

regulation by means of strict laws properly enforced is possible in England, he does not see why it should be so hard to secure in America. All who are interested in the subject ought to read the article in the *North American Review*.

Among the many epithets that have been applied to the age in which we live, the latest and not the least appropriate (especially in view of the tendencies of industrial and commercial enterprise in the United States) is that of the age of trusts. Those who have made up their minds that the tendency in question is in the natural course of things and therefore resistless, have received a shock from a decision of the New York Supreme Court at its general term last week. The case was that of the People against the North River Sugar Refining Company, which had been dissolved by Judge Barrett on application of the Attorney-General. An appeal was taken, and the General Term sustained the judgment of the lower court. The decision was based on the proved fact that "the governing object of the Association was to promote its interests and advance the prosperity of its associates by limiting the supply when that could properly be done and advancing the prices of the products produced by the companies." Such being the case, and the objects in view being "the removal of competition and the advancement of the prices of necessaries of life," the Company is "subject to the condemnation of the law by which it is denounced as a criminal enterprise." The plea that other combinations might compete with it and counteract the effects indicated was not admitted, the aim and practical result of the company's operations being to make competition impossible.

The result of the late elections in Newfoundland will probably be to throw the French shore question back into the vexing complications from which Sir Robert Thorburn's policy had set it free. Sir William Whiteway, who has won the fight, is determined to annul the Bait Act, and thus to place the French shore fishermen once more at the mercy of their alien rivals. In England, possibly, the change will be welcomed, as France had remonstrated (as was natural) against the operation of the excluding law. But with the restoration of the French to their old privileges, the Newfoundlanders of the coast are placed at a serious disadvantage, and all the old controversies and disputes will be renewed. The situation is deplorable at best, and it is a pity that two friendly powers, like France and England, cannot come to a definite settlement, which would free the Queen's loyal subjects in Newfoundland from an anomalous and intolerable position.

### THE PRIVY COUNCIL OF CANADA.

During the last few years the study of constitutional questions in Canada has yielded some important works. The late Dr. Todd, the late Mr. Doutre, Mr. E. Lareau, Dr. Bourinot, the late Judge Loranger, Senator Trudel, the Hon. Judge Wurtele, the Hon. Mr. Chauveau, Mr. Recorder DeMontigny, Mr. P. B. Mignault, and a number of others have written from different points of view on our constitutional history and practice. The subject has also been attracting considerable attention in England, where a work on "The Constitution of Canada" has just issued from the Cambridge University press. That these works should be all in entire agreement or that their combined wisdom should leave no question unsettled is hardly to be expected. The sources of authority to which they

refer us for the law and custom of the constitution are the same, but their interpretation of some of those sources varies. There is one point on which this variation is especially marked—that of the Queen's Privy Council for Canada. Some of them seem to regard it as equivalent to the Cabinet. Others leave the matter in doubt, and others do not appear to have given it any consideration. According to the 11th section of the British North America Act there was to be a council to aid and advise in the government of Canada, the members of which should be from time to time chosen and summoned by the Governor-General and sworn in as Privy Councillors. The members of this council might from time to time be removed by the Governor-General. Now, it is well known that the only persons so far nominated to the Privy Council have been members of the successive governments which have been in power since 1867. But Privy Councillors retain the title of "Honourable" after retiring from office, and, moreover, provision is made for such ex-cabinet ministers in the table of precedence. Members of the Privy Council, who are not of the cabinet, take rank immediately after the chief judges of the courts of law and equity. It is evident, therefore, that the Privy Council and the Cabinet are not identical. The Privy Council consists of the whole number of persons who have been sworn in as members of that body on taking office in any administration since the federal system was established. That is implied by the rules of precedence, both original and amended, and it is simply the following out of British usage.

The English Privy Council is, it is true, a much more comprehensive and complex body than that of Canada. A certain number of persons, besides Ministers of the Crown, are ex-officio members of it. It includes, for instance, the members of the royal family, the two archbishops and the Bishop of London, the judges of the Court of Appeal and other high officials. Ireland also has its Privy Council, which comprises, besides the members of the cabinet who are associated with the government of Ireland, certain judicial dignitaries and other important functionaries. Scotland has not had a Privy Council since the sixth year of Queen Anne's reign. To the British Privy Council persons may be admitted as a special mark of distinction, such as was conferred on Sir John A. Macdonald. The Council, through its committees, discharges certain important duties, both administrative and judicial. The Board of Trade, the Committee of Council on Education, and the Judicial Committee (which has been a permanent court of ultimate appeal since 1833) are instances of the jurisdiction which it thus exercises.

Some of the writers whom we have quoted seem to look upon the cabinet as the legal reality, privy councillors as such being, in their estimation, doubtful entities that "come like shadows, so depart." Mr. Munro says, for instance, that "these 'honorary' members are not in law members of the council." It is, on the contrary, the cabinet that has no place in law. One of Mr. Gladstone's most interesting essays bears on the anomalous position of that body and of its head in the British Constitution. It has been called a committee of the Privy Council, but such a description is inaccurate. There are, as we have just seen, several such committees, but the cabinet is not one of them. It has "not even this sanction to sustain its existence," says Mr. Gladstone. "It has and acts simply by understanding, without a single line of written law or constitution to determine its relations

to the monarch or to the parliament or to the nation, or the relations of its members to their head or to one another." As to the "Premier," Mr. Gladstone says: "He has no official rank except that of a Privy Councillor. His rights and duties as head of the administration are nowhere recorded. He is almost, if not altogether, unknown to the statute law." It is in harmony with the political genius of Great Britain that these points should have been left indeterminate by the framers of our Constitution, to be settled according as tradition and usage and our peculiar needs might suggest. We believe, therefore, that Mr. De Montigny, with whom Mr. Gemmill agrees (or *vice-versa*), is correct when he defines the Privy Council as composed of all the members already nominated, and the cabinet of those members of it who are actually *en fonction*. Whether, in the course of time, our Privy Council may, like its model, be turned to account, as a whole, for the service of the nation, by being parcelled out into committees, is a question for statecraft. If we allow for different conditions, its composition is not unlike that of its English exemplar. It is made up of members of either house of Parliament, of judges of the Supreme and other courts, and of Lieutenant-Governors. For the consideration of a certain class of questions a committee composed of such statesmen *emeriti* would be better qualified than the ablest minds in Great Britain, lacking as they must, their familiarity with Canadian needs and their sympathy with Canadian aspirations.

### WHAT MACKEREL FEED ON.

The contents of the stomachs of mackerel were preserved on two days only, May 10 and May 13. The size of the fish was from 11 to 13½ inches in length. On the first day mentioned the quantity of food taken from the stomachs averaged 4 drams to a stomach; on the second day it averaged 5⅓ drams, except in the case of one specimen, which afforded 8 drams. The average quantity of food to a stomach, therefore, agreed very closely with the average results of surface organisms when towing with the 12-inch net. These deductions, however, are based upon too few observations to have any special significance. It is well known that the surface organisms serving as food for mackerel and other pelagic fishes are very unequally distributed, and are constantly changing their position, appearing and reappearing under the varying conditions of the water and atmosphere. While sometimes they are apparently absent over wide areas, at others they form dense clouds, plainly distinguishable by their colour. Such swarms would readily attract the schools of rapidly-swimming fishes, while they might easily escape the notice of a fishing vessel moving slowly from place to place. It is also probable, from previous observations of the Fish Commission, that the mackerel feeds to some extent below the surface. As to the character of its food the mackerel probably exercises little discrimination, but swallows all the smaller objects occurring in its path. Certain species, or groups of species are, however, much more abundant than others, and these are recognized as its common or appropriate food. Such are the copepods, the pelagic amphipods, some of the pteropods, and perhaps *Sagitta*. On the present cruise several species of copepods, *Themisto bispinosa* of amphipods, *Spiralis*, species of pteropods, and *Sagitta elegans* were the most common and wide-spread, and they were all abundant in the stomachs examined. —*Bulletin of the United States Fish Commission*.

The first part of an illustrated serial edition of Dr. Cunningham Geikie's "Holy Land and the Bible" will be published soon, by Messrs. Cassell & Co. The designs for the illustrations have been prepared by Mr. Henry A. Harper, of the Palestine Exploration Fund, who has spent several years in the East preparing drawings for the work.