be obeyed. So it is with the Canadian legislatures, when acting within the topical limits of their legislative powers. It is this unrestricted power to legislate which makes the Constitution of Canada similar to that of the United Kingdom and not to that of the United States. And what Mr. Dicey declares to be "official mendacity" is as nearly a declaration of the truth as the circumstances permit, *i.e.*, the Constitution of Canada is as nearly like that of the United Kingdom as it is possible for a subordinate system to be like that from which it derives its being.

From what has been said, and for other reasons which need not be enlarged upon here, it is evident that the learned writer's assertion that our Constitution is modelled upon that of the United States cannot be supported.

(ii.) *The impossibility of changing the Constitution.*—Upon this Mr. Dicey says:—"The Constitution is the law of the land; it cannot be changed either by the Dominion or by the Provincial Parliaments; it can be altered only by the sovereign power of the British Parliament."

This is only partly true of the Dominion. It is entirely untrue of the Provinces; and it is inconceivable that one who professes to instruct upon the Constitution of Canada should have fallen into the error. The very first article of the 92nd section of the B. N. A. Act (defining the powers of the Provinces) provides that the legislature in each Province may exclusively make laws in relation to "the amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant-Governor." What the Provinces may or may not do under this article is, as yet, problematical, but it may perhaps be with safety predicated of them that they can neither restrict nor enlarge the topical limits of their jurisdiction. It is apparently certain, however, that they may change the nature or composition of their legislature; thus, a Province having two Chambers might abolish one—a Province having but one might create a second. It is worthy of observation that any constitutional change made under this article would be but a poor safeguard, inasmuch as the Act embodying the change might be repealed at the pleasure of the legislature. The Provincial Legislatures, therefore, are above the Constitution in the sense that they may alter it, though they are subject to it in respect of the topical limits of their legislative powers.

This is, however, not the only constitutional change that may be made without the intervention of the Imperial Parliament. It has been said that Mr. Dicey's assertion is only partly true as respects the Dominion. This is apparent from the 94th section of the B. N. A. Act which was passed with a view to a closer union of the English Provinces. It is as follows:—"Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof."

In the face of these very plain enactments it is inconceivable that it should be said of the Constitution of Canada, "throughout the Dominion, therefore, the Constitution is in the strictest sense the immutable law of the land."

(iii.) *The disallowance of Provincial Acts.*—Speaking of the distribution of powers, the learned writer says: "In nothing is this more noticeable than in the authority given to, or assumed by, the Dominion Government to disallow Provincial Acts which are illegal or unconstitutional. This right was possibly given with a view to obviate altogether the necessity for invoking the Law Courts as interpreters of the Constitution. . . . In Canada, as in the United States, the Courts inevitably become the interpreters of the Constitution."

If the learned writer's attention had been sufficiently occupied with the provisions of sections 56 and 90 of the B. N. A. Act, he would not have left it a matter of doubt for his readers whether the authority to disallow Provincial Acts was actually given to, or only assumed by, the Government of Canada. Such an assumption of power, in the absence of express enactment, would be as illegal, as unconstitutional and as utterly futile as it would be for a Lieutenant-Governor to affect to disallow an Act of the Parliament of Canada. That such an assumption of authority would not be tolerated for a day it is needless to write.

It is an error, though not an uncommon one, to suppose that this authority was given to the Queen and the Governor-General respectively for the purpose of disallowing Acts which are "illegal and unconstitutional;" and it is at variance with the conclusion of the learned writer that "the Courts inevitably become the interpreters of the Constitution." To make the Governor-General in Council the arbiter of the constitutionality of Provincial legislation would produce the most serious conflict between the Dominion and the Provinces, resulting, probably, in the complete destruction of Provincial independence. If the Governor-General in Council had authority to disallow a Provincial Act on the ground of its unconstitutionality, he would as a necessary consequence have the right to say that the same Act, if passed by the Dominion Parliament, would be constitutional; for if the power to pass a particular Act is not with the Provinces, it resides with the Dominion. The Dominion would therefore be able to usurp all the legislative functions of the Provinces; and as there is no appeal from the disallowance of an Act the power might be exercised in the most despotic manner. This of itself would be a sufficient reason for withholding such a power from the Dominion.

But it is abundantly evident on other grounds that the learned writer does not give the correct reason for the existence of the power of disallowance. An Act which is illegal or unconstitutional does not require disallowance. If it is illegal it is void *ab initio;* it never has any force; it need not be obeyed; it is not a law. It is possible, of course, for the power of disallowance to be exercised in respect of an Act which is said to be unconstitutional or doubtful; and that sets the matter at rest—for the time, at any rate. And perhaps this course would be the most prudent and beneficial one for the public. At present, if any tentative measure is passed into an Act, it disturbs the course of business until some one rich enough to bear the cost of a very expensive lawsuit procures a decision upon its legality. The authority to disallow was created, however, not for this purpose, but for the purpose of preventing the going into force of valid Dominion and Provincial Acts, which would have the force of law, and which would interfere with Imperial or Dominion policy. Other reasons than this have been given for the disallowance of Acts, but it is evident that the reason for creating the power was not to prevent the coming into force of Acts which never could have any force.

Edward Douglas Armour.

THE U. E. LOYALISTS' CENTENARY VOLUME.

A few weeks ago, on the bi-centennial of the Revocation of the Edict of Nantes, the descendants of the Huguenots celebrated the most illustrious and the most touching of all the heritages of misfortune. They celebrated it in a manner worthy of its character, solemnly, devoutly, without bitterness and without boastfulness, though for bitterness there was excuse enough, and boastfulness might not have been unpardonable, since in the armies which defended the independence of Europe against the common tyrant and aggressor, many a Huguenot found a glorious grave.

Nearly at the same time the United Empire Loyalists celebrated their centennial here, and the report of their proceedings, which they have published, naturally suggests an historical comparison. But the two cases were not exactly parallel. The Huguenots were voluntary exiles for conscience' sake. They gave up all, as their kinsmen had sacrificed their lives, for a principle which they had only to renounce in order to live secure and prosperous in their own country. The exile of the U. E. Loyalists, though honourable, was not voluntary. Most of them would have been content, had they been permitted, to remain in the American Republic, where, we may be sure, many of their descendants are now to be found. To speak of them as having left their homes because they abhorred Republican institutions, and could only live under a Monarchy, is therefore incorrect. They were expelled by acts of attainder, of the folly and cruelty of which all reasonable Americans are now sensible. They claim our historical sympathy, and will always receive it in unstinted measure, not as martyrs to a principle, but as victims of a great wrong.

It can hardly be said even that it was on the grounds of principle, or as adherents of the Monarchy, that they were expelled. Revenge for their conduct during the War, and for the outrages which they were alleged to have committed, appears to have been the principal motive which induced their enemies to shut upon them the gates of mercy. After the first stages of the contest, and when the disastrous folly of the Royal commanders had driven most colonists of the higher class into the arms of the rebellion, the Loyalists were probably for the most part people of the poorer and less settled class, in whom personal attachment is usually stronger than respect for constitutional principles, and who would be apt, when let loose upon rebels, to break the laws of war and fall into the habits of marauders. I have before me a pay-roll of Butler's Rangers, from which