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CANADIAN BAR ASSOCIATION.

Proceedings at Fifth Annual Meeting.

The fifth annual meeting of the Canadian Bar Association was held at the Chateau Laurier, Ottawa, on the first three days of September, 1920.

This was the most important, and perhaps the most interesting meeting of the Association which has as yet been held. It was very largely attended, and all the arrangements, carefully prepared under the supervision of the President, Sir James Aikins, K.C., Lieutenant-Governor of Manitoba, were carried out in a manner which reflected the greatest credit upon all concerned. The President secured the attendance of several notable personages from other countries, notably, Rt. Hon. Viscount Cave, a member of the Judicial Committee of the Privy Council; Hon. W. H. Taft, ex-President of the United States; Sir Auckland Geddes, British Ambassador to the United States; Hon. H. B. F. Macfarland, Washington, D.C., U.S.A.; Hon. W. H. Wadhams, President New York Bar Association, and others.

Much valuable work of a practical character was done which will bear fruit, we doubt not, in our legislation in the future. The formation of this important gathering of the profession is now amply justified, and this must be peculiarly gratifying to the President of the Association.

The success which has attended it, the high position it has attained, its usefulness in legislation, its pleasant helpfulness in drawing members of our profession together (no easy matter in this widespread Dominion), and the welding of all together into something now gradually becoming a harmonious body with increasing *esprit de corps*—must fairly and be mainly attributed to the untiring energy, dogged perseverance, and the intelligent and kindly leadership of Sir James Aikins. It will be remembered as part of his life's work, well and ably done.

Previous to the meeting of the Association there was a conference of the Commissioners on Uniformity of Legislation, composed of lawyers appointed by the respective Provincial Governments. They met under the chairmanship of Sir James Aikins.

The members of this Commission attending the meeting were as follows:—

Prince Edward Island—W. E. Bentley, K.C.; J. D. Stewart, K.C., and C. G. Duffy.

New Brunswick—M. G. Teed, K.C.; Dr. Wallace, K.C., and J. P. Lewin.

Ontario—J. C. Elliott, K.C., and Francis King, K.C.

Manitoba—Isaac Pitblado, K.C.; H. J. Symington, K.C., and Travers Sweatman.

Saskatchewan—Hon. W. F. A. Turgeon, Attorney-General; R. W. Shannon, K.C., and P. E. MacKenzie, K.C.

Alberta—Frank Ford, K.C., Dr. W. S. Scott and James Muir, LL.D., K.C., President of the Law Society.

British Columbia—J. N. Ellis, K.C., and H. E. A. Courtney.

Mr. John D. Falconbridge, K.C., Recording Secretary, was unable to be present owing to the death of Mrs. Falconbridge.

The attention of the Commission was mainly directed to the following subjects:—The Bulk Sales Act, the Devolution of Estates, Goods and Partnership, and the Legitimation Act. These matters, admittedly of much interest to the public, as well as to the profession, were fully discussed and progress made.

A report on a model statute of fire insurance conditions was submitted to the commissioners by Mr. R. W. Shannon, K.C., of Regina, legislative counsel to the Government of Saskatchewan. The speaker gave a concise account of the work of the conference toward securing uniform legislation. Mr. Jenkins, of Montreal, representing the Canadian Fire Underwriters' Association, was present and took part in the discussion. Mr. Shannon reviewed the efforts of the previous conventions in drawing up a model Act on fire insurance. Drafts had been submitted to the Canadian Bar Association, but had been referred back for further consideration. Finally the committee had sought the opinions and advice

of fire insurance superintendents and others with special knowledge of the subject, with the result of the present draft before the conference. A conference of fire superintendents will be held at Winnipeg in October, when the whole matter will be discussed and a report made to the commissioners.

Their Excellencies the Duke and Duchess of Devonshire returned to Ottawa for the meeting, and by their interest in the meeting, entertainment at Rideau Hall of distinguished guests, with an address of the Duke, aided in making this meeting a very great success.

Several Cabinet Ministers and the Judges of the Supreme Court were also present at various meetings.

Sir James Aikins entertained the members of the Executive at dinner at the Rideau Club to meet Hon. Viscount Cave. The Rt. Hon. Arthur Meighen, K.C., M.P., Prime Minister of Canada, Rt. Hon. Sir Robert Borden, Rt. Hon. C. J. Doherty, K.C., M.P., Minister of Justice, and other distinguished citizens were present. Sir James Aikins introduced Viscount Cave, and a very happy response was made by the distinguished British jurist.

Each delegate received an invitation to luncheon at the Chateau Laurier on September 1st, 2nd and 3rd with the compliments of the members of the Ottawa Bar. In addition, many of the Ottawa Bar entertained privately at smaller dinner parties at the various clubs, and elsewhere.

The Association convened on September 1st at 10 a.m. with Mr. M. H. Ludwig, K.C., Vice-President for Ontario, as Chairman.

The first address was delivered by His Excellency the Governor-General. In eloquent language, listened to with great interest, he spoke of the pleasure it was for him to be present on such an auspicious occasion, and referred to the welcome presence of Rt. Hon. Viscount Cave, Hon. W. H. Taft, and Sir Auckland Geddes and other distinguished visitors. He welcomed them and the members of the Association to the city of Ottawa. He referred generally to the objects of the Association and the benefits which would accrue to the Dominion from their deliberations.

He was followed by Hon. W. F. A. Turgeon, K.C., Attorney-General of Saskatchewan, who replied to His Excellency on behalf

of the Association, thanking him for his attendance and for his address. He dwelt on some features of the British Constitution as applied to Canada, and imported into this country by the British North America Act. He quoted Sir Robert Borden to the effect that the Canadian Constitution was the most nicely balanced of any of those that Britain had granted to the Dominions.

THE PRESIDENT'S ADDRESS

The Presidential address was as follows:—

"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 the publication of journals and 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 hindermos., 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 sprung 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.

"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 Bills 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 for their Federal union, drafted by them and agreed to and passed

by the Imperial Parliament as drafted with but one slight modification, and has been accepted by all parts of Canada. It does not contain any provision for the Dominion amending its constitution. Section 92 gives power to a Provincial Legislature to amend its own constitution except as regards the office of the Lieutenant-Governor who is the bond of executive authority between the Province and the Dominion. The federal right of disallowance safeguards any change of provincial constitution which would be dangerous to the federation. Under this power some of the Provinces have abolished the Second Chamber.

"One hears frequently the question why should not the Dominion Parliament have similar power? Others answer that as the Act was an agreement and also an adjustment of conflicting interests and those conflicting interests still exist, no general power to amend is likely to be conceded to the Dominion. A limited power may be. Any limitation on a supreme legislative body in a written constitution which creates that body with regard to the mode of modifying that constitution is a fetter on the freedom of the Legislature, and yet such lack of freedom does not prevent state sovereignty. For instance, the United States can only amend its federal constitution by consent of three-fourths of the States composing it, and yet no one denies that it is a sovereign nation. So the fact that the Dominion cannot amend its constitution is not inconsistent with complete national and international status.

"Many of the statesmen of England and of the Dominions speak now of Canada as a self-governing nation in the same class as the United Kingdom and both of course within the Empire and practise and precedent are beginning to justify it. That is consistent with the recital in the Act that Canada was intended to have a constitution similar in principle to that of the United Kingdom, but it is inconsistent with sections 55, 56, and 57 had they not fallen into desuetude. They provide that the Governor-General may reserve a bill for the approval of the King in Council. The time limit is two years. Under these only one Act was disallowed, and that was of a domestic character and on the suggestion of the Dominion Government in 1873. Then the sane and con-

ciliatory method was introduced of representations and communications about any Act of the Dominions which might injuriously affect the interests of the Empire or of any important part of it and satisfactory adjustments have usually resulted. It may be urged that the very existence of such sections will cause a Government which passed an offending Act to be more 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 'Imperial 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 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 miscomprehension 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 shewn 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.'

"Whatever that destiny may be, section 91 permits its amplitude:—

"Sec. 91. 'It shall be lawful for the King, by and with the Advice and Consent of the Senate and House of Commons, to make laws for the Peace, Order and good Government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned 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 the right of Canada to enact provisions inconsistent with Imperial 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* v. *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.

"The only method by which the theory of the territorial limitation of Dominion legislation, made concrete by the Judicial Committee in *McLeod* v. *Attorney-General of New South Wales* (1391), 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 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 costitution of Canada and of the Empire as it now exists.

"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.

"In 1897 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 absolute necessity of direct negotiations with them for the proper protection of her interests.' It was then agreed that in matters of commerce a representative of the Dominion Government should be associated with one from the Imperial Government in conducting negotiations, and that the conclusions arrived at should be subject to ratification by both Governments. It was naturally not long before the Canadian representative, who had a thorough knowledge of the subject matters, became principal in these negotiations. In this way the treaty with France in 1907 was made, when Sir Wilfred Laurier, a great son of Canada, was Premier.

"The Rt. Hon. Mr. Balfour in the House of Commons said of it:—

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

"Still, the treaty was submitted to the Imperial Government for examination and ratification.

"This method of negotiating and concluding conventions was found cumbersome, and the Canadian Government with the approval of the Home authorities made in Ottawa a number of important agreements with the resident Consular agents of foreign nations. These were consummated by the legislative ratification 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 establishment 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 practice to insert a reservation 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 Parliament said:—

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

"Being signatories to the League and Covenant, Canada and the other British Dominions became constituents in the Assembly of the League, but there was doubt expressed as to their being entitled to have representatives on the Council as were small sovereign states who signed the League Covenant. To clear this 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 by the President of the autonomous status of the Dominions.

"Within the British Empire the United Kingdom and the Dominions are enfolded, and as the constitution of those Domi-

nions 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 empowered to legislate and an executive council responsible to that body of elected representatives, or into a league of British nations?

"In 1918, to make the Imperial Cabinet more efficient, this understanding was arrived at:—

'"That the Dominions shall be represented, each by a Minister permanently stationed in London, and that the Imperial War Cabinet shall meet from time to time with these Ministers as members of it.

'"To make consultation . . . as continuous and intimate as possible . . . for the future, the Prime Ministers of the Dominions, as members of the Imperial War Cabinet, shall have the right to communicate on matters of Cabinet importance direct with the Prime Minister of the United Kingdom whenever they see fit to do so.'

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

"The signature of the Dominion plenipotentiary however was not considered as equivalent to simply tendering advice to ratify in the case of the Dominions when parliamentary ratification was deemed necessary in England. It was contended that the British 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 parliament and the King could not enter into an international obligation 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 undivided, 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 being 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 oneness 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 would leave no issue. So as to avoid disputed succession the Acts of Settlement were passed in 1713. Accordingly, George I. came to the throne by the will of parliament. As he could not speak English he did not attend meetings of the executive council but acted perfunctorily on the advice of his ministers. George III. attempted domination, had a subservient Cabinet, lost the American colonies, and his reason. It was during the period of the Georges that the supreme administrative authority of the King was put into commission, the peoples' Premier, and his

selected ministers being the Commissioners. The kingship was rescued from mere pageantry by the personal character and virtues of Queen Victoria and her honoured successors. By their personal attractiveness, by their careful attention to their constitutional advisers, by their desire to be of the people, though in honour the highest, by their expressing and maintaining only the sentiments and aspirations of our British civilization, as evidenced by their changing the family name to Windsor, they have endeavoured as far as humanly possible to represent in personality what is absolute in legal theory that the 'King can do no wrong.' Thus they have endeared themselves to the people and thus they have become the symbol or the adumbration of that spirit of the British-Anzac-Canadian civilization. Hence the great enthusiasm with which our capable and personally charming Edward Prince of Wales has been received not only by the peoples of the Dominic. 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 Imperial? 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 cor-

dial 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."

ANNAUL REPORT.

The annual report of the Council was presented by Mr. E. H. Coleman, secretary and treasurer. This stated that since the last annual meeting three members of the Council have been elevated to the bench, Hon. E. E. Howard, to the Superior Court of Quebec; Hon. E. Fabre Surveyor, to the Superior Court of Quebec,

and Hon. John F. Orde, to the Supreme Court of Ontario. The latter's place as treasurer was taken by Geo. F. Henderson, K.C., Ottawa.

There has been a gratifying increase in membership during the year, as the following table shews:—

	1919	1920	Increase
Judges	83	123	40
Alta.	123	155	32
B. C.	36	71	35
Man.	189	314	125
N. B.	41	54	13
N. S.	52	69	17
Ont.	277	366	89
P. E. I.	19	21	2
Que.	173	226	53
Sask.	101	167	66
Yukon (decrease)	8	3	—5
Totals	1,102	1,569	467

A resolution increasing the representation on the Quebec and Ontario Councils from 12 to 14, and of the other provinces from 6 to 8, was carried.

BILL OF INCORPORATION.

A Bill to incorporate the Canadian Bar Association was presented as follows:—

"Whereas . . . have, by their petition on behalf of the unincorporated association, known as 'The Canadian Bar Association,' prayed that it be enacted as hereinafter set forth and it is expedient to grant the prayer of the said petition;

"Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons, enacts as follows:—

"1. The said . . . , and all other members of the Association mentioned in the preamble, together with such other persons as may hereafter from time to time be members of the Corporation, are incorporated under the name of 'The Canadian Bar Association,' hereinafter called 'the Association.'

"2. The objects of the Association shall be to advance the science of jurisprudence; promote the administration of justice; obtain uniformity of legislation throughout Canada so far as is consistent with the preservation of the basic systems of law in the respective provinces; uphold the honour of the profession of the law, and foster harmonious relations and co-operation among the incorporated law societies, barristers' societies and general corporations of the Bar of the several provinces and cordial intercourse among the members of the Canadian Bar; encourage a high standard of legal education and training; publish its own transactions as well as reports of cases and information and decisions concerning the law and its practice, and generally do all further or other lawful acts and things touching the premises.

"3. Subject to the by-laws of the Association, local sections or branches may be constituted under such title and designation and subject to such conditions and provisions and with such powers as the Association may determine by by-law; provided, however, that such powers shall not be in excess of those conferred on the Association by this Act.

"4. The Association may, by rules, regulations or by-laws:

"(1) define and regulate the admission, suspension and expulsion of active or honourary members; determine the respective rights and privileges of the different classes of members and fix the fees, subscriptions and dues to be paid by them respectively;

"(2) establish a council of the Association with executive power; determine the method of election or appointment thereto or selection thereof; define the constitution, powers, duties, quorum, and term of office of such council and fix the number, powers, duties and term of office of the officers and committees of the Association;

"(3) fix the time and place for holding the annual and other meetings of the Association and the notice to be given thereof;

"(4) provide for the administration and management of the business and affairs of the Association and the furthering of its objects and purposes, and may delegate any of its powers to the council of the Association.

"5. The membership in the Association shall be divided into two classes as follows:—

"(*a*) Active members, who shall comprise the persons named in section 1 of this Act, and all others who are from time to time admitted to active membership under the provisions of the by-laws or rules of the Association; any member in good standing of the Bar of any province and any Judge or retired Judge of a Court of Record in Canada appointed from such Bar shall be eligible to active membership in the Association;

"(*b*) Honourary members, who shall comprise all persons who are from time to time admitted to honourary membership under the provisions of the by-laws of the Association.

"6. The Association may, for the purpose of carrying out its objects,—

"(*a*) subject to provincial laws, acquire by purchase, lease, gift, legacy or otherwise, and own and hold any real and personal estate and property, rights or privileges, and sell, manage, develop, lease, mortgage, dispose of or otherwise deal therewith in such manner as may de determined; provided, that real estate held by the Association shall not exceed an annual value of fifty thousand dollars;

"(*b*) make, accept, draw, endorse and execute bills of exchange, promissory notes and other negotiable instruments;

"(*c*) invest the surplus funds of the Association in such manner and upon such securities as may be determined;

"(*d*) borrow money as and when required for the purposes of the Association;

"(*e*) do all such other lawful acts and things as are incidental or may be conducive to the attainment of the objects of the Association.

"7. The present officers and members of the Council and of the committees of the unincorporated Association shall, subject to the by-laws of the unincorporated Association, continue to hold their offices until their successors shall have been appointed or elected, in accordance with the provisions of this Act and of the by-laws and rules made thereunder.

"8. The existing constitution, by-laws and rules of the said unincorporated Association, in so far as they are not contrary to law or to provisions of this Act, shall be the constitution, by-laws and rules of the Association until altered or repealed at an annual meeting of the Association."

The bill was approved unanimously and its promotion through Parliament was left in the hands of a committee headed by Sir James Aikins.

ADDRESS OF MR. TAFT.

After luncheon the following address was delivered by Hon. William H. Taft, representative of the American Bar Association:—

"I am here, I am glad to say, as the representative of the American Bar Association to express to you our fraternal congratulation upon your successful organization and life. Mr. Hampton Carson, the President of that Association, asked me to come; and your President was good enough to press me to come, with an incidental reference to a 'word or two' which he said he would be glad to have from me. Having had some experience of that kind of invitation, however, I am not surprised to find that I was to be given a full afternoon for a formal address. I can only be thankful that it was not called an oration. Ordinarily in our country that is what it is called.

"What can a man do, thus invited, responding to an obligation to come, seeking a vacation, without a secretary, when he is asked to make an address? Well, I turn always when I am in doubt as to what the professional duty of a lawyer is, to the professional ethics of the profession of clergymen; and when they are away on a vacation and called upon to discharge their professional functions, they turn the barrel up and they proceed to visit upon their temporary auditors sermons which are good because they have used them so often. Therefore it is that in selecting the text for my remarks I am going to say something about what you may have heard before, and what I certainly have heard of before. A text here should be legal; it should be something having the professional cast; and something of common interest. Now, I am sure the League of Nations has common

interest; whether there is common agreement or not, it has common interest for us all, and if I can limit my discussion to the legal aspects from the standpoint of one country, perhaps it is not inappropriate that I should extend my remarks along that line.

"I was delighted with the ceremonies and the speeches this morning—His Excellency's address and that of your President, Sir James Aikins. I was delighted both because of the intrinsic merit of what was said, and also because misery loves company, to know that you too are not without your constitutional difficulties, that you too are constantly engaged, perhaps not so much as we, but nevertheless that you have questions as to your fundamental law and what it really means; and you have that advantage that we all have of making it mean, when you are construing it, what suits you. Now, we have in our country, I fancy, more discussion of constitutional questions than any other country in the world. When I say 'constitutional questions' I do not mean the discussion of such a thing as the British Constitution, which is unwritten and which is certainly not the construction of an exact document. But we began with a written constitution; we began with differences that were avoided by an instrument to which the different sides gave different constructions, and ever since the foundation of our government our politics have been largely, not altogether, but in a greater measure than in any other country, a discussion of what our fundamental law means. The question of the division of power between the States and the Central Government, the question of slavery, which was mentioned in the constitution, and which ultimately led to the Civil War, all tended to make every political issue savour of constitutional construction. It is to that side of the League of Nations, that I would like to invite your attention. I mean by that side the construction of the League of Nations from the standpoint of the federal constitution of the United States, and the question whether the League of Nations, as submitted to the Senate of the United States, is in violation of any of the provisions of the constitution of that country.

"We of course inherit from you this character of question, because I presume the written constitution of the United States

was suggested by our relations to the Mother Country. The powers to be exercised by a dependent government under a charter of that government, with a sovereign or with a Court of a sovereign to pass on the question whether that charter has been violated or not, suggested what has followed in the United States. It was extended in this wise. The United States is an independent sovereign government with three branches, the legislative, executive and judicial branches, somewhat more rigidly separated than are those branches in your government. They are co-ordinate branches. Who, then, is to determine whether each branch keeps within its limitations? The Court was forced into the position, in the litigation of private rights and in its obligation to declare the law, of having to pass on the validity of the action of the legislative and executive branches, even though they were co-ordinate branches. Of course that duty is limited by the possibility of raising the question in a litigated case where the Court must act and declare the law accordingly.

"So it is that we have had in our country lawyers who were constitutional lawyers—and I have thought, a good many who were unconstitutional lawyers. Therefore, even though this may seem solemn and narrowly professional, it would not seem so at home. When you wish to dignify a man at home among his clients, not so much among his fellows at the bar or with the Court, you call him a 'con-sti-*tu*-tional' lawyer. There is something about that name that so fills the mouth that it carries dignity with its very expression.

"Now, you must be interested as lawyers and as leaders of political thought in Canada in what the powers of the United States are as a neighbour in making treaties. That is the question that I want to discuss to-day. You must be interested to know how far we can go, and how far you can go in entering into contracts with us and be sure that when the contracts come to be enforced we cannot plead that we were acting *ultra vires*.

"The treaty-making power is entrusted, in our constitution, to the President and it is placed among his executive powers.

"'The President shall make treaties by and with the advice and consent of the Senate'—by two-thirds of those present. The Senate is the body, we say, that represents the States. It is a body whose membership cannot, by the terms of the constitution, ever be changed. Each State is entitled to two representatives; and that is the only provision in the constitution now that is not the subject of amendment. And this requires that those who are selected by the States—two-thirds of them—shall ratify any contract or treaty that we may make with other countries. Congress is not the treaty-making power; it is the law-making power.

"Now you ask—and I refer to this because it seems to arouse some interest here when it is referred to—How did we make the Reciprocity Treaty—or propose to make it? Well, that arose in this wise. It was not a treaty. We had an informal agreement, but it was not a treaty that we made at all. Each government agreed, informally, to pass a law. The law of the United States was that tariff rates with Canada should be at a certain figure whenever Canada should pass a law of a similar character. Each could retreat from that at any station at all. There was no obligation to continue it; there was no promise to continue it. It was a case where the law on one side was made to be dependent on the operation of the law on the other. It was, if you choose to call it so, a meeting of minds, which could be withdrawn from at will, but it was not a promissory agreement in the sense of contracting to do something in the future.

"It was proposed—indeed there was a resolution passed by the two Houses, by which Congress declared peace in the present contingency. Congress may declare peace, and if the country with whom peace is to be established declares it also, there is a meeting of the minds and peace is created—the status of war is changed by that declaration. Or it may operate in a different way. There may be actual peace. International lawyers recognize that peace can come without a treaty or a definite agreement, by the acquiesence *in pais* of both sides; and such a declaration of Congress would be an authoritative recognition, an additional evidence of the existence of that status

that had come about *in pais* by the ceasing to fight and by acquiescence in a state of peace. But that is not promissory; that is only changing a status, and when the status is changed the thing is accomplished, a *fait accompli*, and therefore it is not in the nature of a contract for something in the future binding on Congress, because one Congress cannot bind another. I say that with reference to the difference between the treaty-making power which implies in itself the power to promise something in the future and to bind the country to it, and the action of Congress.

"This treaty-making power of the United States, I venture to say, is larger in certain respects than the treaty-making power of any other country. At least, if there is any other country in which the same character attaches to a treaty I do not know it. The constitution says that:—

"'This constitution, the laws passed in pursuance thereof, and treaties made under its authority, shall be the supreme law of the land;'

Construing that declaration, our Court has decided that a treaty which is, in its form, of a statutory character, enacting something *in presenti*, but not in promissory form, is a law of the United States. As, for instance, we made a treaty, as we did, with China, that certain classes of Chinese might come into the States. That needed no law to give it effect; it was in itself a law enacted by the treaty-making power. And that has led to what seems to other countries to be peculiar—the fact that such a law may be repealed by subsequent statute, the later declaration of the legislative power controlling. Therefore when we could not arrange with China to change that treaty, Congress broke the treaty—that is what she did—broke the treaty and repealed the law of that treaty, the treaty remaining binding on the Government as an international matter, but the domestic effect of the treaty is ended and the provisions of the law substituted. And so, too, it has happened that a treaty can repeal a law, where the treaty is of the character which I have described.

"More than this, the treaty-making power in the United States exceeds that of Congress in the subject matters that it may deal with and control. We deal only through the Federal Govern-

ment with other nations. The Federal Government represents the nation. In treaties of amity and commerce we often have to deal with matters over which the States, under our polity, exercise exclusive control; as for instance the matter of the descent and distribution of the estates of deceased persons. Many of the States have provisions by which aliens are not allowed to take under certain conditions. The treaty-making power may by a treaty suspend the operation of a State law in reference to such distribution and confer by law on aliens of another country the benefit of such suspension and may put into a treaty a provision in their behalf. That was decided in the case of *Geoffrey* v. *Riggs* by the Supreme Court of the United States. There the statute of Maryland denied to a French alien the right of inheritance, the taking of land under that jurisdiction. A treaty provided that French aliens should have the right of distribution, and that suspended the State law as far as French aliens were concerned.

"I instance these two things to shew you that, however much the treaty-making power of the United States is discussed and minimized, these features indicate that it was no mean power that was being conferred on the President and two-thirds of the Senate, when it was reposed in them and not given as well to the House of Representatives. Now, in this case the Supreme Court, speaking of the treaty-making power, used this language —if I may test your patience. The language of Mr. Justice Field was as follows.—

"'The power is unlimited except by those restraints which are found in the constitution against the action of the Government or its departments, and those arising from the nature of the Government itself and that of the States. It would not be contended that it extends so far as to authorize what the constitution forbids, or a change in the character of the Government or in that of one of the States, or a cession of any portion of the territory of the latter (that is, of the State) without its consent. But with these exceptions it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country.'

"I think you will see that that is pretty wide language.

"Now, this treaty-making power has been the subject of contention from the beginning because Congress holds the purse strings and matters of that sort first come into the House of Representatives. When the Jay Treaty was made, which was not particularly popular in the United States and Congress was called upon to appropriate money which the treaty bound us to pay, Congress passed a resolution asking President Washington to send the papers concerning the Jay Treaty to the House, in order that they might judge of the propriety of this treaty before they paid the money required by its terms; and President Washington sent back to them, in deferential words, which he always used, a very plain intimation that those papers were none of their business; that this was an obligation of the United States, plain in its terms, and that therefore it was their constitutional duty to perform the obligation of the United States by paying the money provided in the contract. And with a protest, and a resolution, and a kick, they paid the money.

"So Hamilton; so Jefferson; so Calhoun. In other words, the House has never refused to perform such a requirement in a treaty, although you can find resolutions in which the House has protested that it ought to have something to say about the debts to be created, which it is called upon to pay.

"Now, with this preliminary declaration, perhaps too long—but that is one of the defects of the con-sti-*tu*-tional lawyer that he is long—I come to the question: what is this Covenant of the League of Nations? Because in considering its constitutional validity under our fundamental law it conduces somewhat to clarity of thought to know what we are talking about.

"As I read the Covenant it is not an instrument that establishes a government at all. It is a partnership agreement made up of two kinds of stipulations. The first kind of stipulation is of those agreements which are self-restraining covenants, covenants not to do things likely to lead to war, covenants not to exceed an agreed limit of armament, which each nation enters into, a covenant, under Article X., to respect the territorial integrity and the independence of every other member of the League. Under articles XV. and XVI. and earlier articles, are

perhaps the most important covenants of this class, a covenant not to begin war on any difference with another nation, but either to submit that difference to arbitration or, as a matter of course, to turn it over to the Executive Council, or if not that, to the Assembly, and a further covenant not to begin war until three months after the award or the recommendation of settlement, as the case may be. Then there is a covenant not to make secret treaties, but to put a provision into treaties that they shall not be binding until they are spread out for public knowledge in the registry of the secretariat. Those are the restraining covenants. Then there are agreements which are directed towards the penalizing and the enforcement of those restraining covenants. That is to be done by the united action of all the other members of the League. There is no Court provided in the Covenant to construe what that united obligation is, and there is no executive to enforce that affirmative obligation of the members of the League. That is, and must be, left under the terms of the Covenant to the conscience and good faith of the members of the League; not only compliance with the obligation, but the construction of what the obligation is. I repeat it, there is no Court to construe these enforcing obligations authoritatively.

"The only two bodies of the League are the Council, originally called the Executive Council but improperly so, and now changed to the Council in the final form of the League because the word 'Executive' was improper—the Council and the Assembly; and their duties, with one or two unimportant exceptions that I have not time to attend to, are only advisory so far as executive matters are concerned—only recommendatory. They do sit as quasi-judicial bodies where arbitration is not resorted to; but to say that a body which sits as a Court constitutes a government with executive power is, it seems to me, to pervert the ordinary meaning of terms.

"Now you say that this does not amount to much as an organization, if there isn't anything but conscience and good faith back of those who are to see to it that the self-restraining covenants are enforced. Well, if that is so, then it is not a

strong document. And it only recurs to what I said with reference to Lord Haldane's address, that the strength of the League, its efficiency, must depend on the spirit of co-operation, the conscientious performance of obligation, in good faith construed, by those who have assumed it, to make the League effective, and it does not make any difference how strong you may make the provisions, unless you have *that*, every League in whatever form, will fail.

"Now, what are the constitutional objections on the part of those in the United States who oppose the League? I am not going into the merits. Of course, objections on the merits are objections of policy—the chief objections are objections of policy. The departure from the long-honoured separation of the United States from European and world politics and matters has made our people naturally cautious and anxious if possible to avoid the burden that must be assumed in taking over new obligations; and that I don't intend to discuss. The whole matter is apparently, in this present Presidential campaign, not so much the constitutional question, I think, because the other side, that on the merits, is more emphasized. Then, too, there are a number of people, including myself, who think that it is not really in the campaign at all, and that, while the discussion is very extended, the result of the election is not likely to be regarded, properly to be regarded, as a decision on that issue and that, therefore, much as it is talked about, it is not a real issue in the campaign. That will appear by future developments in the campaign, when other issues will take the place of that—the League—which for the present seems to be the most prominent. But all that I am not going to discuss at all—whether we ought or ought not to enter into such a league. But I want to take up, as I say, the constitutional objections.

"The first one is that we change our form of government; that we create a super-sovereign, consisting of the Council or the Assembly, and that we part with part of our sovereignty to that Council or that Assembly.

"Now, I submit that the Council, with only recommendatory powers, or only powers as a quasi-judicial tribunal in submitted

differences, where it sits necessarily in a quasi-judicial capacity, is not a government at all. It has not behind it any force. It cannot command any force. It recommends. It is an intermediary body for the purpose of facilitating the agreement of the powers and their unanimity in action, which Lord Robert Cecil said was the basis of the form that the Covenant had taken. They are only intermediaries. They exercise no direct power themselves. The decisions as to what is to be done by those who are to execute the purposes of the treaty must be made by the nations themselves, according to their own constitutional authority.

"One remark about sovereignty. It is said that we part with our sovereignty when we promise to make war, promise to go into a boycott, promise to limit our army. Well, I venture to dispute that proposition. Of course the making of war is an evidence of sovereignty. Of course the making of a law is. But to promise to do one thing which does not sum up the faculties of sovereignty—to do one thing in the future—is not to part with sovereignty. The truth is that a sovereign that cannot agree with other nations to do something is not a sovereign at all. It is a nation that ought to go into a guardianship. A minor who cannot contract a debt that will bind him is not ordinarily regarded as of full power. Now I do not mean to say that you might not promise to do so many things that you really do interfere with and obstruct your sovereignty. If the promise covers a great many subjects, then it becomes a matter of degree. But all nations promise to do things. All nations must promise to do things, in order that there shall be any international relations at all.

"Take the analogy of a free man. Does he lose his liberty when he promises to render service of a month or a year to another? He binds himself. The law will not specifically enforce it. One element of sovereignty is power to break a contract as well as to make it. Now you cannot enforce a year's contract of service against a free man. I do not mean that there are not some exceptions in this respect, but generally in law a man who makes a contract of service can break it and your only rem-

edy is damages. If you could keep him going by force for a year, you have transgressed the line that ordinarily determines freedom and liberty and you have introduced an element of slavery. Certainly we have said so in our country, under the thirteenth amendment, that where you have a statute by which you can compel a man and punish him for not performing his contract of service, you have violated the thirteenth amendment against slavery. And so a sovereign may make a contract to do what its sovereignty enables it to break. It is a little like fore-ordination and free will. The power to do right or to do wrong is the element of sovereignty, as it is the element of liberty, and creates responsibility and the sense of it. It is not correct, therefore, to say that this takes away our sovereignty because we agree to do something in the future with reference to war, with reference to armament.

"Then it is said it changes our form of government. Why? It is said the power to make war is vested by the constitution in Congress; Congress may declare war, Congress may carry it on; therefore, when the treaty-making power agrees that the Government shall make war, it is taking away the power of Congress to determine in its discretion, when the occasion arises, whether that war shall be made.

"Well, what is the answer? The answer is that it does not take away the power. It merely imposes the obligation, so that the action of Congress in not making war is a breach of its contract, but it does not take away the power of Congress either to make or not to make war.

"In other words, gentlemen, the treaty-making power is the promising power of the government; and when we make a promise of that sort, the treaty-making power *is* the government. Congress is the performing power of the government, and, therefore, when we come to perform, Congress *is* the government; and if Congress does not perform the promises made by the government, when it makes them through its constitutional agency to promise, then it breaks its promise, that is all. And there is nothing in the promise that in any way curtails or cuts down the discretion vested in Congress by the constitution to declare or make war.

"It is the same way with reference to declaring an embargo necessary to enforce the universal boycott that under the sixteenth article of the League is the penalty visited against those who fail to keep their covenants to submit differences and to delay war until three months after the recommendation or decision is made.

"The point has been made a good many times, and been urged, that by promising to make war or not to make war, the treaty-making power is taking away something from Congress. Now, I say there is nothing in it whatever, and that when you see the distinction between the government in promising, and the government through a different agency performing, you can see that the government is the same; the government has made the promise and the government has the power, though not the moral or indeed the legal right, to violate that promise. Nevertheless, it has the power, and that is what makes sovereignty, and that is what constitutes the actual functioning power of a branch of the government.

"This is proven by the construction put upon that power for a number of years, ever since the beginning. Why, the argument has gone so far as to assert that we cannot agree to arbitrate anything which shall result in an obligation on the part of Congress to perform what the award of that arbitration requires because it takes away the power of Congress. Now, is it necessary to answer an argument like that? I do not want to take away from the credit of Great Britain or of Canada in the matter of arbitrations, but I venture to say we more than any other country in the world have resorted to arbitration and sought arbitration whenever we could. And for a hundred years. Why, the first treaty that we made with Great Britain, the Jay Treaty, contains a provision for arbitration and we have had it in all our treaties ever since. Now, if it be true that to arbitrate is to submit something that may control Congress and therefore take away from its power to act, then we would have no right to arbitrate anything. And so to make war; so to guarantee independence.

"We have now a treaty made with Panama by which we guarantee her independence and the intregrity of her territory. That

is nothing but the same obligation entered into in Article X. Nobody has ever said that that treaty was wrong. We had got something for it. We got our treaty with Panama, which enabled us to build the Panama Canal. And can we back out of that on the ground that it ousted the power of Congress with reference to the making of war?

"When you come to resort to precedent you find not only that, but the Bryan treaties, of which there were some twenty, I think, or twenty-three—I don't know how many—which provide that no nation under those treaties shall go to war until a year after the event leading to the war and until after investigation and report shall be made. Now that limits the power of Congress to declare war, for a year; and if it does, it ousts its power to declare war—if that be true—if that is the theory. So that precedent is entirely at variance with any such proposition.

"See the *reductio ad absurdum* that you have. Congress is the only power under the constitution that can pay money out of the Treasury of the United States. If that be true, if this view be true that we cannot agree to do anything that Congress is the constitutional agency in doing, then we of the United States cannot agree to pay another nation any money in the future. We can back out of every contract. We did agree to pay twenty millions for the Philippines and we paid it. We agreed to pay such an award as might be made in the Fisheries Arbitration; and you found that we had taken fish—or the arbitration found that we had taken fish to the extent of five millions. We did not like it, we made grimaces, just as you did over the Geneva Arbitration, but we paid the money, and we did not attempt to get out of it on the theory that it took away the power of Congress to use its independent discretion in paying money. It did not do any such thing. It only left to Congress the power to decide whether we ought to pay our debts, or ought not to—that is all.

"In this way it seems to me I have covered the chief objections on any constitutional ground to the entry of the United States into such a treaty as that proposed. The constitutional

decisions as to the character of our government written by Chief Justice Marshall are illuminating and convincing as to the character of the nation which was created by constitution. Whatever the merits of this particular League may be, it would be a great interference with the usefulness of the government of the United States for the people of the United States, on the one hand, and for the neighbours of the United States, and the world—for all the world is her neighbour now—if the United States might not enter into obligations of an affirmative character to do certain things in consideration of other nations doing either the same thing or a thing of some other nature. And I do not think those people who contend against the power of the United States to make such a contract fully realize how completely such a construction would relegate our great nation and our great government, the power of which Marshall and the whole Court have always exalted, would relegate that government and nation to the disability of infants and of persons irresponsible, so that they may not make obligations that shall be binding on them."

On motion of Sir Douglas Hazen, Chief Justice of New Brunswick, Mr. Taft was elected a member of the Canadian Bar Association.

REPORT ON LEGAL EDUCATION.

The report of the Committee on Legal Education, referring to the curriculum, was presented, and, after discussion, several recommendations were suggested and agreed to.

One delegate urged that the law students should be forced to enter offices to see how the law operated. "Many students," he said, "knew nothing of actual practice. The time was coming if something was not done when lawyers would hire clerks instead of students."

Discussion on methods of study and text books occupied the greater part of the afternoon session. F. H. Chrysler, K.C., Ottawa, moved the adoption of the report and explained that Ontario students did not secure office experience outside of their summer holidays. He felt there was a danger of too much theory.

Colonel Ponton, K.C., of Belleville, said the law colleges should be encouraged by the state. He urged the necessity of practice, and instanced the case of Harvard, where the students had the advantage of mock courts. He said there was a grave danger in too much memory work and not enough knowledge of practice.

VISCOUNT CAVE'S ADDRESS.

At the evening session Rt. Hon. Viscount Cave addressed the Association as follows;

"To be on Canadian soil is itself a delight. For me—as for most Englishmen—Canada, with her wide spaces, her fertile plains, her lakes and rivers, her people, her history, her romance, has a special appeal. The early struggles of the Canadian settler against wild nature and untamed man; the expansion, first slow and arduous, but afterwards rapid almost beyond belief, of the area under his control; the growth of a small community into a nation destined for greatness, as settlement grew into colony and colony into Dominion; the business enterprise which, with a population relatively small, has produced factories humming with work, agricultural areas bearing grain for the use of the world and great railway systems linking East with West; and, above all, the wise moderation which has blended two races into that union which is strength—that is the story which fills us in the Motherland, not with interest only, but with pride that we and you are members of one Commonwealth.

"But if this was our feeling before the War, you can imagine how much deeper and more vibrant the sense of brotherhood has been rendered by that great event. For us the War, in which the very existence of our land and the safety of all that we cared for were at stake, was as the uprooting of our lives, was for the time being the only thing that mattered. Who was with us was as the gods, who was against us was leagued with the powers of evil. And from the beginning to the end Canada was with us heart and soul. The initiative and the decision came from her. In the early days of August, 1914, she offered to send troops. In a few weeks 30,000 of them were on the high seas. Before the

War ended they grew towards the half million; and Ypres and Vimy Ridge and many another gallant struggle shewed that Canada had sent us not numbers only but MEN:—

'They saw with brighter vision
The Empire's direst need;
They came with swift decision
To do the utmost deed;'

and the memory of those days and of the burden which we bore and of the victory which we won together will last as long as time.

"Let me add that I am glad too to meet so many members of the Canadian Bar. We are not altogether strangers to one another; for at intervals during the last two years I have seemed, though bodily present at the sittings of the Privy Council in London, to be living in a Canadian atmosphere. The sturdy combativeness of the corporations of Ontario, the courteous but firm insistence of the Province of Quebec on her rights, will, in an assembly of lawyers, receive nothing but approval; and to me they have brought this great advantage, that through them I have made the acquaintance of many able members of the Canadian Bar whose arguments have persuaded or coerced the Board into giving (as is its custom) the right decision. I am glad indeed to meet them here once more.

"In looking around for a subject which we lawyers might discuss together on this occasion I found it difficult wholly to get away from the War, and it occurred to me that it might interest you if, for a short time, I dwelt on some of the legal aspects of that event, and that such a review might even be of some use for future reference. As a Law Officer in the early part of the War, and afterwards until the Armistice was signed, as Secretary of State, I saw the War under many aspects more or less closely connected with our profession, and I propose to speak of some of them, taking care, first, to avoid telling any secrets which ought not to be told, though there are few of these left, and secondly, to keep away from ground which was covered in so interesting a fashion by my noble friend, Lord Finlay, last year.

"And first, as a lawyer, I cannot resist the temptation to say something of the part which our lawyers, whether solicitors,

barristers or Judges bore in the War. I do not refer only to their share in the fighting, which was splendid. Every man who could go went; and if their practice went to pieces and for good, they let it go. Many, very many, gladly gave their lives; and to them may fitly be applied that stirring sentence uttered by Rudyard Kipling in his address to the Edinburgh students:—

"'They willingly left the unachieved purpose of their lives in order that all life might not be wrenched from its purpose, and without fear they turned from the open gates of learning to those of the grave.'

"But those whose hard lot it was to stay behind were eager to make their contribution too. The Inns of Court Volunteers (familiarly referred to as the 'Devil's Own') became an Officers' Training Corps and I believe that over 5,000 officers were trained at their headquarters.

"Of our Judges, Lord Haldane put his trained intelligence and his experience of military organization at the disposal of the War Office, Lord Moulton gave his great scientific knowledge and organizing power to the study and manufacture of explosives, Lord Sumner rendered invaluable service on the Reparation Commission, Lord Sterndale was Chairman of the Dardanelles Commission, Sir Henry Duke presided over the Compensation tribunal which was known by his name, Lord Justice Younger over a Committee dealing with prisoners of war, and Mr. Justice Sankey over Committees on aliens and on the mines. The other Judges and lawyers above military age who undertook like duties for war purposes, many of them arduous and irksome and (so far as the public were concerned) largely unknown and unrecognized, cannot be counted; and indeed you could not, in those days, enter a Government office in London without running into some distinguished jurist who was quietly but strenuously working there for his country. No doubt your experience here was the same and I think that our profession has no reason to be ashamed of its part in the organization of the Empire for War.

"In the next place, let me refer to the War Emergency legislation in Great Britain. It ran into volumes, which will form

a mine of information for the historians. The long chain of statutes, order in council, regulations and proclamations shews how large a part the legal armoury played in the conflict.

"Of the Military Service Acts and their attendant Orders I need not speak to you at length, for you were prompt and resolute in adopting that compulsion of military service which we adopted just in time and without which the War must have been lost. Of course there were doubtful problems and hard cases. Among the former was the competition between the Army Council, who naturally wanted the best men for military purposes, and the Ministry of Munitions and other Government Departments, who, quite as naturally, objected to have the munition factories, the mines and the farms denuded of their best hands. Ultimately the decision was entrusted to a Ministry of National Service; and in case of serious dispute, the Cabinet decided. Among the hard cases were those of the one man business which (it was said) would perish if the owner went to the War and the widow's son, his mother's sole support. Such questions as these, too difficult and poignant to be solved by general administrative rules, were left to the discretion of voluntary local tribunals, which (with some notorious exceptions) did their work fairly and firmly. I am not sure whether that strange being, the Conscientious Objector, emerged in any force here. He was ever with us and, while I was at the Home Office, he was among the most difficult of our problems. On the one hand, there was the statutory imperative to serve based on clear duty and the national need, and, on the other, the plea of the individual—often genuine though quite unintelligible to the plain man—that while his own home was in dire peril his conscience bade him leave to others the task of defending it. The claims to exemption on conscientious grounds were dealt with by the local tribunals; but there followed the more difficult problem, how to deal with men who had failed to satisfy the tribunals that they were genuine Conscientious Objectors but who still refused on the plea of conscience to conform to military discipline. For a time it was left to the military authorities to enforce the law, but the question soon arose whether the extreme penalty of death,

the ultimate sanction of military discipline, should be exacted, and this was determined in the negative. From that time offenders of this class were handed over to be dealt with by the civil arm, and went to prison, where many of them by hunger striking and otherwise gave us as much trouble as they could. We got through somehow; but if (which God forbid) War on a great scale should break out again, this problem will have to be faced from the beginning and solved on clear lines.

"In the same unhappy contingency, another and a different question connected with compulsory service will also require timely consideration. Was it right that, while our soldiers bore the burden of the trenches and hazarded life and limb in the firing line upon a mere subsistence allowance, those who remained at home for the purpose (no doubt equally indispensable) of making munitions and performing other works of national importance, should be allowed to exact a large and constantly increasing wage? The conception of compulsory national (as distinct from military) service did not take shape with us until we were approaching the end of the War; but our successors may wonder why this generation failed to evolve some scheme which would have put the soldier and the home worker upon more equal terms.

"Now let me say something about another form of Emergency Legislation—The Defence of the Realm Acts, sometimes compendiously referred to under their initials as D.O.R.A. or more affectionately as DORA. DORA has been the butt of much harmless humour, but I often wonder where we should have been without her. The first Defence of the Realm Act authorised His Majesty in Council to make regulations 'for securing the public safety and the defence of the Realm;' and provision was made for the summary punishment of offences against the regulations so made. The Orders in Council made under the statutes were numerous—I think they numbered about 100—but of course they were consolidated from time to time—and they covered in time almost the whole area of action in the United Kingdom calculated to help or impede us in the War. The regulations were not confined to matters immediately connected

with defence and national safety, such as the acquisition of property required for defence against invasion or for the manufacture of munitions, the protection of naval, military and munition areas against undue curiosity, the supply of information to the enemy, the control of persons of hostile origin or associations and the prevention of seditious speeches and publications. They went much further and empowered the Admiralty or Army Council to appropriate or control factories, to take possession of materials used in the War such as hay, wool or flax, to use patented inventions, to control the production and supply of food of all kinds, the making and selling of bread, the malting of barley, the felling of timber, and the disposal of securities, and to take command of the mining, railway, canal, shipping and liquor industries. They even condescended upon such smaller matters as the rearing of pheasants, the holding of race meetings or dog shows, the supply of cocaine, the lighting of vehicles, and (to the relief of all London) the whistling for cabs. Is it surprising that DORA became something of a legendary figure and appeared to dominate for good or evil the daily life of the people? But in fact the despotism was a benevolent one; and had all the matters been left in wartime to the mercy of competition and private caprice, the War must have been prolonged and the nation must have suffered. When, therefore, you think of DORA, imagine her, not as a malignant tyrant, but as a kindly if somewhat grandmotherly matron who if she chastised us did so for our own good.

"Apart from the Defence of the Realm Acts there was much other special war legislation. The prohibition of trading with the enemy, which is part of our common law, was defined and extended by proclamation and statute, and in this connection the 'Black list' to which Lord Finlay referred last year—the list of enemy agents trading under neutral or friendly colours—was of great service. The great Prize Court case of the 'Kim' in which Lord Finlay and I were on opposite sides, illustrated several phases of this much discussed question. The suspension of patents and trade-marks registered in the names of enemy subjects was dealt with by legislation. The law intervened to

suspend remedies for debt, to postpone the maturity of obligations, to protect tenants from eviction and mortgagors from foreclosure, to limit the production and consumption of intoxicants, and (a difficult task) to limit war profits. As to liquor control I will say nothing here lest I should arouse the stimulating controversy which hovered over the recent meeting of the American Bar Association and found a place in most of the speeches delivered at that interesting gathering. There is no doubt that the excessive consumption of intoxicating liquors and the consequent convictions for drunkenness decreased during the War, but, whether as a consequence of State Control or because many diligent consumers of liquor in peace time were better employed elsewhere, is a matter still debated among us. As to the Acts against profiteering, I doubt whether they were a success, but at least they were evidences of good intentions.

"You will see that the field of war legislation was very wide, and, in view of the manifold activities of the law-making authority, it could hardly be said that '*inter arma silent leges.*'

"Passing now from legislation to other matters interesting to a lawyer, I should like to say a few words about our Press Bureau. It was organized very early in the War by Mr. F. E. Smith (now Lord Birkenhead) and afterwards passed under control of Mr. Stanley Buckmaster (now Lord Buckmaster), Lord Birkenhead's able predecessor on the Woolsack. There was no censorship of the press, no obliteration of columns or passages and (except in a few flagrant cases of falsification or sedition) no seizure or suppression of newspapers. The obligations of the press were defined by the Defence of the Realm Regulations, and were enforced by prosecution, but the Press Bureau was always ready to furnish accurate information, to give sound advice as to the advisability from a public point of view of publishing any submitted matter, and to lay down rules for the guidance of the press. In only one category of printed matter, that of leaflets issued for the purpose of propaganda, was the imprimatur of the Bureau required. Truth to say, press men in war time were no less patriotic than other loyal men, and (speaking generally) were ready and willing that the

publication of news and comment should be governed by a regard for the national interests.

"In one field only there was a real and active censorship. Letters and telegrams were censored, mainly by the military authorities, to an extent hitherto unknown even in War. In the complexity of modern life, where spies, enemy traders and hostile propagandists find a ready instrument in the post, supervision was a necessary evil; and it was patiently borne. The staff employed in this work numbered, I think, about 4,000, and included experts in every language and in the detection of every form of cypher or of secret writings. The results were commensurate with the effort made. I remember how often it happened, when I was Chairman of the Contraband Committee, that material obtained by the Censor assisted in the identification of cargo intended for the enemy; and the government control of the telegraphic system and the wireless stations was of paramount importance. Further, many apparently hum-drum communications on business or family matters were found on being tested to contain less innocent matter interlined in some invisible ink. Sometimes such discoveries led to immediate arrest. In other cases, after being read and photographed, they were closed down again and forwarded to their destination in order that the replies might receive a like attention; and more than one enemy agent rendered unconscious service to the British Government in this way. In one case a spy had been for some months under lock and key before his principals in Germany grew suspicious and desisted from furnishing him—and us—with useful information in ink which under skilled treatment ceased to be invisible. Let me add that our Intelligence Departments, Naval, Military and Police, worked loyally together and in the contest of intelligence I do not think that Great Britain took a low place.

"This leads me to say something about enemy spies, as to whom there was always a good deal of loose talk. Most of the spy stories were sheer nonsense; and I remember that in one short period 1,000 such stories were closely investigated by the police and were found to be groundless. No doubt there were German

spies in England in 1914; Steinhauer's espionage department initiated in 1905 and continued down to the War, saw to that. But most of them were known to us and were quietly arrested and interned on the 4th of August, with the result that the German Intelligence system broke down and the passage of the first Expeditionary Force to Belgium was undisturbed. Of the other spies arrested in Great Britain, nearly all were caught in the first month or so of the War; about 30 were convicted and sentenced, and about 12—not including any woman—were executed. Of the other alien enemies in the United Kingdom who were not spies, by far the greater number were interned or deported; and although there was much grumbling because the remainder of them (mostly hairdressers, governesses and other small folk) obtained from Committees formed for that purpose exemption from internment, I know of no single case in which a person so exempted was proved to have committed acts of sabotage or to have given assistance to the enemy.

"The checks on immigration and naturalization which were imposed during the War have to a great extent been continued since peace was signed; and I doubt whether the happy-go-lucky system under which England admitted anyone and everyone to her shores and converted Germans and Russians (many of them unable to speak the English language) into British citizens with little enquiry and few or no safeguards, will ever be restored. Naturalization is an Imperial question and I trust that the conversations on this matter that were commenced at the last Imperial Conference will lead us all to a wise solution.

"The Prisoners of War in the United Kingdom were divided into two classes. The military prisoners were, of course, in the care of the Army, and those who escaped from that custody could be counted on one hand. The internment of civilians was under the control of the Home Office, and of those so interned a large number were confined in the Isle of Man, and were safer there than in Germany. Some thousands were employed in useful manufactures under Government control, and these were perhaps the least to be pitied of this unhappy class.

"The British prisoners in enemy hands were, of course, a

source of deep anxiety to us all. Of these the most fortunate were those in Austrian hands, who, speaking generally, were not badly treated. The ignorance and neglect of the Bulgarian and the cruelty and inefficiency of the Turk rendered captivity in their hands a dreadful and often perilous experience, and I remember with how much relief the Committee responsible for their repatriation after the Armistice heard of the release of those who had survived. As to the treatment of British prisoners in Germany, I had special opportunities of forming an accurate judgment; for, in the summer of 1918, I went on a mission to the Hague for the purpose of negotiating an agreement as to their treatment and exchange. I believe that in the German mines—especially the salt mines—and (alas!) in some but not many German hospitals, our men suffered great hardships; and also that many British prisoners who should have been sent immediately after capture to the Prisoners' Camps were improperly retained for work behind the German lines with lamentable results. The treatment of prisoners in the Prisoners' Camps in Germany varied according to the character of the Commandant; and while in some Camps—notably those in the Tenth Army District—there were many instances of brutality or neglect, the conduct of other Camps afforded little ground for complaint. Among the many breaches of the rule that prisoners of war should be humanely treated one of the worst on record was the so called "punishment march" of some hundreds of British prisoners under vile conditions to a collection of exposed and unsanitary hovels on the frozen Russian border, which ended in the death of many of the men and in lifelong injury to others. I shall not forget my talks with some of these gallant men in the hospitals at the Hague; and although I am not by nature revengeful, I hope with all my heart that a heavy punishment may yet fall upon those who were responsible for that outrage upon humanity.

"It is right to add, first, that the Berne and Hague Conventions did, in my opinion, have a beneficial effect upon the treatment of prisoners by Germany; and secondly, that the British people owe a deep debt of gratitude both to Holland and to

Switzerland for their kindly reception and care of the British prisoners (many of them wounded) who were interned in those countries or who passed through them on their return to the United Kingdom. I was at the Hague when some contingents of these men arrived there from Germany on their exchange. It was one of the most moving sights I have ever witnessed; and I remember that I did not please the diplomats at the Hague by saying that these prisoners appeared on leaving Germany to have emerged into the upper air. The Germans were annoyed to have the Fatherland compared even indirectly with the lower regions, but I still think that Holland may have seemed by comparison to be an earthly paradise.

"But I must pass on, and will say a few words only on the question of Contraband. I am strongly in agreement with the opinion expressed by Lord Finlay that when, at the commencement of the War, the British Government adopted the Declaration of London as their guide, they fell into error. And it is fortunate that, under the pressure of hard facts, the error was in time repaired. The fact is that nowadays when not armies but whole nations make war, and when success or failure depends as much upon the national spirit as upon prowess in arms, meticulous rules as to what is absolute and what is conditional contraband, or as to what is or is not a continuous voyage destined for the enemy, simply will not work. I remember the day when first a cargo of food intended for Germany was seized and held as prize, and the day when the same fate first overtook a cargo of cotton. If we had been bound by the Declaration of London it is probable that neither could have been seized. Both were detained and rightly detained, and action of that class helped to win the War. In saying this I do not intend for a moment to depreciate the value of the established rules of International Law or of well considered agreements operating in wartime. England kept her agreements and observed all the rules by which she was bound. Even Germany kept some of them; and there was no belligerent nation which did not pay at least a verbal homage to the principals of International Law. It cannot be denied that those principles suffered in the War a partial eclipse; but I still

think they were of service. I hope and believe that with the advent of a more reasonable spirit and under the fostering influence of the League of Nations they will speedily renew their strength; and I can conceive of no better augury than the agreement recently framed at the Hague for the establishment of a permanent Court of International Justice.

"I am reaching the end of my somewhat desultory discourse, and I desire only to refer to one other aspect of the War, namely, its effect upon the constitutional relations between the Old Country and the Dominions. For a generation some of the ablest statesmen of the time—Rosebery, Chamberlain, Grey and others whose names will occur to you—were considering how best a further link could be forged between the central and Dominion Governments, which should be neither so stiff as to gall nor so weak as to break under a strain. It may be that the problem has been solved quietly and almost unconsciously (as our habit is) by the establishment of the Imperial War Cabinet as an effective Council of the Empire. That assembly of the leading statesmen of the self-governing parts of the Empire, first called together in 1917 for the purpose of discussing the conduct of the War and some of the higher issues of Imperial policy, proved to be of so much service both to its members and to the countries concerned that it was unanimously determined at the instance of the British Prime Minister to keep it in being. And so other meetings took place at a later crisis of the War and again when the terms of peace were under consideration. The experiment—for at first it was nothing more—proved an unqualified success; and to many of us it seems possible that the Imperial War Cabinet may (if the Imperial Conference should so determine) drop its middle name and, while remaining wholly voluntary and consultative, become in world affairs the nerve centre of the autonomous nations of an Imperial Commonwealth. I doubt whether the thought which underlies this idea has been expressed better than in the words used by Sir Robert Borden, when speaking, on the 3rd of April, 1917, to the Empire Parliamentary Association, he said:

"'For the first time in the Empire's history there are sitting

in London two Cabinets, both properly constituted, and both exercising well defined powers. Over each of them the Prime Minister of the United Kingdom presides. One of them is designated as the War Cabinet, which chiefly devotes itself to such questions touching the prosecution of the War as primarly concern the United Kingdom. The other is designated as the Imperial War Cabinet, which has a wider purpose, jurisdiction and personnel. To its deliberations have been summoned representatives of all the Empire's self-governing Dominions. We meet there on terms of equality under the presidency of the First Minister of the United Kingdom; we meet there as equals; he is *primus inter pares*. Ministers from six nations sit around the Council Board, all of them responsible to their respective Parliaments and to the people of the countries which they represent. Each nation has its voice upon questions of common concern and highest importance as the deliberations proceed; each preserves unimpaired its perfect autonomy, its self-government and the responsibility of its Ministers to their own electorate. For may years the thought of statesmen and students in every part of the Empire has centred around the question of future constitutional relations; it may be that now, as in the past, the necessity imposed by great events has the answer.

"'With the constitution of that Cabinet,' he added, 'a new era has dawned and a new page of history has been written. It is not for me to prohpesy as to the future significance of these pregnant events; but those who have given thought and energy to every effort for full constitutional development of the overseas nations may be pardoned for believing that they discern therein the birth of a new and greater Imperial Commonwealth.'

"I hope indeed that the belief so eloquently expressed by Sir Robert Borden may become a reality in our time. The League of All Nations is a great conception, but much time and effort must be expended before it comes to full fruition. In the meantime there is a League in being—a League, strong, effective and peace loving, nurtured in independence, skilled in self-government, ambitious for no 'world empire' but only for a world peace—the League of the British Nations. The bond

which unites its great component units—Great Britain, Canada, Newfoundland, Australia, New Zealand and South Africa—is no chain of possession but the hand clasp of free men. It is founded on two principles, the autonomy of each and the voluntary co-operation of all, and while we are true to these principles, to each other and to our King, no enemy can prevail against us."

Hon. W. E. Raney, K.C., Attorney-General for Ontario, dealt with the status of the British Overseas Dominions, especially in reference to appeal to the foot of the Throne. He traced the development of Canada's position as an autonomous state from the Blake-Carnarvon correspondence in 1870 until the present time. He thought that Canada would, in the future, amend her own constitution and make her own treaties, and that Imperial Federation was inconsistent with the representation of Canada in the League of Nations. Mr. Raney's suggestion that the Privy Council had out-lived its usefulness did not meet with the approval of the majority of the members present at the meeting.

The proceedings on the second day commenced by Mr. Thomas Mulvey, K.C., reading his paper on "Some phases of Canadian Company law."

This being felt to be a very valuable addition to the literature on this important branch of the law of Canada, it was referred to the Commissioners on Uniformity of Laws to be published in due course.

An address by Sir Auckland Geddes, British Ambassador to the United States, followed. The subject chiefly dealt with war-world unrest. The speaker traced its origin, causes and developments. He described the conditions he had found while organizing recruiting in Breat Britain during the war. His thorough knowledge of the subject was gleaned first hand. His address created a marked impression on the meeting.

It was decided to have printed and sent to every lawyer in Canada a code of ethics for Canadian lawyers. A draft of this was submitted upon the report of a sub-committee presented by

Hon. T. G. Mathers, Chief Justice of Court of King's Bench of Manitoba.

Mr. Louis D. St. Laurent, K.C., of the Montreal Bar, gave a forcible address on "The Quebec Civil Code, and how it can be made useful throughout Canada in development of commercial and business law." "The Code," he said, "was not a book of rules to be followed or broken with attendant good or evil consequences at the hands of the King's Justices, but rather the historical synopsis of what has been, in the past, well ordered human behaviour and, as such, is indicative of those undying principles to which well ordered human behaviour should conform or should be made to conform.

"Certain conceptions were inexorably established. Among others the natural liberty and essential equality of all men; the indissolubility of the family ties and their natural bearing on the status of the individual; the untrammelled freedom of creating contractual relations and so making laws binding on one's self and all others who have consented thereto; the fulness of dominion over the things one owns even to binding them after one's death and the complete liability to repair all injuries wrongfully caused to another in his person or in his things.

"Though it was still thought a husband should exercise some control over the legal capacity of his junior partner in wedded life, if she is his junior partner no longer in civic life and is equally entitled with him to control the destinies of the whole country by her vote, shall she continue to have only an unequal control or no control over the destinies of the family patrimony?

"There was," he thought, "a practical possibility of making the Code useful outside of Quebec without departing from the customs and processes dear to Anglo-Saxon jurists of every age."

The annual dinner held on Thursday evening was attended by a most distinguished gathering, whose names will be found in the preceding pages. Speeches were made by Sir James Aikins, Rt. Hon. Viscount Cave, Hon. W. H. Taft, Sir Robert Borden, Hon. Arthur Meighen, Hon. W. H. Wadhams (President of the New York Bar Association), Judge Dennistoun, and His Excellency the Governor-General. The keynote of the addresses was

the high responsibility of the legal profession. The common heritage of Canada and the United States of the common law and precedents of England was pointedly enlarged upon.

REPORT ON UNIFORM LEGISLATION.

On Friday morning, the Report of the Committee on Uniformity of Legislation in Canada, dealing with the Sale of Goods and Partnership and the Legitimation Act was presented, as follows:—

"1. Your committee, consisting of the commissioners from Ontario, is glad to be able to report further substantial progress in the direction of securing uniformity of legislation on the subject of Sale of Goods and Partnership.

"2. As mentioned in the report of your committee presented to the Conference in 1919, the Sale of Goods Act, 1893, was adopted in New Brunswick and in Prince Edward Island in 1919, at the instance of the commissioners from those provinces respectively. Pursuant to the recommendation of the Conference made in 1919, and at the instance of the Ontario commissioners, the statute was adopted in Ontario in 1920. The result is that the statute is now in force in all the provinces of Canada except Quebec.

"3. It is of interest to note that the Sale of Goods Act, 1893, originally enacted to codify the law of the United Kingdom, has been adopted in the following British dominions:

"1895. Barbados, Gibraltar, Jamaica, Isle of Man, New Zealand, South Australia, Trinidad and Tobago, Western Australia;

1896. Ceylon, Hong-Kong, Manitoba, Queensland, Tasmania, Victoria;

1897. British Columbia;

1898. Northwest Territories of Canada (then including Alberta and Saskatchewan);

1899. British Honduras, Newfoundland;

1904. Bahamas;

1910. Nova Scotia;

1913. British Guiana;
1919. New Brunswick, Prince Edward Island;
1920. Ontario.

"4. As noted in last year's report of this committee, the Factors Act, 1889, enacted by the British Parliament, had been adopted in Alberta, British Columbia, New Brunswick, Nova Scotia, Ontario and Saskatchewan. Pursuant to the recommendation of the Conference it was also adopted in Prince Edward Island in 1920, at the instance of the commissioners from that province. Your committee is informed that it will probably be adopted in Manitoba in 1921. In Quebec, articles 1735-1754 of the Civil Code of Lower Canada are based upon the former British legislation, superseded in the United Kingdom by the Factors Act of 1889.

"5. Pursuant to the recommendation of the Conference in 1919, the Partnership Act, 1890, which codified the general English law of partnership, was adopted in New Brunswick, Ontario and Prince Edward Island in 1920, at the instance of the commissioners from these provinces respectively. The result is that the statute is now in force in all the provinces of Canada except Quebec. In the last mentioned province, the general law of partnership is governed by articles 1830-1870 and 1892-1900 of the Civil Code of Lower Canada.

"6. The Partnership Act, 1890, has been adopted in the following British dominions:

"1891. Queensland, Tasmania, South Australia;
1892. New South Wales, Newfoundland;
1894. British Columbia;
1895. Western Australia, Gibraltar;
1897. Manitoba, Hong-Kong;
1899. Northwest Territories of Canada (then including Alberta and Saskatchewan), British Honduras;
1900. British Guiana;
1902. Bermuda;
1904. Bahamas;
1908. New Zealand;
1910. Fiji;

1911. Nova Scotia;
1912. Papua;
1913. Trinidad and Tobago;
1915. Victoria;
1916. St. Lucia;
1920. New Brunswick, Ontario, Prince Edward Island.

"7. The principal points on which the general non-English law of partnership—the civil law—differs from the English common law are these: under the civil law, (1) a partnership has a separate legal personality distinct from that of the individual members; (2) a partner's liability is joint and several; (3) partnerships *en commandite* may be formed by which the advantages of limited liability are secured to dormant partners. On the first two points there remains a difference between the law of Quebec and that of the other provinces; the third point will be further referred to below.

"8. Your committee was instructed in 1919 to compare the Limited Partnership Act, 1907, passed by the British Parliament, and the statutes of the different provinces on the same subject, and to report thereon. As mentioned in the former report of your committee, the various provincial statutes are not based upon British legislation, and differ in some material respects from the statute of 1907 above mentioned. In comparing the various statutes your committee has derived much help from an article by James Edward Hogg published in 1918, in the Journal of the Society of Comparative Legislation, volume 18, New Series, pp. 233-241, under the title "Partnership Law in the Empire."

"9. As already stated, limited partnerships exist in English law only by virtue of some express statutory enactment, whereas partnerships *en commandite* are part of the general law of partnership under the civil law. Nevertheless in Quebec and in several other of the British dominions where the English common law does not prevail, limited partnerships are expressly sanctioned by statute. In Canada the Quebec statute and the statutes of the other provinces are alike based upon a statute of 1849 passed by the late province of Canada (12 Vict. ch. 75).

There is, as a result, substantial uniformity of legislation on this subject throughout Canada. The Quebec provisions are contained in articles 1871-1888 of the Civil Code of Lower Canada and in the Revised Statutes of Quebec, 1909, articles 1743-5.

"10. It will be sufficient to mention a few points on which the British Act of 1907 (which has been followed in some of the British dominions) differs from the Canadian Acts. The differences are enumerated as follows, in Hogg's article already cited:

"The 'limited' partners of the English Act are in other jurisdictions called 'special' partners. Whilst the English Act contemplates a limited partnership carrying on banking business, and also restricts the number of persons who may form a limited partnership, in most cases of statutes framed on the Canadian model banking and insurance are prohibited, but there is no restriction as to numbers (except so far as this may be enforced by Companies Acts). The ordinary law of partnership obtains under the English Act, so that an action against the partnership as a whole does not differ from an action against an ordinary partnership; in some of the statutes on the Canadian model actions may be brought against the general partners only, as though there were no special partners. Under the English Act the general partners are 'liable for all debts and obligations of the firm;' under many statutes on the Canadian model the general partners are 'jointly and severally responsible as general partners are by law.' In jurisdictions where the liability of partners is not by statute made joint only during their lifetime, it may be that this reference points to a joint and several liability in the case of ordinary partnership.

"The British Columbia statute contains a restriction as to the number of partners, and omits the reference to joint and several liability. In some of the Canadian provinces there are special statutory provisions as to mining partnerships.

"11. The reference in some of the Canadian Acts to joint and several liability is apparently an error of law which ought perhaps to be corrected, but your committee is of the opinion

that the differences in language between the Canadian Acts and the English Act do not constitute a sufficient reason for attempting at present any general revision of the Canadian Acts, especially in view of the substantial uniformity of legislation now existing in Canada on this subject and in view of the fact that there are many other subjects of more pressing importance requiring the attention of the Conference.

"12. The system of requiring partnerships to be registered, introduced in the United Kingdom only in 1916, has been in force in Ontario since 1869 (33 Vict. ch. 20), and in Quebec since 1849 (12 Vict. ch. 45; *cf.*, the Civil Code of Lower Canada, article 1834). As pointed out in your committee's report in 1919, there are now statutes on this subject in force in all the provinces of Canada. There is some diversity in these various statutes. In New Brunswick, for instance, all partnerships must be registered, while in some other provinces only trading, manufacturing and mining firms need be registered, and there are other differences of detail in different provinces. In the opinion of your committee, however, the subject of the registration of partnerships and trade names might well be left, along with the subject of limited partnerships, for consideration at some future time when other matters of more pressing practical importance have been disposed of."

REPORT ON LEGITIMATION ACT.

This was followed by the Report of the Commissioners on the Legitimation Act; being as follows:—

"1. A report on this subject would have been made by Mr. Matthew Wilson, K.C., D.C.L., as corresponding secretary of the Conference, had not his death, to the profound regret of his colleagues, deprived the Conference of his services. Mr. Wilson was an enthusiastic and able officer and member of the Conference, as well as discharging with great efficiency the duties of chairman of the Ontario commissioners. In accordance with the request of the president of the Conference, the undersigned now submits a report in Mr. Wilson's place.

"2. At the meeting of the Conference held in 1919, a draft of a uniform Legitimation Act was revised (Proceedings of the Conference, 1919, pp. 16, 53; Canadian Bar Association, 1919, pp. 240, 277), and it was resolved that the draft

"'be printed and that copies be sent to all members of the Conference who have attended the present meeting, and that if within two months the draft is not disapproved by one-fourth of such members it shall be recommended to the Legislatures of the several provinces of Canada for enactment.'

"3. The draft as revised in 1919 was accordingly printed and copies were sent by the corresponding secretary to all the commissioners for further consideration. Disapproval of the draft was subsequently expressed by the commissioners from British Columbia and Saskatchewan, and by two of the commissioners from Ontario, being more than one-fourth of the members of the Conference who were present at the meeting of 1919. The draft was, however, adopted by statute in Manitoba and Prince Edward Island in 1920.

"4. The Commissioners from Saskatchewan submitted a new draft, and the Commissioners from Ontario another. The last mentioned draft was revised by the Commissioners from British Columbia, and in its revised form was in 1920 adopted by statute in the provinces of New Brunswick and Saskatchewan."

The following is the draft of the Act:—

"1. This Act may be cited as The Legitimation Act.

"2. (1) Where the parents of any child born out of lawful wedlock have intermarried after the birth of the child and prior to the passing of this Act, the child shall for all purposes be deemed to be and to have been legitimate from the time of birth.

"(2) Nothing in this section shall affect any right, title or interest in or to property, where the right, title or interest has vested in any person prior to the passing of this Act.

"3. (1) Where the parents of any child born out of lawful wedlock intermarry after the birth of the child and subsequent

to the passing of this Act, the child shall for all purposes be deemed to be and to have been legitimate from the time of birth.

"(2) Nothing in this section shall affect any right, title or interest in or to property, where the right, title or interest has vested in any person prior to the intermarriage."

REPORT OF COMMITTEE ON THE ADMINISTRATION OF JUSTICE.

This Report was presented by Mr. W. J. McWhinney, K.C. as follows:

"This Association is pleased to record the fact that the Federal Government has seen fit to admit the principle of the necessity which exists for increase of the remuneration of the Judges but regrets that the measure of relief provided by the legislation of the recent session is entirely inadequate.

"The removal of exemption from income tax and the leaving open of the door to further deductions by provincial and municipal authorities from the salaries now afforded has nullified in a great measure the slight increase made, and still further, the pensions heretofore enjoyed have been affected in that those hereafter appointed receive no pensions while present members, if they accept the increase, are limited to two-thirds of former salaries, subject, however, to all forms of income tax and to the deprivation of remuneration for any other services performed.

"It is recommended that this Association persist in its efforts to obtain further increases in the salaries of the Judiciary, and endeavour to have the exemption heretofore enjoyed from income tax restored and further to secure the removal of any bar on retiring pensions heretofore enjoyed by the Judiciary.

"The nationhood of Canada within the Empire developed during the war has opened up new fields of Judicial work and new avenues for the profession to specialize in, such as:—

"(*a*) Constitutional and International Law and Interprovincial Jurisdiction.

"(*b*) International Law in relation to Railways and Steamship Lines.

"(*c*) Corporation Law.

"(*d*) Transportation problems.

"(*e*) Rates and tolls as partially now brought under Railway Boards and Public Service Commissions.

"(*f*) Public Corporations and Commissions of Control and of Investigation.

"The present right of appeal to the Privy Council should be maintained without the suggested limitations to constitutional questions.

"A suggestion made following Lord Finlay's visit that the Privy Council might sit at the several capitals of the Dominions might well be followed up.

"The Supreme Court of Canada should have its numbers increased with a view to the strengthening of that Court on the equity side of our jurisprudence and the Court should be composed of an unequal number so as to avoid the occurrence of dismissals by virtue of equal division.

"The rendering of one judgment as the judgment of the Court instead of individual judgments should be adopted. This and a shortening of all judgments would go far to reduce the increasing volume of Judicial Reports.

"The attention of the Honourable the Minister of Justice is respectfully drawn to the Judges Act and its numerous amending statutes. These should be revised and consolidated without delay. By special request this Committee has considered the language of section 12, ss. 2 of the Judges Act, 1920, and respectfully submits that its constitutionality is doubtful and in any event the Judiciary should be freed from service on commissions of a political or quasi-political nature.

"It is submitted that the Judges Act of 1920 did not receive proper consideration in the House and that it should be reconsidered and full justice should be done by removing the objectionable features referred to.

"It is again urged that the system of Court Reporting is burdensome, that a new system should be devised and that the Special Committee recommended in the report of 1919 should be maintained and assisted in every way by the Association.

"The Committee regrets to report that the legislation referred to in paragraph three of the 1919 report on the subject of divorce did not receive the consideration due to it and it is recommended that this Association urge that uniform laws on the subject of marriage and of divorce be enacted by the Federal Parliament and that such laws be adopted by the Provincial Parliaments and their administration be left to the Provincial Courts. It is also recommended that in such legislation there should be no distinction between the rights of male and female and that in all respects with reference thereto each sex should be treated on a basis of strict equality.

"It has been brought to the notice of the Committee that Provincial Parliaments are legislating in criminal and quasi-criminal matters and usurping the functions of the Federal Government and this Committee urges that the Association consider this subject and take such action as may be considered effective.

"This Committee deems it opportune and fitting that the signal service, devotion and sacrifices of our distinguished President should be recognised on the occasion of this Annual Meeting at the Capital by some lasting testimonial, such as Sir James' portrait by a Canadian artist to be hung in the National Gallery as the founder of the Association.

"Various matters have been urged upon this Committee for consideration without sufficient data. It is deemed advisable that the recommendations of the Committee should be limited in number and the few followed up energetically with the object of attaining advancement in furthering the objects of the Association."

An able address was given by Hon. Henry B. F. Macfarland, of Washington, for ten years head of the commission that governs the District of Columbia. The theme was, "Government of Laws, not of Men." The speaker put very clearly the result of the European situation and the history of lawyers who had combatted and will still have to combat the anarchistic tendencies of a portion of the world's population.

The Report of the Resolutions Committee was presented by Mr. N. B. Gash, K.C. The resolution on uniform marriage laws in Canada was, shortly, as follows:—

"That the Association hereby affirms and records its opinion that it is highly expedient that a general law applicable, so far as practicable, throughout Canada, upon the subjects of marriage and divorce should be passed at an early date by the Parliament of Canada, and for this purpose we hereby respectfully recommend that the Government of Canada take such steps before the next session of Parliament as will ensure a careful study and investigation of the matter and the framing of a well-considered and moderate bill upon the subjects of marriage and divorce for submission to Parliament at its next session; and that copies of this resolution be sent to the Prime Minister of Canada and the Minister of Justice, accordingly; and that such further or other suitable action be taken by the Council as will carry out the objects of this resolution and promote the passage of a measure under the powers of Parliament in that behalf."

On motion, the principle of the resolution was adopted by a narrow majority.

OFFICERS OF ASSOCIATION.

The Officers and Council for the ensuing year were elected as follows:—

Honorary President—Rt. Hon. Charles J. Doherty, K.C., Minister of Justice.

President—Sir James Aikins, K.C.

Honorary Vice-Presidents: Alberta—Hon. J. R. Boyle, K.C.; British Columbia—Hon. J. W. deB. Farris K.C.; Manitoba—Hon. Thomas H. Johnson, K.C.; New Brunswick—Hon. J.P. Byrne, K.C.; Nova Scotia—Hon. O. T. Daniels, K.C.; Ontario—Hon. W. E. Raney, K.C.; Prince Edward Island—Hon. J. J. Johnston, K.C.; Quebec—Hon. L. A. Taschereau, K.C.; Saskatchewan—Hon. W. F. A. Turgeon, K.C.

Vice-Presidents: Alberta—R. B. Bennett, K.C.; British Columbia—L. G. McPhillips, K.C.; Manitoba—Isaac Pitblado, K.C., LL.D.; New Brunswick—R. B. Hanson, K.C.; Nova Scotia—Stuart Jenks, K.C.; Ontario—M. H. Ludwig, K.C.; Prince Edward Island—A. B. Warburton, K.C.; Quebec—Eugene Lafleur, K.C.; Saskatchewan—J. A. M. Patrick, K.C.

Honorary Secretary—Hon. E. Fabre Surveyer, Montreal.

Honorary Treasurer—G. F. Henderson, K.C., Ottawa.

Secretary and Treasurer—E. H. Coleman, Winnipeg.

Thanks of the Association were tendered to Their Excellencies for their interest in the proceedings, to Lady Borden and other members of the ladies' committee, to Sir James and Lady Aikins, to the Ottawa clubs for courtesy extended, to the Canadian Press, to the Ottawa newspapers to whose enterprise credit is due for the excellent daily reports of the meetings, and lastly—and firstly—to the Ottawa Bar and especially the personal efforts of its Reception Committee to which is due much of the success of the meeting.

At the meeting of the Council of the Association held on September 3rd it was determined that the mid-winter meeting of the Council should be held in the city of Quebec on a day to be named by the President.

The President was requested and empowered to name a special committee to take up the question of remuneration of lawyers and also to name any other special committee which he might consider necessary.