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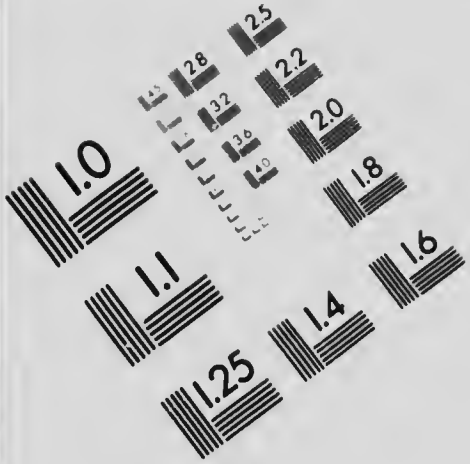

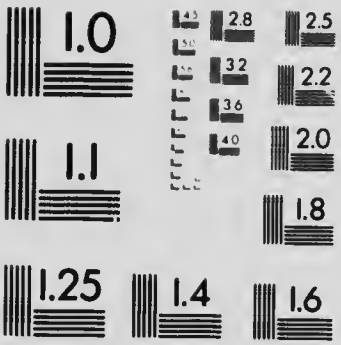

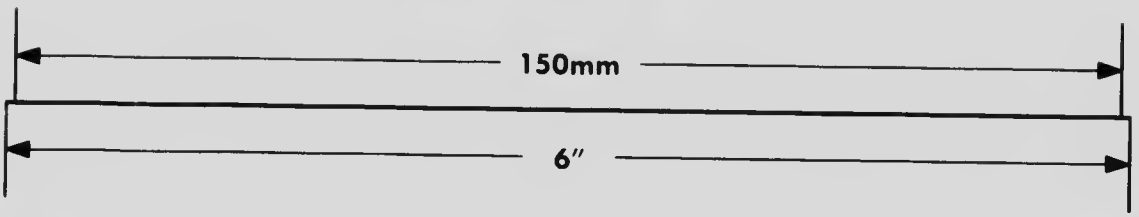

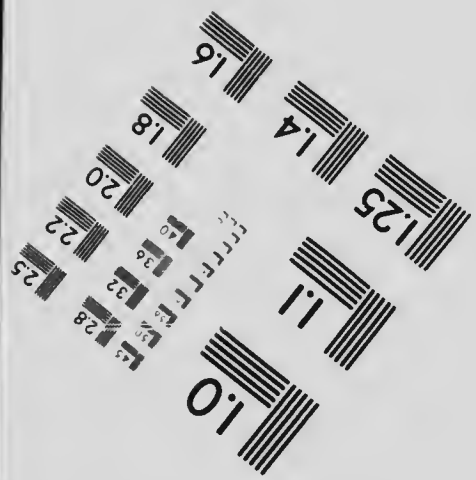

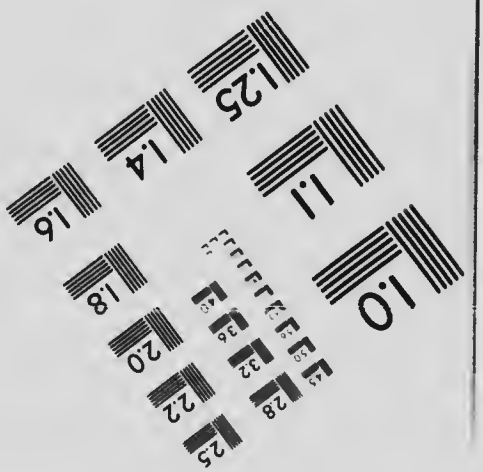

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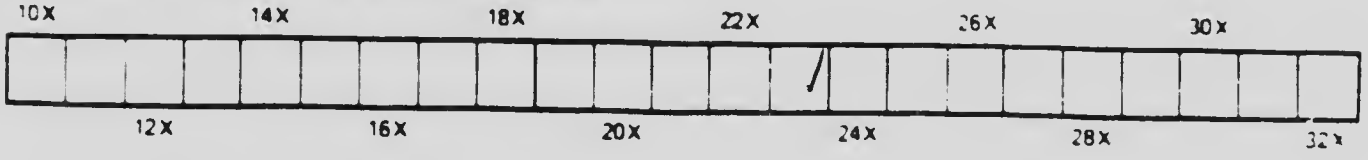

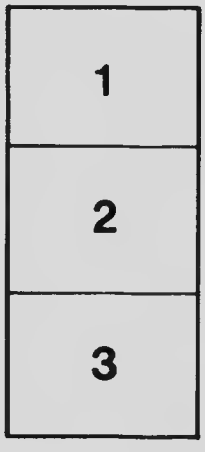

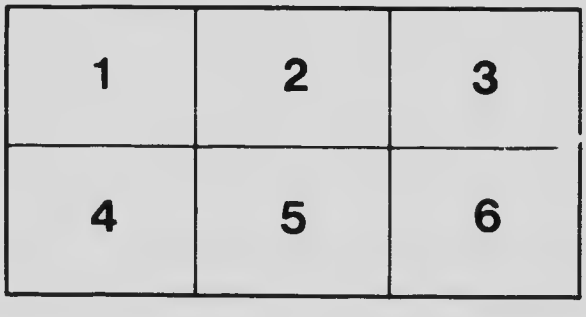

PRESIDENTIAL ADDRESS BY

SIR JAMES AIKINS, K.C.

at the

Fifth Annual Meeting

of the

Canadian Bar Association

Ottawa, September 1st, 1920

PRESIDENTIAL ADDRESS

By Sir James Aikins, K.C.

At this meeting there is submitted for your consideration the propriety of incorporating the Association. Some four years ago, a resolution was passed approving. Notice of application was published but by reason of the war diverting our attention and energies, no further steps were taken. Many have expressed the view that it should now be done, for the reasons, among others, that the certainty, continuity and capacity of a legal entity having for its purposes those of the present voluntary Society would soon develop a corporate consciousness and soul which would claim the allegiance and command the support of the whole profession in Canada and would unite it; that while preserving the present absolute autonomy of the official Law Societies and Councils and Bar Associations of the Provinces, it would place them in harmonious relation, and through concerted action promote a higher standard of education, better quality and greater efficiency in the Canadian profession. That it would be capable of holding property for the Association and incidentally for the publication of journals, dissemination of information of interest. That this and more frequent intercourse would create such a bond amongst us we would soon realize that the advancement of the whole body would mean benefit to each person composing it. And because lawyers, by reason of their careful training, their varied experience, and, usually, their public spirit, are natural leaders of the people in public affairs, greater unity of the profession would lead to the much needed and greater unity in thought and action among the peoples of Canada and to like mindedness and singleness of heart and soul in the interest of our country. If incorporation will even tend in that direction, will it not, altogether outside of purely professional purposes, be worth while?

The war was a test of Canadian spirit and strength. These stood that test and developed under it and Canada became conscious that it was not only a national entity but capable of national and international responsibility and should assume it. That consciousness means a quick unfolding and putting forth of its powers. Should that movement be too rapid, reaction will result, a thing devoutly to be avoided. A special duty rests upon our profession both on the Bench and at the Bar, for we are the agents and ministers of the law. By public statute in each of the provinces we have been organized for the service of the people and to that end protected, only however up to the point where our years of preparation for that service may be compensated by a fair living with hard work and not destroyed by

filibusters. Further the people understand that by education and experience we are tenacious of those laws and customs which have been of value in the past and, modified when necessary, are of value in the present, and they look to us as safe and constructive advisers and leaders in national activities. Like Saul of old who when selected King shrank from public service and the pillory of criticism and hid himself among the stuff, so we too fain would there hide ourselves and avoid the citizen's burden of serving the people according to our several ability. Through a general neglect of that service in our country of popular suffrage our people are in imminent danger of the despotism not so much of individuals as of classes, organized on the principle of every one for himself and the de'il take the hindermost, which results as the de'il would have it in his taking all. I am sure many will say all this is didactic and ethical. Those of us who with measured step and slow are moving off the stage appreciate it, but may I persuade the younger members to an acceptance of the call of our nation and of their unprecedented opportunities to help in its government. Let me point to what lawyers have done in serving Canada in municipal, provincial and national politics — using that word in its generous meaning — and without indicating that others are less worthy, to the Prime Ministers from the Bar Canada has had: Macdonald, Abbott, Thompson, Laurier, Borden, and, as a lawyer, with pride I mention Meighen. Gentlemen we have not all or always agreed with premiers, their policies or their methods, nor is that expected. But should we not regard our citizens who with high purpose volunteer for public service as we regarded our soldiers who, impelled by inward conviction, fought for us. Each though in a different sense takes his life in his hands, each has to deny himself, each is endeavouring to do his duty, each is influenced by one thought, how best to serve his country. Ours to criticize and enquire, but in that charity which thinketh no evil and is kind, to condemn unequivocally the wrong, but to encourage and applaud every sincere and honest effort. Canada has had a wonderful beginning. To our people spring from vigorous races, Great Britain willingly and in kindness gave protection while we established in this new land these fundamental British principles, protection of person and property, fair and prompt trial of offences and disputes by a system of qualified judges, of advocates and juries, freedom of religious worship, of speech, of press, of assemblage, government of people by themselves and indeed all those things which pertain to our civilization, a civilization which rests upon Christianity.

If we only had that intense race consciousness that characterized Jewry, we might hear the British spirit which enfolds us proclaim:

"Behold I lay in (Canada) for a foundation a stone, a tried stone, a precious corner stone, a sure foundation," and the rule for the building of our superstructure is declared: -

"Judgment also will I lay to the line and righteousness to the plummet."

As our British parent built not in haste but steadily, not for passing pleasure but for permanent good, not at any angle or curve or crookedly but on the straight lines of judgment and righteousness, so should we endeavour to build a stately national structure, the truest, most beneficient, and the most enduring of the ages.

There are three prospects which Canadians should contemplate. Canada as a developing nation and its duty to itself, its relation and duty to the Empire in which it is an integer; its contact with its friendly neighbour and the bearing of that contact. All lawyers and indeed all students of British constitutional history know that the persistent practical wishes of a free self-governing people and their substantial aspirations, their faith, if you prefer the word, for "faith is the substance of things hoped for," will almost invariably express themselves in concurrent laws and rules of conduct, and if there should exist old unabolished forms and unused regulations inconsistent with that wish and faith of the people, judges and lawyers will treat them as inapplicable or sidestep them as in the past by legal fictions. This is true of Canada as a developing nation.

Canada As A Developing Nation

Though the provinces then existing and now part of Canada had a large measure of self-government before the British North America Act was put into operation on 1st July 1867, that is our natal day as a nation. The Act and its six amendments together with such documents as the Magna Charta, the Petition of Rights, the Bill of Rights and the Act of Settlement necessarily implied in it, form the written part of our constitution. Is there anything in the British North America Act that impedes Canada's advance toward the formal assumption of the rights and responsibilities of a sovereign state within the Empire, to which the aspirations of many Canadians seem now to be inclining? The preamble of the Act expresses its purpose and of course the several enactments should as far as the language will permit be construed to effectuate that purpose. That it has not always been so construed has created some embarrassment and misconceptions.

Part of the preamble is:- "Whereas the Provinces of Canada, Nova Scotia and New Brunswick have expressed their desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom;

And whereas such a union would conduce to the welfare of the Provinces and promote the Interests of the British Empire;"

This Act was an arrangement between the Provinces fo
their Federal union, drafted by them and agreed to and pas
by the Imperial Parliament as drafted with but one slight mo
ification, and has been accepted by all parts of Canada. It do
not contain any provision for the Dominion amending its co
stitution. Section 92 gives power to a Provincial legislature t
amend its own constitution except as regards the office of th
Lieutenant Governor who is the bond of executive author
between the Province and the Dominion. The federal right
disallowance safeguards any change of provincial constitutio
which would be dangerous to the federation. Under this po
some of the Provinces have abolished the Second Chamber.

One hears frequently the question why should not the Dom
inion Parliament have similar power? Others answer that
the Act was an agreement and also an adjustment of conflictin
interests and those conflicting interests still exist, no genera
power to amend is likely to be conceded to the Dominion.
limited power may be. Any limitation on a supreme legislativ
body in a written constitution which creates that body wit
regard to the mode of modifying that constitution is a fetter o
the freedom of the legislature, and yet such lack of freedom do
not prevent state sovereignty. For instance, the United State
can only amend its federal constitution by consent of three
fourths of the States composing it, and yet no one denies that i
is a sovereign nation. So the fact that the Dominion canno
amend its constitution is not inconsistent with complete nationa
and international status.

Many of the statesmen of England and of the Dominion
speak now of Canada as a self-gover ing nation in the sam
class as the United Kingdom and both of course within the Empir
and practise and precedent are beginning to justify it. Tha
is consistent with the recital in the Act that Canada was intende
to have a constitution similar in principle to that of the Unite
Kingdom, but it is inconsistent with Sections 55, 56, and 57 ha
they not fallen into desuetude. They provide that the Governo
General may reserve a bill for the approval of the King in Counci
The time limit is two years. Under these only one Act was disal
lowed, and that was of a domestic character and on the suggest
ion of the Dominion Government in 1873. Then the same and con
ciliatory method was introduced of representations and com
munications about any Act of the Dominions which migh
injuriously affect the interests of the Empire or of any importan
part of it and satisfactory adjustments have usually resulted
It may be urged that the very existence of such sections wil
cause a government which passed an offending Act to be mor
reasonable in repealing or modifying it. The big stick may
compel compliance but it does not create harmonious feeling
without which the Empire will fade away. Keith, in his "Im

perial Unity and the Dominions" says: "It is certain that actual disallowance of laws when passed may be regarded as now obsolete in case of responsible governments." If these sections are now inappropriate and obsolete and the method of free interchanging of views and resulting adjustments has become the settled rule, they might be modified accordingly, and a plausible argument would then be taken away from the agitator of separation.

The Unwritten Principles and Rules in the Constitution

The unwritten constitutional law or rather constitutional principles and rules expressing the relations between the United Kingdom and Canada and their position in the Empire are not so clearly understood as the provisions of the federating Act touching such relations, for the simple reason that they change as those relations evolve. They must be consonant with political realities. They are somewhat analagous to international law. No dominating state or person declares it. It is founded on consent or agreement, express or tacit. Both are made the rule because the nations wish them to be so. Both have the sanction of the public opinion of the nations interested, sanctions similar to those of a gentleman's agreement, "good form," "in honour bound," "moral obligation."

Because of the active unfolding of those intra British relations and a misconprehension of them, judicial interpretation of the conventional laws or rules expressing them is not concordant. In arriving at just decisions, precedent and written law have to be considered, but more especially the present relations, and the treaties, arrangements and practices or usages giving expression to them have to be studied. This is admirably shown in the remarks of the members of the Privy Council who sat on the recent application, July 1920, in "re Russell" for leave to appeal. Lord Haldane is reported in our newspapers to have said:-

"It may be that 40 years or so ago the Council took a different view of their powers, but the Empire has developed, and more and more the principle of self-government, especially in matters of criminal jurisdiction, is being allowed. Consequently the matter of prerogative is more closely looked to."

"We are here to interpret the constitution of the Empire and you ask us, it may be, to violate the constitution of the Empire. What I mean to say is Canada has home rule and I am not disposed to go back on that."

In the House of Commons, Bonar Law is reported as saying:- "Dominion Home Rule means the right to decide their own destinies."

Supremacy of Imperial Legislation

Whatever that destiny may be, Section 91 permits i amplitude:-

> Sec.91. "It shall be lawful for the King, by an with the Advice and Consent of the Senate and Hous of Commons, to make laws for the Peace, Order and goo Government of Canada, in relation to all matters no coming within the classes of subjects by this Act assigne exclusively to the Legislatures of the Provinces."

Copyrights is expressly mentioned as one of such matters

It became the subject of a weighty controversy when th right of Canada to enact provisions inconsistent with Imperia copyright legislation was denied.

In 1889, Sir John Thompson, then Minister of Justice, in a memorandum to the Imperial authorities stated that the people of Canada could not accept the restrictive interpretation which was placed on the British North America Act by the Imperial authorities and quoted from a number of Privy Council cases, among others, Powell vs. The Apollo Company, in which it was held that the powers conferred by the British North America Act upon a colonial legislature were not-in any sense to be exercised by delegation from or as an agent of the Imperial Parliament, but in respect of the subject considered in that case upon which it was given jurisdiction, a local legislature was supreme and had the same authority as the Imperial Parliament.

In 1911, the change in the constitution of the Empire and of Canada was such that the Imperial Copyright Act of that year provided that it was not to extend to a self governing Dominion unless declared by a legislature of that Dominion to be in force therein. If the equality of status in the British Empire of the self-governing nations is a reality then the doctrine of supremacy of Imperial legislation must be laid aside as an outworn garment the fashion of which has passed away.

Canadian Extra-Territorial Legislation

The only method by which the theory of the Territorial limitation of Dominion legislation, made concrete by the Judicial Committee in McLeod vs. Attorney General of New South Wales (1891 A.C. 455) can be got rid of is by Imperial legislation and a resolution to add a sub-section to Section 91 for that purpose was adopted by the Canadian Parliament at its last session:-

> "Any enactment of the Parliament of Canada otherwise within the legislative authority of the Parliament shall operate and be deemed to have operated extra-territorially according to its intention in the like manner

and to the same extent as if enacted by the Parliament of the United Kingdom."

The Judicial Committee of the Privy Council

The Judicial Committee of the Privy Council has been constituted to satisfy the requirement of a constant and stable tribunal to hear appeals from the Overseas Dominions and Colonies and to advise the King in the exercise of his prerogative to receive appeals. As you know, a Canadian Supreme or Superior Court Judge may be one of that Committee.

It is currently and forcefully contended that the authority of the Imperial Privy Council to finally interpret the Canadian law and to advise His Majesty in the exercise of the prerogative right to entertain an appeal in a purely Canadian matter places the Dominion in the position of a subordinate nation. That contention is as stoutly resisted. It is quite a proper subject for this Association to discuss. I do not feel free to express an opinion, but this let me say that when the Canadian lawyers unite in asking for the abolition of such appeals in civil cases, legislation will be passed to effectuate their wishes, and further, that if that Court of Appeal is eventually to disappear, so far as Canada is concerned, its exit was postponed by the wise attitude its astute members took in the recent Russell application, concerning the constitution of Canada and of the Empire as it now exists.

The Constitution of Canada and the Empire

Time will not permit more than a mention of other constitutional principles developed since confederation, the right to approve by arrangement and practise the nomination to the office of Governor General, the right of the Dominion to make her own immigration laws and to exclude undesirables, the right to separate representation at international conferences, such as the International Postal Convention at Rome, the one at London in 1908 concerning Electrical Units, and the Radio Telegraph Conference in 1912, where the Dominion delegates appeared with special credentials under the Great Seal authorizing them to represent their respective Dominions and on terms of equality with the delegates from Great Britain, and at the International Conference on Safety of Life at Sea, where the Dominions had fully accredited plenipotentiaries. As Professor Keith points out, plenipotentiaries of the Dominions are no longer merely those of the United Kingdom, and their votes may be differently cast to those of the United Kingdom.

Treaty Making Powers

In 1879 the Canadian Government declared "that the large and rapidly augmenting commerce of Canada and increasing

extent of her trade with foreign nations is proving the absolu
necessity of direct negotiations with them for the proper pr
tection of her interests." It was then agreed that in matters
commerce a representative of the Dominion government shou
be associated with one from the Imperial government in conduc
ing negotiations, and that the conclusions arrived at should be sul
ject to ratification by both governments. It was naturally n
long before the Canadian representative, who had a thorou
knowledge of the subject matters, became principal in thes
negotiations. In this way the treaty with France in 1907 wa
made, when Sir Wilfred Laurier, a great son of Canada, wa
Premier.

The Rt. Hon. Mr. Balfour in the House of Commons sai
of it:-

> "The Dominion of Canada technically, I suppose i
> may be said, carried on their negotiations with the know
> ledge of His Majesty's representatives, but it was a purel
> technical knowledge. . . . . It is a matter o
> common knowledge, and, may I add, not a matter o
> regret but a matter of pride and rejoicing that the grea
> Dominions beyond the seas are becoming great nation
> in themselves."

Still, the treaty was submitted to the Imperial Govern
ment for examination and ratification.

This method of negotiating and concluding conventions wa
found cumbersome, and the Canadian government with th
approval of the Home authorities made in Ottawa a number o
important agreements with the resident Consular agents of foreig
nations. These were consummated by the legislative ratifi
cation of Canada and the other contracting party.

In 1909 Sir Wilfred Laurier declared that Canada had now
reached a standard as a nation which necessitated the estab
lishment of a Department of External Affairs, and the Act passed
provided that the Secretary of State shall have the conduct of
all official communications between the government of Canada
and the government of any other country in connection with the
external affairs of Canada. The meaning of this was apparent,
that ultimately Canada was going to control its own external
affairs, bearing in mind always the unity of the Empire.

The Treaty (1909) for the settlement of disputes between
Canada and the United States through a Joint International
Commission was drawn up between the Canadian and American
governments, formally ratified by the British, but clause 10 of
it provided:-

> ". . . . . it being understood that on the
> part of the United States any such action (referring a

matter to the tribunal) will be by and with the advice and consent of the Senate and on the part of His Majesty's government with the consent of the Governor-General-in-Council."

In this the American and Canadian governments treat with each other on terms of equality.

As you know, the reciprocity agreement of 1911 was negotiated by Canadian Ministers directly with the American executive and provided for its becoming effective upon the approval of the Senate and of the Canadian Parliament.

It is current information that steps are being taken to have a Canadian representative at Washington.

In 1911 the Imperial Conference adopted a resolution:-

"that His Majesty's government be requested to open negotiations with the several foreign governments having commercial treaties which apply to the Overseas Dominions with a view to securing liberty for any of those Dominions which may so desire to withdraw from the operation of the treaty without impairing the treaty in respect of the rest of the Empire."

From the fact that the Dominions did not wish to be bound by British treaties without their consent, it became the practise to insert a reservaton for their acquiescence. It appears that was the draft form of the several treaties concluded at the Peace Conference. But as the Dominion representatives were in that Conference and assisted in making the terms, that form was inappropriate, and Sir Robert Borden proposed that the assent of the King should in respect of the Dominions be manifested by the signatures of their plenipotentiaries. The Conference approved and the Dominions became signatories as other nations who thereby acknowledged Canada's international status of complete nationhood.

I cannot pay a higher compliment to our late Premier in this connection than to repeat some of his eloquent words in the House of Commons:-

"Her (Canada's) resolve has given inspiration, her sacrifices had been conspicuous, her effort was unabated to the end. The same indomitable spirit which made her capable of that effort and sacrifice made her equally incapable of accepting at the Peace Conference, in the League of Nations, or elsewhere, a status inferior to that accorded to nations less advanced in their development, less amply endowed in wealth, resources and population."

General Smuts, in a speech before the South African Pa liament said:-

> "The Dominions felt very strongly that if there wa to be a League of Nations in which the nations were to b equally represented, then that League should include th British Dominions. They were determined to see tha that recognition was given to us but they were equall anxious to see that nothing was done which would loose the ties which bound together the British Empire."

Being signatories to the League and Covenant, Canada an the other British Dominions become constituents in the Assembl of the League, but there was doubt expressed as to their bein entitled to have representatives on the Council as were sma sovereign states who signed the League Covenant. To clear thi up, Sir Robert Borden secured the signatures of President Wilson Premier Clemenceau and Premier Lloyd George to the following interpretation:-

> "The question having been raised as to the meaning of Article 4 of the League of Nations Covenant, we have been requested by Sir Robert Borden to state whether we concur in his view that upon the true construction of the first and second paragraphs of that article, representatives of the self-governing dominions of the British Empire may be selected or named as members of the Council. We have no hesitancy in expressing our entire concurrence in this view. If there were any doubt, it would be entirely removed by the fact that the articles are not subject to a narrow or technical construction."

On the part of the United States the League and Covenant could be made valid only by the agreement of the President and the ratification of the Senate, but it is submitted that as to the President is entrusted the power of dealing with foreign states, when he consented to the admission of the Dominion delegates into the Conference at Versailles, and when he signed the interpretation mentioned, he committed the United States to the recognition of the Dominions in the League of Nations, and whatever action the Senate may take, it cannot withdraw the recognition given the President of the autonomous status of the Dominions.

Empire Constitution

Within the British Empire the United Kingdom and the Dominions are enfolded, and as the constitution of those Dominions enlarged the constitution of the Empire responded with easy adjustments. Some of these I have already mentioned, so pass to some of the later developments.

The Colonial Conference, 1907, provided for a quadrennial imperial conference. At the first of those the Prime Minister of New Zealand proposed that there should be for the Empire an elective Chamber with legislative and executive powers. This was refused by Mr. Asquith who said: "It would impair if not destroy the authority of the United Kingdom in such grave matters as the conduct of foreign policy, the conclusion of treaties, the declaration and maintenance of peace and the declaration of war . . . . . which are now in the hands of the (United Kingdom) government subject to its responsibility to the (United Kingdom) Parliament. That authority cannot be shared."

At the Imperial Conference, 1917, India with the consent of all was represented.

Of the 23 of its published resolutions, one dealt with the Constitutional question and the admission of India to all future Imperial Conferences was recommended and it provided:

> "The Imperial War Conference are of the opinion that the readjustment of the constitutional relations of component parts of the Empire is too important and intricate a subject to be dealt with during the war, and that it should form the subject of a special Imperial Conference to be summoned as soon as possible after the cessation of hostilities.
>
> "They deem it their duty, however, to place on record their view that any such readjustment . . . . . should recognize the right of the Dominions and India to an adequate voice in foreign policy and in foreign relations, and should provide effective arrangements for continuous consultation in all important matters of common Imperial concern, and for such necessary concerted action, founded on consultation, as the several governments may determine." (Resolution IX).

Out of this and the necessities of the war there evolved an Imperial Cabinet which is to meet annually to confer about foreign policy and matters connected therewith and come to decisions in regard to them which, subject to the control of their own parliaments, they (i.e., the "responsible heads of the Governments of the Empire") will then severally execute.

Thus in a few years the converse of Mr. Asquith's view is being transmutted into a political fact.

It must be noticed however that the Imperial Cabinet has no power to carry its decisions into effect. The participating governments are expected to do that, and no doubt ordinarily will.

Will this policy of an Imperial Conference and an Imperial Cabinet develop into an organic union of the self-governing

nations and India with a common representative body empower
to legislate and an executive council responsible to that body
elected representatives, or into a league of British nations?

In 1918, to make the Imperial Cabinet more efficient, th
understanding was arrived at:

> "That the Dominions shall be represented, each by
> Minister permanently stationed in London, and that th
> Imperial War Cabinet shall meet from time to time wit
> these Ministers as members of it.
>
> "To make consultation . . . . as continuou
> and intimate as possible . . . . . for the futur
> the Prime Ministers of the Dominions, as members of th
> Imperial War Cabinet, shall have the right to communi
> icate on matters of Cabinet importance direct with th
> Prime Minister of the United Kingdom whenever the
> see fit to do so."

In 1919 neither the Imperial Conference nor Cabinet me
except in the form of a British Empire delegation in Paris. Yo
are conversant with the proceedings there. The eventualit
was that the British Empire's acquiescence in the treaty wa
acknowledged by the signatures of Great Britain's Minister
and by the Ministers and statesmen of the Dominions an
India.

The signature of the Dominion plenipotentiary however wa
not considered as equivalent to simply tendering advice to ratif
in the case of the Dominions when parliamentary ratification wa
deemed necessary in England. It was contended that the Brit
ish and Dominion parliaments should be placed on an equality
This necessitated the calling of a special session of the Canadian
parliament and approval was thus given for the treaty making
power of the Crown is subordinate to the sovereignty of par
liament and the King could not enter into an international ob
ligation which would affect the personal or property rights of the
people without parliamentary sanction and in so far as the peace
treaty trenched upon the rights of the Dominions, confirmatory
action on the part of their parliaments was necessary to carry
the treaty into effect within the Dominions. Moreover, although
the King can undoubtedly by prerogative right bind the whole
Empire by a declaration of war or by the conclusion of peace, he
is under the political necessity of consulting his duly constituted
advisers, and it was maintained that while in respect of the
United Kingdom he should consult the Cabinet of the United
Kingdom, in respect of Dominion interests, their executives
should advise him. In other words, while the Kingship is un-
divided, he has in respect of the interests of the several nations
composing the British Empire, to be advised by their respective
Executive Councils. In international law, the Empire has a

unitary existence. Consequently, though the Dominions be-
original members of the League of Nations, they were not parties
to the Treaty of Versailles because they had not been recognized
in international law as sovereign states. As a political fact,
the legislative supremacy of the British Parliament over the
Dominions has disappeared, and the theory of the executive
unity of the Empire is also commencing to vanish. While the
Peace Conference adhered to the principle of the unity of the
Empire for the purpose of war and peace, they acceded to the
demands of the Dominions for separate representation in the
League to guard the interests of those nations.

What the Constitutional Conference of 1921 may do toward the creation of a closer union of the component nations of the Empire one may not predict. Any endeavour to create openess by centralized authority or to place the straight jacket of a written constitution upon the growing bodies and active limbs of developing nations might result not in unity but separation, not in harmony but in discord. In addition to whatever bonds there now exist whether of kinship or association or language or common traditions or similarity in administration of justice, in law making and in government or inter-trading, and protection from external enemies, there is a unity of mind and spirit in which we should live and move and have our being as a whole, of which spirit the King is the symbol or adumbration.

As stated in the British North America Act, Canada became federally united under the Crown of the United Kingdom. Undoubtedly that does not mean under the King as advised by the Cabinet of the United Kingdom save in respect of those things reserved for consideration by the Imperial Government under the Act, such as disallowance, for as to general Canadian affairs the Federal and Provincial representatives of the Crown are advised by their respective cabinets. It has a significance far beyond a person acting constitutionally on such advice. In different periods of British history the Crown had different significations. In early England the tribal head was the hereditary senior, but pressing circumstances soon required the wisest man and he was selected as supreme executive authority and called the King or knowing person, who was given property to support him in his administrative and military work. As times advanced, this did not give sufficient supply and in about 1400, the reign of Henry IV, Parliament stipulated that reforms should be made as a condition of granting further supplies. This form of kingship ceased when the people, exhausted by the War of the Roses, the war of disputed succession, permitted absolutism to take root under the capable but ruthless Henry VII, to flourish under subsequent Tudors and to go to excess under the Stuarts. When James II was expelled, a new style of Royal headship developed. William III was chosen by parliament

though not in the hereditary line. It became manifest he wou
leave no issue. So as to avoid disputed succession the Acts
Settlement were passed in 1713. Accordingly, George I ca
to the throne by the will of parliament. As he could not spe
English he did not attend meetings of the executive council b
acted perfunctorily on the advice of his ministers. George I
attempted domination, had a subservient Cabinet, lost t
American colonies, and his reason. It was during the peri
of the Georges that the supreme administrative authority of t
King was put into commission, the peoples' Premier, and h
selected ministers being the Commissioners. The kingshi
was rescued from mere pageantry by the personal character an
virtues of Queen Victoria and her honoured successors. B
their personal attractiveness, by their careful attention to the
constitutional advisers, by their desire to be of the people, thoug
in honour the highest, by their expressing and maintaining onl
the sentiments and aspirations of our British civilization, a
evidenced by their changing the family name to Windsor, the
have endeavoured as far as humanly possible to represent i
personality what is absolute in legal theory that the "King ca
do no wrong." Thus they have endeared themselves to the peopl
and thus they have become the symbol or the adumbration o
that spirit and soul of the British-Anzac-Canadian civilization
Hence the great enthusiasm with which our capable and per
sonally charming Edward Prince of Wales has been received no
only by the peoples of the Dominions but of the United States

It is that Empire spirit, that soul, that psychological entity
which is to our physical senses represented by the King, or, in
statutory words, by "the Crown of the United Kingdom" that
holds so closely together the nations and peoples composing the
Empire.

We Canadians have been enterprising in claiming national
and international rights. Are we as eager and ready to perform
the corresponding duties? We assert equality of nationhood in
the Empire with the United Kingdom and accept the benefits
but will we shoulder our share of the Empire burdens, will our
attitude be provincial or parochial or will it be broad and im-
perial? The one is pusillanimous and dwarfing, the other
demands enterprise and industry, service and sacrifice, but leads
to prosperity and to greatness.

When we speak of Empire, we do not think of an Imperium;
none such exists, but rather of Empire as defined by Burke in his
speech on conciliation with America:–

> "The aggregate of many states under one common
> head whether that head be a monarch or a president of
> a Republic."

We are of the British Empire an autonomous nation in it.

We are also of America, but are not "Americans." While cordial friendship has existed between us and them for over a century, there has also existed an impenetrable barrier of sovereign statehood deep as an abyss and high as heaven, invisible, intangible, but which the honour, the faith, the mutual respect of both nations regard as holy, over which no shodden foot may pass. With them, we, the representatives of the British Empire, hold and will hold against all other states this continent for our common civilization, from the Rio Grande to the North Pole. If we are menaced by the unrepentant forces of central Europe shoulder to shoulder we will face eastward, if by Asians, we will right about and march westward, if by any other common foe we will stand back to back, but never face to face in fratricidal strife. Canada is by birth the child of the United Kingdom, and by association partakes some of the characteristics of our American neighbours, and knows the worth of both, so standing between them and clasping on one side the hand of the United Kingdom and on the other that of the United States, Canada feels in its own heart and transmits the pulsations of kindness and sympathy which at the bottom the one feels for the other, and if at times it happens they are somewhat out of harmony, Canada will thus adjust them into synchrony. And let us hope that in some way the League of Empire Nations may be extended in a larger league which will include the United States. Such a league would not only protect all its members and our Anglo-Canadian Anzac-American civilization against external aggression but command the warring nations to be still. Failing such a league of nations, let us develop and consolidate the Empire, the spirit of which like the pillar of cloud and of fire will lead us into an inheritance of still greater blessing and to an increase of that Government and Peace of which there shall be no end.

"For lo! the kingdoms wax and wane,
They spring to power and pass again,
And ripen to decay;
But Britain sound in hand and heart
Is worthy still to play her part
Today as yesterday.

"Not till her age-long task is o'er,
To Thee, O God, may she restore
The sceptre and the crown.
Nor then shall die; but live anew
In those fair daughter lands which drew
Their life from hers, and shall renew
In them her old renown."