in some of the other overseas Dominions. It would be quite unjust, however, to assume that this criticism is conclusive against the Committee as professional lawyers of great technical knowledge and skill have always made similar complaints against every new court of law which has ever been created in the history of jurisprudence.

What, then, shall be done? Shall the right of appeal from Canadian courts tothe Judicial Committee be continued or shall it be abolished? We need scarcely point out that, as in all similar contentious matters, there is something to be said on both sides. Those who advocate that the right should be continued, point out that to abolish this right would virtually amount to a complete Canadian declaration of independence on all matters affecting the administration of justice in Canada, that it would sever all vital sympathy between the administration of justice in Canada and Westminster, the source and foundation of the whole law of England at home and overseas, and would forever deprive His Majesty's loyal subjects in Canada of carrying their just claims to the foot of the Throne and placing them before their recognized Sovereign for final settlement. The advocates of abolition, on the other hand, point out that the Canadian courts are quite capable of taking care of the administration of justice in this Dominion, that as a matter of fact, the members of the Judicial Committee know much less about peculiarly Canadian problems than the members of our own higher courts, and that carrying appeals to the Committee imposes a heavy unnecessary expense and burden upon suitors, especially suitors of small pecuniary resources. We need scarcely point out that it is not for us to decide this question. It may be pointed out, however, that there is a third alternative, viz., the enlarging the competence of the Committee by the appointment of a larger number of eminent jurists from all parts of the Empire who shall devote their whole time to the business of the Committee and by limiting the right of appeal to cases of an international and constitutional character or to cases of admittedly great importance and significance in the law.

IV.

THE LAW-MAKING POWERS OF THE IMPERIAL PARLIAMENT OVERSEAS.

One of the peculiarities of the Canadian constitution comes from the fact that its statute law is derived from three sovereign legislative sources—the Imperial Parliament at Westminster, the Dominion Parliament at Ottawa, and the legislatures located at the capitals of the several constituent provinces in the union. No situation similar to this has ever arisen, hitherto, in the history of government. Let us, then, examine it carefully.

There are four outstanding constitutional formations of large fundamental, massive design in the history of government—the organic formation, the federal formation, the imperial formation, and the league formation.

Under the organic formation there is a single sovereign parliament or legislature for all purposes of organized government, as, for example, in Great Britain or France.

Under the federal formation there are two parliaments both equally sovereign and final, each within its own exclusive ambit of authority, as, for example, in the United States and to a lesser degree in Canada and Australia.

Under the Imperial formation there are two parliaments, one supreme and final and the other subordinate and limited in power, as, for example, in the Union of South Africa and, as we shall see, to some extent in the British Commonwealth itself.

Under the league formation two or more admittedly free sovereign and equal states enter into a constitutional contract by the provisions of which they solemnly agree to be bound in the future. Most of these leagues in the past have been formed for purposes of war and are more commonly called alliances, but there is no reason in the world why they should not be formed for purposes of peace, affecting all matters of human interest and importance common to all the signatory states.

The constitution of Canada and the Empire, then, may perhaps be defined as a federation within an Empire moving, slowly but safely, and we hope peacefully, in the direction of a league. Until a few years or decades past, however, it was mainly a federation within an Empire, a framework composed of federal compartments within and Imperial buttresses without. Some of the buttresses still remaining may be burdens, some of them may be sound, some of them unsound, but even now we venture that no skilled architect of statecraft would advise that they be wholly destroyed until he had carefully inspected the whole original edifice in order to discover what effect their removal might have upon the rest of the building and the safety of the neighbourhood.

At the present time, however, there is no doubt that the Imperial Parliament, elected though it be by the voters of Great Britain, has by law unlimited reserve power to make laws for the peace, order and good government of the Canadian people both in external and internal affairs. The existence of this power by strict law has never indeed been seriously challenged. It is recognized for example, beyond all question by the terms of the Colonial Laws Validity Act of 1865 which provide that while statutes of the Imperial Parliament ordinarily speak only to the people of the United Kingdom, they may, nevertheless, be extended by express words or necessary intendment to any or all of His Majesty's overseas dominions, and that when so extended they overrule all conflicting or repugnant provisions in the statutes of the overseas parliaments. As a matter of fact there are a large number of statutes of Imperial origin of this class administered every day in the courts of Canada. The B.N.A. Act itself is one of these acts and, therefore, this act cannot be repealed or amended in any way except by the Imperial Parliament. There are also, as every lawyer knows, a large number of other purely Imperial acts affecting constitutional questions, international relations, military service, naval bases, merchant shipping, the extradition of criminals, immigration and naturalization, evidence and many other branches of the law. As long, therefore, as this power is held in reserve by the Imperial Parliament, Canada still retains in strict law some colour at least of her colonial status in the Empire. It should be pointed out, however, that this power has never been seriously exercised in recent years without the consent of the Cabinet or the Parliament of Canada. Like some other superseded institutions already referred to in this outline, having served its day, it has been laid reverently away. Whether this last reserve of power to initiate legislation applicable to Canada should be wholly swept away by express abdication of the mother parliament is, I need hardly say, one of the two main issues in the case between Canada and the Motherland. The second main issue is now to follow.

V.

THE POWER OF THE IMPERIAL CABINET TO VETO OR DISALLOW CANADIAN LEGISLATION.

Read again Sections 55, 56 and 57 of the B.N.A. Act. Briefly these sections provide that an authentic copy of every Act of the Parliament of Canada must be sent by the first convenient opportunity to the Colonial Office at Downing Street when His Majesty upon the suggestion of the Colonial Secretary and by and with the consent of His Imperial ministers, may either allow or disallow the Act within a period of two years after its arrival. This sounds ominous. We must remember here again, however, that these sections were quietly, although this time not so reverently, sent to the archives about thirty years ago and have not since seen the light of day. Indeed it is now quite safe to say, the spirit and practice of British government being what it always has been, that these sections will never be acted on again in the future unless the Parliament of Canada should attempt to enact legislation clearly calculated to put in peril the intertsts and just rights of other parts of the Empire. Whether these sections should be struck out of the Act altogether and this last reserve of veto power taken away from the authorities at Downing Street forever and a day is, as I have just said, the second and most acute main issue in the case between Canada and Great Britain. Let us now turn to the sixth and last link or buckle which binds Canada to Great Britain and Great Britain to Canada.

VI.

THE IMPERIAL CONFERENCE.

We shall say but little about this Imperial institution. Of recent date the nature of the conference is at present admittedly wholly experimental and its future highly problematical. It has no real established constitutional status. It is neither Cabinet, Parliament, Court of Law nor any other known type of constitutional entity. Whether it will ever take on any measure of legal authority or even any great measure of advisory authority having by common consent the force of law, only the future can tell. There are a great many Canadians, however, who sincerely hope that it may in time mature into an institution or organ of real effective imperial unity. It is not the plan of this author, however, to advocate what institutions ought to be, but only to present an analysis of actually existing institutions with touches of appreciation here and there wherever appreciation may serve to illuminate the subject.