In so far as it may be intended by the clause to vest in the Governor the full constitutional powers which Her Majesty, if she were ruling personally instead of through his agency, could exercise, it is, of course, unobjectionable. The Governor-General has an undoubted right to refuse compliance with the advice of his Ministers, whereupon the latter must either adopt and become responsible for his views, or leave their places to be filled by others prepared to take that course.

But the language of the clause (which for the suggested purpose would be unnecessary) is wider, and seems to authorize action in opposition to the advice not merely of a particular set of Ministers, but of any Ministers.

Notwithstanding the generality of the language, there are but few cases in which it would be possible to exercise such a power, for as a rule the Governor does and must act through the agency of Ministers, and Ministers must be responsible for such action.

The cases not falling within this limitation may be said for practical purposes to be those in which the line taken by the Governor is purely negative—in which, while dissenting from action proposed to him by Ministers, he does nothing but dissent. Even in such cases I presume no one would contend that any such power should be exercised under this clause save upon the argument that there are certain conceivable instances in which, owing to the existence of substantial Imperial as distinguished from Canadian interests, it may be considered that full freedom of action is not vested in the Canadian people. It appears to me that any such cases must, pending the solution of the great problem of Imperial Government, be dealt with as they arise. Were the clause retained, though in a limited form, it would be found increasingly difficult to divest the Canadian Ministers even in such cases of full responsibility for the action of the Governor; and the question in each case of the relative rights and duties of the Governor and the Ministers would probably be more and more earnestly discussed.

It is, so far as I can see, impossible to formulate any limitation. The effort to reconcile by any form of words the responsibility of Ministers under the Canadian constitution with a power to the Governor to take even a negative line independently of advice cannot, I think, succeed. The truth is, that Imperial interests are, under our present system of government to be secured in matters of Canadian executive policy, not by any such clause in a Governor's instructions (which would be practically inoperative, and if it can be supposed to be operative would be mischievous); but by mutual good feeling, and by proper consideration for Imperial interests on the part of Her Majesty's Canadian advisers: the Crown necessarily retaining all its constitutional rights and powers which would be exercisable in any emergency in which the indicated securities might be found to fail.

I have, therefore, for the reasons suggested here and in the former part of this letter, to propose that this clause should be omitted; the Governor-General's status being determined by our own constitutional Act, that officer remaining, of course, subject to any further instructions, special or general, which the Crown may lawfully give should circumstances render that course desirable.

Clause 6.—It may be proper to observe that the practice for a very great number of years has been that the business of Council is done in the absence of the Governor. On very exceptional occasions the Governor may preside, but these would occur only at intervals of years, and would probably be for the purpose of taking a formal decision on some extraordinary occasion, and not for deliberation.

The mode in which the business is done is by report to the Governor of the recommendations of the Council, sitting as a Committee, sent to the Governor for his consideration, discussed where necessary between the Governor and the first Minister, and becoming operative upon being marked "approved" by the Governor. This system is in accordance with constitutional principle, and is found very convenient in practice. It is probable that the language of this clause is not intended to require a different practice, but it has been thought right to point out the actual working of the system under it with a view to any amendment which may be thought necessary.

Clause 7.—In practice the minutes of proceedings of Council are not read over and confirmed. These proceedings are extremely voluminous, a very large part of the public business which is transacted in England by departmental action being managed in Canada though Council. In the majority of cases the minutes have been in the interval approved by the Governor and acted on. It might be as well, under the circumstances, to omit the words providing for this procedure.

Clause 9 specifies the classes of Bills to be reserved.

It is beyond my province here to discuss the propriety of the clauses of the British