

representatives to the Legislative Council under the Federal Constitution would be limited and they would be appointed for life instead of elected by the people." "For the purpose of securing equality in that House the Confederation would be divided." He then explains why the Senate was not elective. Upper Canada was growing fast and an agitation might arise there for greater representation. "They (Ontario) might object to the Fishing Bounties paid the Lower Provinces, to the money expended there in fortifications or to something else and claim a representation in the Council more in accordance with their population to enforce their views; and in view of such contingencies the delegates from those Provinces conceived it would not be safe to trust their rights to an elective House." At page 22, col. 1, referring to the Constitution of the United States he says: "In this way the smallest state, like Rhode Island, was as fully represented as the State of New York, and if that was considered necessary in a country so compact together as the United States how much more would it not be proper in a Confederation some of the sections of which were separate from each other by long narrow strips of land or wide estuaries, with small representation in the popular branch and looking chiefly to their equality in the Upper Chamber for security for local rights and interests and institutions."

Sir John Macdonald says at page 29, Vol. 1, "We were forced to devise a system of union in which the separate Provincial organizations would be in some degree preserved." At page 35 he says,—"We resolved then that the Constitution of the Upper House should be in accordance with the British system as nearly as circumstances would allow." At page 36 he says, "The provision in the Constitution that the Legislative Council shall consist of a limited number of members—that each of the great sections shall appoint twenty-four and no more—will prevent swamping. The fact of the Government being prevented from exceeding a certain number will preserve the independence of the Upper House, etc." At page 38, col. 1, speaking of the limitation of the number of Senators, Sir John said, "To the Upper House is to be confided the protection of sectional interests: therefore it is that the three great divisions are there equally represented for the purpose of defending such interests against majorities in the Assembly" and further on he says, "For the same reason each State of the American Union sends its two best men to represent it in the Senate." On page 42 he says, "We provide there shall be no money votes unless these votes are introduced in the popular branch of the Legislature." At page 35, top of column 1, Sir John refers to the Powers and Privileges of the Commons. It should be noted that Section 18 of the British North America Act had to be enacted to give the Canadian Houses the Powers and Privileges of the Imperial Houses as there was no provision of this kind in the Quebec Resolutions. The Privy Council has decided that this section does not include legislative power (Keith, p. 558). At page 89, Mr. George Brown says: "But honourable gentlemen must see that the limitation of the numbers in the Upper House lies at the base of the whole compact on which this scheme rests." He went on to say that power to increase the number would sweep away the whole protection they

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had from the Lower House. He shows further that the Senate though nominated is representative. At page 92 he refers to the fact that the Lower House would have control of the purse—Ontario, he says, had seventeen more members than Quebec and the people of Ontario could get fair play. At page 90 he says: "But it is objected that in the Constitution of the Upper House so far as Lower Canada is concerned the existing electoral divisions are to be maintained, while as regards Upper Canada they are to be abolished—that the Members from Lower Canada are to sit as representing the divisions in which they reside or have their property qualifications, while in Upper Canada there is no such arrangement. Undoubtedly this is the fact; it has been so arranged to suit the peculiar position of this section of the province. Our Lower Canadian friends felt that they had French Canadian interests and British interests to be protected and they conceived that the existing system of electoral divisions would give protection to these interests." At page 89 Mr. Brown says: "But it is said that if the members are to be appointed for life the number should be unlimited—that in the event of a deadlock arising between that Chamber and this there should be power to overcome the difficulty by the appointment of more members. Well, under the British system in the case of a legislative union that might be a legitimate provision." At page 88, col. 1, he says, speaking of the loss of influence to Ontario: "Hitherto we have been paying a vast proportion of the taxes with little or no control over the expenditure. But under this plan, by our just influence in the Lower Chamber, we shall hold the purse strings." At page 92, he says, "We are to have seventeen additional members in the House that holds the purse." At page 90, he says, "The desire was to render the Upper House a thoroughly independent body—one that would be in the best position to canvass dispassionately the measures of this House and stand up for the public interests in opposition to hasty or partisan legislation." Mr. Dorion at page 254, at the foot of col. 2, points out that the effect of abolishing the swamping power was to make the Senate entirely independent.

"The Federal Upper Chamber guards in fact the principle of state rights against the numerical majority and the will of the people and its function may therefore be and frequently is the exact opposite of that of an Upper Chamber in a unitary state. In regard to finance this is especially the case. In a federation the smaller states always wish to be protected against the larger ones exploiting the Federal finances to their own profit; hence the Upper Chamber possesses powers of financial control that may fairly be called extraordinary in almost all Federal States." (Temperley, *Senates and Upper Chambers*, p. 15.)

"The United States comprise forty-five independent states, some as small as Cambridge-shire, others as large or larger than Yorkshire or Wales; yet each state has two representatives, and two only, in the Federal Senate. The reason is obvious. The stipulation which each petty state made when it entered the union was that its interests and rights should not be at the mercy of a numerical majority in the Federal Lower House elected on universal suffrage and therefore largely representing the