

COURT OF APPEAL WAS OPENED ON TUESDAY

Notable Gathering of Members of Legal Profession---Attorney General Bowser and Hon. C. E. Pooley Congratulate Judges.

(From Tuesday's Daily.) This is a British Columbia. This morning the first sitting of the new Court of Appeal was opened in the Supreme courtroom at the law courts, and the occasion saw a gathering of members of the legal profession such as has never been seen here before.

Among them were Hon. W. J. Bowser, K. C., attorney-general of B. C.; H. A. Maclean, K. C., deputy attorney-general; Hon. C. E. Pooley, treasurer of the Law Society of B. C.; Sir Charles Hibbert Tupper, K. C.; W. J. Taylor, K. C., H. D. Helmcken, K. C., A. E. McPhillips, K. C., A. F. Luxton, K. C., Fred Peters, K. C., S. Perry Mills, K. C., G. H. Barnard, K. C., M. P. R. T. Elliott, K. C., L. G. McPhillips, K. C., E. V. Bodwell, K. C., A. D. Taylor, K. C., J. A. Harvey, K. C., Stuart Henderson. Others present were Sheriff Richards, John Jardine, M. P. E. Dr. Hall, ex-M. P. P., Chief Langley, R. L. Drury, H. A. Mann.

The members of the court entered promptly at 11 o'clock. Chief Justice Macdonald had seated on his left Mr. Justice Martin and on his right Mr. Justice Irving, who takes the position of senior puisne judge. To the right of the latter sat Mr. Justice Gallihier. In simple formula Registrar Brian H. T. Drake declared the Court of Appeal in session.

Attorney-General's Welcome. The Attorney-General, addressing the court, said: "Your lordships, on behalf of the Bar of the province, I wish to extend to you our hearty congratulations on the position you occupy as the first judges in our new Court of Appeal. Two of your members have, by their past positions, placed themselves in such a position that we can judge of their work, and we can be assured that the same care which has characterized them in

General, very especially indeed for the very kind words you have used towards myself. I remember that we entered the legislature together, and while our courses have not run along the same lines and we have not seen eye to eye I am glad that you are the first to voice congratulations to me on this occasion.

"A question has arisen affecting the status with regard to precedence of my three brother judges. In framing the act under which this court is constituted it was apparently not foreseen that the appointment of the three puisne judges would be made by one order in council, thus making their appointment simultaneous.

"The Court of Appeal act provides that these members of the court shall have rank and precedence amongst themselves in order of seniority of appointment, and as there was no seniority of appointment it became necessary for us to adjust the difficulty. I am very glad to be able to say that my brother judges have approached the question in a most generous spirit, and while we are not unanimous that the statute should be construed as I have indicated, yet the majority are of the opinion that reading the statute and order in council together a condition of things not provided for has arisen, viz., that the three puisne judges of this court are of equal rank and precedence.

"To overcome this defect, a defect which might seriously interfere with the business of the court, my brothers, Martin and Gallihier, have happily solved the difficulty by consenting that my brother, Irving, shall exercise the functions of senior-justice judge."

Treasurer of Benchers. Hon. C. E. Pooley, on behalf of the Benchers of the Law Society and the local practitioners, welcomed their lordships to their high and honorable position and expressed gratification that the Appellate Court was at last



CHIEF JUSTICE MACDONALD, OF THE COURT OF APPEAL, NOW SITTING.

the past will also be found in the future. As to your lordships the Chief Justice and Mr. Justice Gallihier, we recognize that you have had no former judicial experience, but we look forward to the ability and attention you gave to your work in the future to your duties.

"I may be permitted, my lord the Chief Justice, I would recall that we both entered public life in 1902, and I am in a position to attest as to the ability and attention you gave to your work in the legislature, and therefore I can anticipate with a great deal of confidence your performance of your duties in your present sphere.

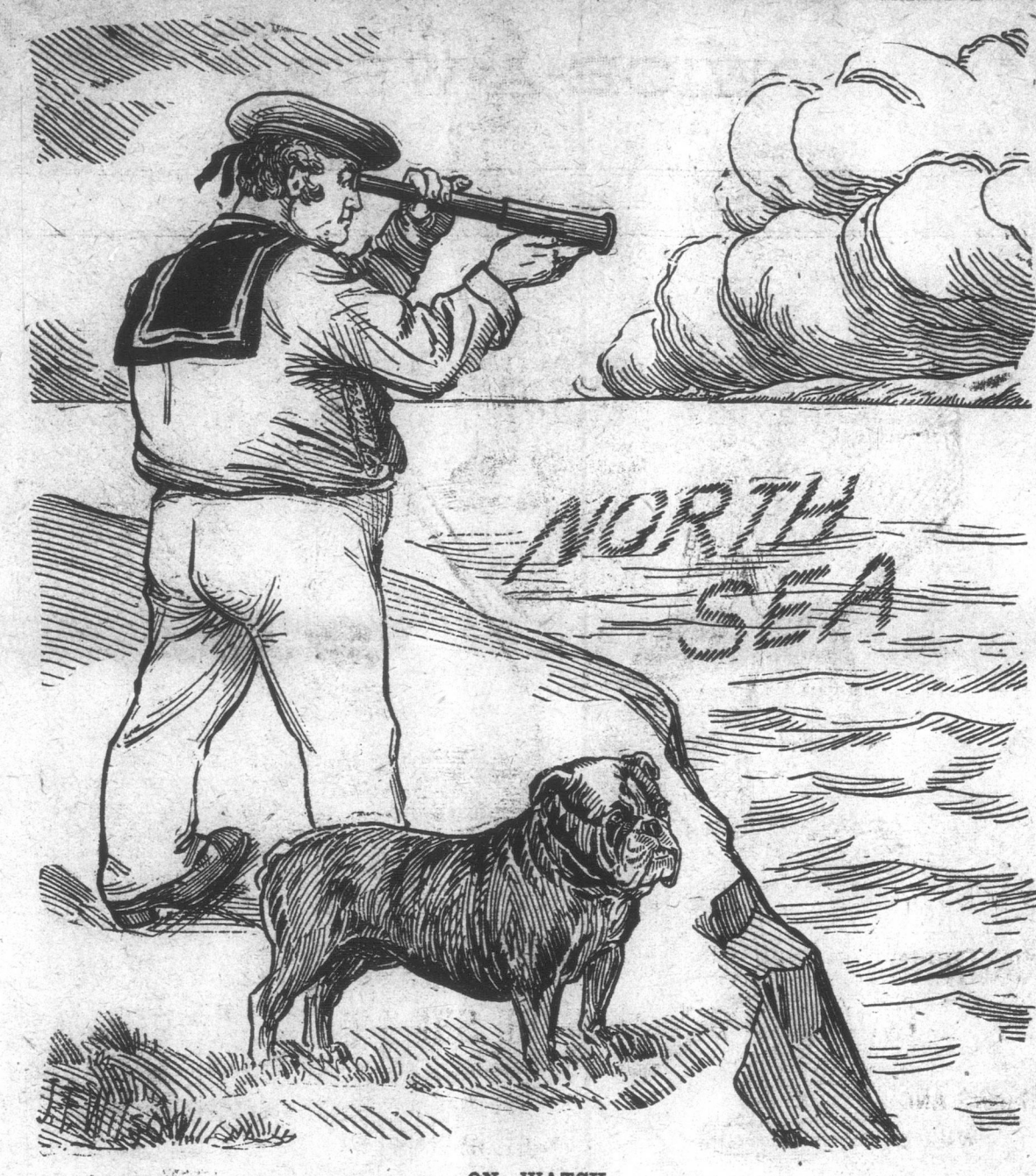
"The public of the province have been looking forward for some time to the opening of this court, and we feel that its work will be done with due expedition, and in that I promise you the co-operation of the profession. I would express to your lordships our best wishes for 1910 and our hope that you may be long spared to grace the Bench."

at work. They now looked forward to business being carried on in a way which would not lead to delays of justice, such as had been brought by causes over which the judges of the Supreme Court had no control, but which were very vexatious to the profession.

Mr. Pooley mentioned that forty-seven years ago to-day he began in connection with the Bar of British Columbia, and he had thus seen the administration of justice develop from the time when there was one judge, one acting-registrar (himself) and one constable. There were also five or six gentlemen through the province, without legal training, who acted as local judges, all of whom conducted business in such a way as to give the administration of justice in British Columbia a high name. This happy condition had always existed and the Bar of to-day had no doubt that the justices of appeal would continue the same high traditions. On behalf of the Bar he wished their lordships a happy New Year and a long judicial career.

The list was then called over, there being sixty-nine cases set down on it, and to these ten more were added. The bulk of the appeals were from the Mainland and these were, with one or two exceptions, adjourned to the sitting in Vancouver in April. There are about twenty appeals to be argued here.

Chief Justice Macdonald stated that the court was quite willing to hold a special sitting in Vancouver on the completion of their work here, for the purpose of bearing any cases that would have come up at the November sitting had the Full Court remained in existence.



County court, arising out of a case in which he had given evidence as to some stray cows. For the prisoner, E. B. Ross contended that the prisoner had been convicted on verbal evidence of what took place before the police magistrate, and that this was improper. Deputy Attorney-General Maclean, for the crown, contended that the conviction was perfectly regular. The argument will be continued this afternoon.

POWERS OF THE CITY COUNCIL

POINTS RAISED AT LAST NIGHT'S MEETING

No New Work Can Be Ordered During Last Days.

When does a civic administration die? Has it the right to transact all public business until its successor has taken office? At what date does a city council, about to relinquish office, cease to be empowered to incur a financial liability which will not be met until a new board has succeeded it?

These very interesting questions were raised at Monday's meeting of the city council, when a motion by Alderman Turner was presented and they were not answered to that gentleman's satisfaction at all. Ald. Turner's resolution provided that local improvement work in the way of boulevarding with curbs and gutters be laid on both sides of Harbinger avenue, between Richardson street and Fairfield road, the owners to pay four-fifths of the cost.

On the motion being read the mayor pointed out that it would be just as well to let the matter stand over for the new council. There was a doubt about the power of the present board in the last days of administration to order this work done. On Ald. Turner appealing to the city solicitor, that gentleman said there was a doubt about the right of the council to order new work at this time, and therefore the matter had better stand over. While there is nothing in the Municipal Clauses Act which says the council shall not exercise full powers conferred by the act from the date of its election until the election of a new board, nevertheless the best authorities were of the opinion that these powers should be a limitation.

This led Ald. Turner to remark that in the opinion of the city solicitor "this council is dead." Mayor Hall: "Not exactly dead, but dying." (Laughter.) Certifying his worship said that it appeared to be the opinion of the city solicitor, who had been consulted in the matter, that the bulk of his last days should confine itself to routine work. New legislative work ought not to be undertaken. In the case in hand the work outlined would call for the issue of debentures, and if the present council undertook to pass on the work it would be infringing on the work of the revenue of the incoming council. The city solicitor said that some three years ago an effort had been made to have the legislature clear up the point by an amendment to the act, but nothing had come of the effort. The Ontario act, which he would like to see copied here, was quite emphatic in giving full powers to the board right up to the moment it vacated office, and if that act had been in effect the point now under discussion could not have been raised.

TO SUE CITY FOR DAMAGES

PACIFIC WAGON WORKS ASK FOR \$3,000

Alleged That Tearing Up of Government Street Caused Loss.

The city is threatened with a law suit which if proved with will determine the right of the corporation to proceed with street improvement work regardless of the inconvenience which may be caused business men along the thoroughfare affected by such work. At Monday's meeting of the council a letter was read from C. W. Bradshaw, barrister and solicitor, informing the board that his client, the Pacific Wagon Works Company, doing business on Government street, corner of Chatham, had instructed him to take action against the city to recover the sum of \$3,000 damages which they had suffered in consequence of the tearing up of the thoroughfare. His clients had complained that the street had been made impassable and left out of repair for an unreasonable length of time, with the consequence that the business had suffered very materially.

Mr. Bradshaw ventured the opinion that while it was clear that the city had the distinct right to tear up any street in order to effect repairs or improvements, it was not clear that it had the right to so prosecute this work as to work a hardship upon any business. In the case in point it would be contended that the city had no reason for proceeding with work on both sides of the street simultaneously, with the result that it was impossible for teams to get out of or into the premises of the Pacific Wagon Works Company.

On it being suggested that the communication ought to be referred to the city solicitor for report to the incoming council, Ald. Ross remarked: "That's right, he ought to establish a kind of sanitarium for all the lawyers in the city. This will mean more work for the lawyers." It was decided to let the incoming council deal with the matter.

EXPLORER COOK MAY GO TO DENMARK

Lonsdale Says He Has Been in Communication With Brookline Physician.

Copenhagen, Jan. 4.—The announcement of Secretary Lonsdale, who bore the Polar star of Dr. Cook to Copenhagen, that he has been in personal communication with the explorer, has given rise to the hope that Cook will come to Denmark and appear personally before the committee of the university that recently rejected his claims as the discoverer of the north pole.

FOUND MURDERED.

Los Angeles, Cal., Jan. 4.—Morgan Schiveley, a conductor on the San Gabriel line of the Pacific Electric railway, was stabbed to death in the home of George A. Stone, where he lived at San Gabriel. Schiveley's nude body was found in a gully a block from the Stone home. A bloody trail led from a

ALBERNI LANDS BEING CLEARED

CONTRACT LET FOR EIGHT HUNDRED ACRES

C. P. R. Anxious to Build Terminals and Shops on Reserve.

The C. P. R. will continue their land-clearing operations on Vancouver Island. Recently a contract was let for the clearing of 800 acres in the Alberni valley, which will be placed on the market as soon as it is ready. This will mean a good deal to that place, and is an indication that the C. P. R. have a good deal of faith in the future of Alberni. The work is also being continued at French Creek.

Speaking on the railway building into Alberni, R. Marpole, general executive assistant of the C. P. R., said this morning that the work had now been all but completed and was being pushed as fast as possible. Not only was the work being continued on both ends but every contractor has started on his particular section. The result will be that it will not be long before the work is completed. The rails will be laid to Cameron Lake by May.

Mr. Marpole is here for a double purpose. He intends to formally present his objections to the Grand Trunk docks before the committee of the board of trade, and he is also taking the opportunity of impressing upon them the necessity of aiding the company in securing terminal rights on the Indian Reserve.

"As soon as we secure a location on the reserve," said Mr. Marpole, "we shall erect our terminal buildings there, remove the machine shops from Wellington, and make Victoria the centre for our Island system. Wellington is not at all convenient for us and we should like to come here if only we could secure the necessary site. I think that the board of trade and the people of Victoria should help to bring pressure on order to have the part of the reserve we require expropriated. You can see for yourself how we are tied up."

Mr. Marpole also spoke of the advantage the hotel addition would be to the city. The company is at present advertising for tenders and will push the work as fast as possible.

COLD IN MANITOBA.

Winnipeg, Jan. 4.—It was fifty below at Brandon last night and 38 at Winnipeg, official registration.

NEWSPAPER PUBLICITY VALUE.

Calgary, Jan. 4.—Evidence of value in newspaper publicity comes in the statement of Doctors Griffin and Barclay, formerly of Greensburg, Penn., but now of Strathmore. They were first interested in Alberta by articles written by Frank Carpenter. After that they purchased large holdings, and now report that their crops this year returned them \$20 to \$25 per acre, and on land costing \$15 per acre.

OVER THOUSAND MEETINGS DAILY

RENEWED ACTIVITY IN BRITISH CAMPAIGN

Chancellor of Exchequer Makes Flying Visit to London.

London, Jan. 4.—The election campaign is entering upon its final and fiercest stage. Over a thousand political meetings daily will be held in Great Britain during this week. Nobody can compute the number of leaflets that will be distributed or the area of wall space that will be covered with posters.

All the party leaders will be actively engaged. Mr. Balfour speaks at Hanley to-day. Mr. Lloyd George is making a round of the metropolis, with a flying visit to Plymouth. Mr. Churchill will visit Dundee on the seventh. Numerous meetings to be addressed by peers, members of parliament and candidates have been arranged by the Conservative central office. The peers will be especially active, 24 speaking to-day and twenty-five on Thursday.

The election in York promises to be keen, and the result is difficult to predict. There are 500 military voters of the Seventeenth Lancers who come on the register. Unionists hope for their support. Mr. Churchill's writing of Hamar Greenwood, says: "As a Canadian, well known and well liked throughout Canada, he has a special responsibility at this juncture."

Premier Roblin's speech is widely quoted, and appears most opportunely on the morning of the publication of Lloyd George's declaration at Reading, when he said: "Our colonial brethren have been watching this budget with great interest, and have been expressing their opinions very fully. They are all thoroughly ashamed of their lordly friends for the way in which they are declining to face the responsibility to pay up like men. I think that on the whole our tariff reform friends are rather glad our kinsmen beyond the seas are not here to take part in the election."

The Daily Express, under the heading "Colonial Premier Refutes Lloyd George," set the foregoing passage in parallel columns with Premier Roblin's fears of the result if the Socialists dominate the British parliament and his argument for the necessity for a general recognition within the Empire of preference for Great Britain over foreigners.

The Standard heads its special report "Danger to Empire Over Premier's Appeal Against Socialist Influences." Radical papers have not published any report of Premier Roblin's speech, though they have fully reported Lloyd George's representations that the colonies are wholly on his side.

As election day approaches, the statements of free lances on each side are growing more reckless. After reading the Radical papers one would really imagine that the Germans in their poverty had no other food than horse-flesh, dog sausages and bitter black bread. A gruesome picture is drawn of a German eating diseased horses and a musty black loaf, to which smart Unionist speakers reply: "The Germans who eat horse flesh and rye bread do so because they prefer it. The German people generally do not live on dejected British workmen."

The United States is being pictured as overflooding with destitute unemployed, "ten millions in California alone," one enterprising journal announces, while those who have work are represented in the Chronicle as paying 20 to 40 per cent higher for food than a few years ago, owing to the trusts. The Manchester Guardian makes great play with what he calls "the American anti-tariff revolt."

Winston Churchill, in a published letter written to a Radical candidate on official board of trade paper, makes the most of these horseflesh and other stories, especially emphasizing American unemployment during the 1907-08 financial collapse.

The Express correspondent, cabling from New York, reports great amusement caused by Lloyd George's description of America as a protectionist Eden, with the serpent of hunger, want and unemployment hissing in every part of the land. In reply reports are cabled from Federation of Labor representatives at 123 of the principal American industrial centres declaring that work is steady, the unemployment problem non-existent and prosperity general.

In comparison with this foreign hunger scare, the peers have dropped into the background, although yesterday the Daily News gives the following in bold type: "Horatio Nelson, the victor of Trafalgar, had a brother, who had a nephew, who had a son, who is at present Lord Nelson. This lordly person has received a pension of \$5,000 sterling per annum for 67 years. This sum, together with moderate interest, amounts to more than \$50,000 sterling. For what? Because he had a brother who had an uncle who had a brother named Horatio Nelson. He voted against old age pensions for the aged poor."

What in fact Lord Nelson scheme was the German contributory scheme by which through the co-operation of employer and state the workmen's old-age pension would have been obtainable at sixty instead of seventy, and for ten or twelve shillings weekly instead of five.

WOMAN ASPHYXIATED.

El Paso, Tex., Jan. 4.—Mrs. Ethel Irwin, wife of General Manager P. E. Irwin of the Southwestern Bell Telephone Company, who came here recently from Salt Lake, was found dead in her bath room here. She was asphyxiated accidentally by gas from a heater.

CITY ENGINEER'S PARTING SHOT

C. H. TOPP SPEAKS PLAINLY TO COUNCIL

Declares That Street Work is Impeded by Lack of System.

"Referred to the incoming council. Such was the course pursued at Monday's meeting of the city council, coming before that body on the case of a communication received from the city engineer, and a motion by Ald. Turner that certain works of local improvement be ordered, there was a debate on the business in hand. In regard to the letter from Mr. Topp, to the statement contained therein to the effect that the city council had acted in ordering street work as to impose a hardship upon the engineering staff."

Mr. Topp points out some of the causes which have delayed several of the by-laws from being closed up. The work, included in local improvement by-laws, are passed by the council in such a manner that the macadam roads and permanent walks are lunched together, and the consequence has been that the sidewalk work has been carried out in advance of the other work, there were complete plants for such sidewalk work and material available, while on the other hand the macadam roadways have had to lay over for want of sufficient apparatus, etc., and road-making material to carry out that class of work. Mr. Topp has always been of the opinion that sidewalk construction and macadam roadways should be included in separate by-laws, and also that the work should be kept in districts as much as possible. Unless this is done no system or economy can be expected in the carrying out of local improvements. In a great many cases the resolutions to undertake works are passed by the council without any consideration of expeditiously carrying out the work, and after the reports are laid before the council several works are grouped into by-laws without the engineer's office being consulted as to the adaptability of such works being carried out to the best advantage, etc., and in conjunction with another.

On a motion being made that the letter be referred to the incoming council, Ald. Fullerton objected to the suggestion made by Mr. Topp that the council had tied his hands. He thought that the department had no knowledge of the various kinds of street work that was being ordered done.

Mayor Hall corrected Ald. Fullerton. The engineer was not complaining about the nature of the work ordered in various by-laws, but to the grouping of streets in different parts of the city in one by-law.

Ald. Fullerton stuck to his guns and declared that if any embarrassment ensued in the engineer's department it was the fault of the city engineer, and that officials must know all about the work from the time of its inception. In fact, in his opinion, the engineer knew more about the street work and the manner in which it was going to be executed than any member of the board.

Ald. Henderson also thought that the complaint of the city engineer was a little far-fetched. When he (Ald. Henderson) was chairman of the streets committee he had invariably consulted with the city engineer in respect to the manner in which the street work was going to be executed. The motion to refer the matter to the incoming council, was then passed.

EXONERATES THE CHIEF.

Police Commission of Cranbrook Investigates Charges.

Cranbrook, Jan. 3.—Rev. Robert Hughes, pastor of the Methodist church here, has been publishing from time to time recently a paper called the Searchlight, the last issue of which contained a serious charge against Cury A. Dow, chief of the city police. A sworn investigation of the charges was called for by Mr. Dow before the police commissioners, Mayor Fink, Jas. Ryan and D. J. Johnson. The inquiry opened on December 21st, when Mr. Hughes produced six witnesses in support of his allegations.

The inquiry was postponed in order to afford Mr. Hughes the opportunity to produce witnesses, and on being resumed, A. J. Fisher of Fernie, appeared as counsel for Mr. Hughes, who stated that he got the information from what he considered a reliable source but had not verified it at the time of publication. He offered no evidence in substantiation of the allegation for which he said he took the fullest responsibility. He admitted writing the article and publishing the paper in which it appeared. He said it was all meant for the public good. He produced no witnesses.

The chief of police on oath gave the most positive denial of the whole matter and was subjected by Mr. Fisher to a cross-examination in which counsel was permitted by the commissioners the widest possible latitude. After the commissioners had consulted for about five minutes they entirely exonerated the chief of police.

BUILDING AT CALGARY.

Calgary, Jan. 4.—Building returns for the year past total \$2,490,622. This merely represents eighty per cent of the value of the buildings erected. Building Inspector Harrison announces that in 1910 the permits issued will total at least four millions. This estimate is considered very conservative in well-informed circles. Permits issued during December show an increase of 240 over the same month last year. Revision of the building by-laws is now taking place, with a view to meeting present requirements.

TARIFF

Balfour De Will Decr - Britai

London, Jan. 5.—Mr. Hanley last night confirmed himself to and tariff reform. He believed that Gern would not come if diplomats of less share this view. Britain was in a the navy which within a year or two would be a naval sea was threatened future.

"I don't believe," is going to be was try and any pr Heaven knows I don't believe it, that absolutely you can secure it all desire is that victory if war tax. The empire exci anco, he said, if I reason the memos sufferance.

Mr. Balfour, con Germans not com erment, but men mentioned actual to say: "Do you should ever allow adopt tariff reform to press private coly, he said this m was nearly as ne our productive c socialistic, and edy socialistic, dence without wh was an absolute. As to the tariff where a tariff had been increased import trade. "The such confidence of the council. On the increase employm classes, while the ing the budget of the welfare of the Balfour said neglected the cha ge and patrioti given them they selves deserved. Concluding, Mr. lieve that tariff point of inhabita is by far the bes Nothing will be producers, and I beyond the seas, overseas have a freely, the value. They have Are you going to

He refused to a party which w who were their a plain step for clo with scorn the in Land.

The campaign phase with the putting emphasis on proposals. He b icy, which, as a priors of small popular, the value taxes. In the Monday, he says ly think land ex except in the cas To make him a credit may be l a different polic Britain. Here, treated almost a Indulge in sh Nothing shall be number of own clever way of ge for the English already inclined privileges of the

Questio Leader-baiting of the moment. hand at avoidin closure of detail ly expects his political enemies o terms, namely, duties he mea prescribe when is his inevitable bably is that he his mind, beyon moderate an leave actual de of the excheque ing on the adficials.

It is underd schemes, fulfilli berlain's ideas, Lord Rober's hol taxes. In the of some of the vory officials of Now it is Pr Yesterday Sir W eyes of the day. "bery" insten "our policy res Lords." Three rested, namely, claims ending Socialist and supporters. Als porting either Lord Roschery's holding that the ing a second ch sentative, and the importance of the Grey, he verbal ahead of Mr. favor of an chamber.

Power There meant Ing, which mean of the Lords, v sition of the ho