the course since that time of the Constitutions of the two nations. In the old land the Constitution is changing from time to time to meet the advance of the people and change of views. In the United States everything is referred