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Canada. Secretary of State, Sept. 1-

REPORT

ON THE

Constitution of the Dominion of Canada

PREPARED FOR PRESENTATION TO THE

IMPERIAL PARLIAMENT

BY THE

HONOURABLE JOSEPH ADOLPHE CHAPLEAU, Q.C., LL.D.,

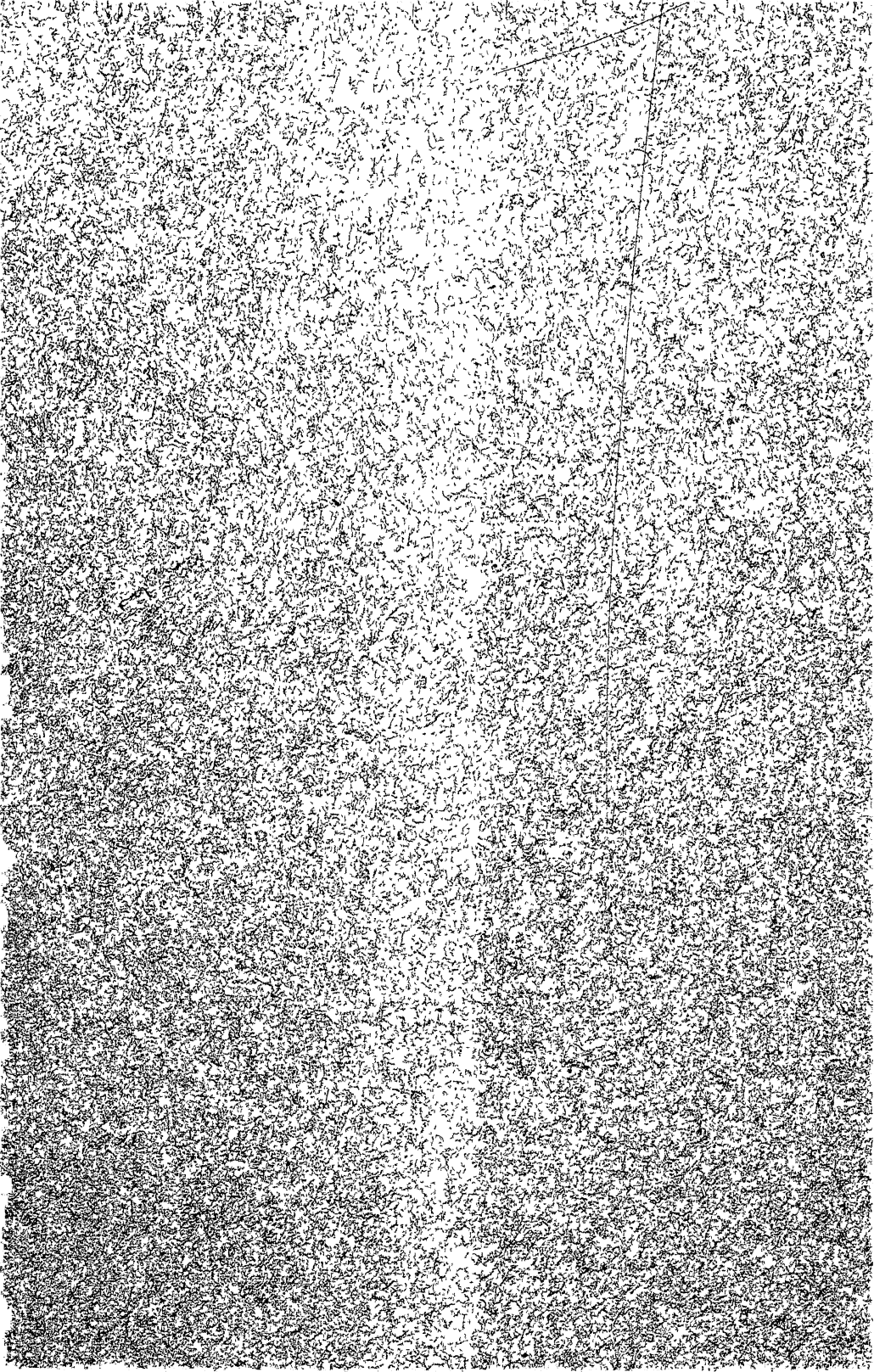
SECRETARY OF STATE OF CANADA.



OTTAWA:

PRINTED BY BROWN CHAMBERLIN, PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1891.



REPORT

ON THE

CONSTITUTION OF CANADA.

CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council on the 11th April, 1890.

The Committee of the Privy Council have had their attention called to a Circular Despatch of the 26th of March, 1888, and to Despatch (general) of the 18th of December, 1888, from the Right Honourable the Secretary of State for the Colonies, requesting that Your Excellency will at your earliest convenience give him the information therein requested for presentation to the House of Commons, respecting the Executive, etc., of the Dominion.

The Secretary of State, to whom the Despatches were referred, has caused to be prepared a paper herewith, giving a general view of the Constitution of the Dominion, including also a section devoted exclusively to the Constitution and powers of the Local or Provincial Governments, as well as to the Judiciary and Municipal system.

The Minister observes that introductory to the paper a few necessary historical notes have been given, touching the growth of Parliamentary institutions and Responsible Government in the several Provinces of Canada.

The Committee recommend that Your Excellency be pleased to forward a copy of this minute, together with the paper submitted to the Colonial Office, in answer to the circular despatch above mentioned.

All which is respectfully submitted,

JOHN J. MCGEE,
Clerk, Privy Council.

The Honourable
The Secretary of State.

THE CONSTITUTION AND GOVERNMENT OF CANADA.

1.—HISTORY.

Canada is said to have been discovered in 1497 by John and Sebastian Cabot, under commission from King Henry VII. of England. In 1524, the coast from Carolina to Nova Scotia, and all the region lying beyond, was claimed by Jean Verazzani as possessions of Francis I. of France, under the name of "New France," a name which was afterwards applied to most of the territory claimed to belong to that nation in the New World. Ten years later Jacques Cartier, of St. Malo, explored the St. Lawrence, and, in the following year, took possession of certain territory in Canada, or New France, under authority from the French King. Nova Scotia was first colonized by the French in 1598. Canada proper remained under the sovereignty of France up to 1759, when, by force of arms, it passed to English rule; it was formally ceded to Great Britain under the Treaty of Paris, 1763. As early as 1758 representative institutions were granted to Nova Scotia, which then embraced New Brunswick also. In 1785 the latter was erected into a separate colony, with a representative assembly. In 1763, Prince Edward Island was annexed to Nova Scotia, but was constituted a separate colony with a Legislature in 1770. In 1791,

Canada proper (*i. e.*, the present Provinces of Ontario and Quebec) was divided into two Provinces with representative institutions. These Provinces, now to be known as Upper and Lower Canada, remained with separate Legislatures until 1841, when they were united in a Legislative Union under the name of Canada. In that year also Responsible Government was conceded to Canada, which was the first British dependency wherein this important measure of Colonial administrative reform was introduced; but the principle was not definitely established until 1847. In the following year Responsible Government was introduced in Nova Scotia and also in New Brunswick. It was not, however, established in Prince Edward Island until 1851. The several British North American colonies remained in this position until the 27th May, 1867, when, under the British North America Act of that year (30 Vic., cap. 3, Imperial Statutes), popularly known as the Act of Confederation, the Provinces of Canada (*i. e.*, Ontario and Quebec), Nova Scotia and New Brunswick, were federally united as a Dominion under the name of Canada. Since then the Provinces of Manitoba, British Columbia and Prince Edward Island, with the unorganized territories of the North West, have been incorporated in the Union, leaving, at the present time, but one Colony of the British North American group (Newfoundland) to be admitted therein to complete the great design of Canadian Confederation. The total estimated area of the Dominion is 3,610,257 square miles; the total estimated population about five millions.

II.—CONSTITUTION.

The system of Government established in Canada under the Act above cited, and which system was unknown in Great Britain or her Colonies until so introduced and applied, is a Federal Union, having a General or Central Government controlling all matters essential to the general development, the permanency and the unity of the whole Dominion, and a number of Local or Provincial Governments, having the control and management of certain matters naturally and conveniently falling within their defined jurisdiction, while each Government is administered in accordance with the British system of Parliamentary Institutions. By this Act the Imperial Parliament practically gave to the Dominion Parliament the largest possible rights which can be exercised by a Colonial dependency of legislating on all matters of importance to the Union generally. The position Canada consequently occupies is that of a semi-independent power. The powers vested in the Parliament of Canada are set forth in the 91st section of the Confederation Act, which provides that the Queen, with the advice and consent of the Senate and House of Commons, may "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;" and for greater certainty it is declared that "the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated," that is to say:—

1. The public debt and property.
2. The regulation of trade and commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. Census and statistics.
7. Militia, military and naval service and defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.
9. Beacons, buoys, light-houses and Sable Island.
10. Navigation and shipping.
11. Quarantine and the establishment and maintenance of Marine Hospitals.
12. Sea-coast and inland fisheries.
13. Ferries between a Province and any British or foreign country or between two Provinces.

14. Currency and coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of exchange and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and aliens.
26. Marriage and divorce.
27. The Criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
28. The establishment, maintenance and management of Penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

By the 92nd section the Act defines the powers of the Local Legislatures, which in each Province may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

1. The amendment, from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant Governor.

2. Direct taxation within the Province, in order to the raising of a revenue for Provincial purposes.

3. The borrowing of money on the sole credit of the Province.

4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.

5. The management and sale of the public lands belonging to the Province and of the timber and wood thereon.

6. The establishment, maintenance and management of public and reformatory Prisons, in and for the Province.

7. The establishment, maintenance and management of hospitals, asylums, Charities and eleemosynary institutions in and for the Province, other than Marine Hospitals.

8. Municipal institutions in the Province.

9. Shop, saloon, tavern, auctioneer and other licenses, in order to the raising of a revenue for Provincial, local or municipal purposes.

10. Local works and undertakings other than such as are of the following classes:—

(a.) Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Provinces with any other or others of the Provinces, or extending beyond the limits of the Province.

(b.) Lines of steamships between the Province and any British or foreign country.

(c.) Such works as, although wholly situate within the Province, are, before or after their execution, declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.

11. The incorporation of companies with Provincial objects.

12. The solemnization of marriage in the Province.

13. Property and civil rights in the Province.

14. The administration of justice in the province, including constitution, maintenance and organization of the Provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in these courts.

15. The imposition of punishment by fine, penalty or imprisonment, for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

16. Generally all matters of a merely local or private nature in the Province.

On the subject of education, the Act provides that while the Legislature of a Province may exclusively make laws on education, nothing therein shall prejudicially affect any of the denominational schools (*i. e.* separate schools for the religious minorities in several of the Provinces) in existence before July, 1867, when the Act came into force. An appeal lies to the Governor General in Council from any Act of the Provincial authority affecting any legal right or privilege that the Protestant or Catholic minority enjoyed at the Union. In case the Provincial authorities refuse to act for the due protection of the rights of the minorities, in accordance with the provisions of the Constitution then the Parliament of Canada may provide a remedy for the due execution of the law. It may be stated that Parliament has not, so far, been called upon to act on this provision. There are certain rights which the Dominion and Local Governments may exercise in common, among which are agriculture and immigration, respecting which the General Parliament may make laws for any or all of the Provinces, and each Legislature may do the same for the Province over which it has jurisdiction, provided no Provincial Act is repugnant to any Dominion Act. Either the English or French language may be used in the Debates in Parliament, and in the Legislatures of Quebec, Manitoba and the North-West Territories; and both these languages shall be used in the respective records and journals of those Houses and in the publication of the laws of Quebec, Manitoba, and the North-West Territories; and it may be added that either language may be used in pleadings or processes in the courts of Canada and in Quebec and Manitoba.

The seat of Government of Canada is fixed at Ottawa, until the Queen otherwise directs.

A.—Executive Power.

The chief executive government and authority in Canada is vested in the Queen, in whom also is vested the chief command of the militia, and of all naval and military forces of or in Canada. Her Majesty is represented by a Governor General, appointed by the Queen in Council, but paid by Canada, whose term of office usually lasts five years. The Governor General's salary is fixed at £10,000 sterling, and forms the third charge on the consolidated revenue of the country. The Governor General is bound by the terms of his commission, and can only exercise such authority as is expressly entrusted to him. He governs under the advice of a Council or Ministry, known as the Privy Council for Canada, which is responsible to Parliament. The Governor General, as the acting head of the Executive, summons assemblies, prorogues and dissolves Parliament, and assents to or reserves Bills in the name of Her Majesty, but in the discharge of these and other Executive duties, acts entirely by and with the advice of his Council; even in matters of Imperial interest affecting Canada he consults with his Council, and submits their views to the authorities in England. The Royal prerogative of mercy in capital cases, formerly exercised on the Governor General's own judgment and responsibility, is now administered as in England, pursuant to the advice of the Ministry. The number of the members of the Privy Council in office varies from thirteen to fifteen, of whom thirteen are Heads of Departments, whose functions are regulated by Statute. There are: 1. President of the Privy Council; 2. Minister of Public Works; 3. Minister of Railways and Canals; 4. Minister of Customs; 5. Minister of Militia and Defence; 6. Minister of Agriculture; 7. Minister of Inland Revenue; 8. Secretary of State; 9. Minister of Justice; 10. Minister of Finance; 11. Minister of Marine and Fisheries; 12. Postmaster General; 13. Minister of the Interior and Superintendent-General of Indian Affairs. They are paid an annual salary of \$7,000, with an additional \$1,000 to the Prime Minister. As the members of the Council occupy office only while they retain the confidence of the Lower Chamber or House of Commons, the majority necessarily sit in that body, though there is

always a certain representation (two at the present time) in the Upper Branch or Senate. An administration, when defeated on an appeal to the country, usually retires at once without waiting for the assembling of Parliament. Since Confederation came into effect there have been but three Dominion Administrations, viz.: 1. The Government of Sir John A. Macdonald, formed 1st July, 1867; resigned 5th November, 1873. 2. The Government of Hon. Alexander Mackenzie, formed 7th November, 1873; resigned 16th October, 1878. 3. The second Government of Sir John A. Macdonald, formed 17th October, 1878,—which remains in office.

It should be added that the Governor General has authority to appoint a Deputy or Deputies, to whom he may delegate such of his functions and powers as he may deem expedient to assign to such officer or officers.

B.—The Legislative Power.

Following the British model as far as circumstances permit, the Parliament of Canada consists of the Queen, an Upper House called the Senate, and a Lower House called the House of Commons. The privileges and immunities of the two Houses are defined by the Parliament of Canada, but must not exceed those enjoyed by the Imperial House of Commons in 1867. The sittings are annual, but may be oftener. Senators are appointed by the Governor General under the Great Seal, upon the recommendation of his Council. They hold office under certain prescribed conditions, for life, and must be of the full age of thirty years, and have real and personal property worth \$4,000 over and above all liabilities. The Senate is at present composed of 80 members, apportioned territorially as follows: Ontario, 24; Quebec, 24; Nova Scotia, 10; New Brunswick, 10; Manitoba, 3; British Columbia, 3; Prince Edward Island, 4; and the North-West Territories, 2. The Senators from Quebec must reside in their own divisions or have their property qualification therein, but while it is required that in the case of other Provinces Senators must reside within the Provincial limits, there is no legal necessity that they should live in a particular county or district or have their property qualification therein. All revenue or money Bills can alone originate in the Commons, and the action of the Senate concerning such measures is confined by usage to their rejection, a rejection justified only by extraordinary circumstances. Divorce bills originate in the Senate, but this is a matter of convenience to which the Commons agrees without objection, since, under the Constitution, the Upper House has no special privileges in this respect. During the Session of Parliament the Senate holds a daily sitting, commencing at 3 p.m., Saturdays excepted, unless otherwise ordered. The proceedings commence with prayers taken from the English liturgy, and read by the Chaplain, a paid official. The Senate is presided over by a Speaker, who must be one of their body, who is appointed by the Governor in Council, by Commission under the Great Seal. Fifteen members, including the Speaker, constitute a quorum. Questions are decided by a majority of voices, the Speaker having always a vote, and when the voices are equal, the decision is deemed to be in the negative. Every Senator and member of the House of Commons, and of the several Local Legislatures, must take the oath of allegiance before taking his seat. No Senator can hold a seat in the House of Commons. The House of Commons, which is elected by the people for a term of five years, enjoys both legislative and executive functions, since, through a committee of its own, it governs the country. At the present time the House of Commons contains 215 members, or about one member for every 22,000 of the population of the Dominion. The representation is re-arranged after every decennial census by Act of Parliament, in accordance with the Confederation Act. The Province of Quebec has the fixed number of 65 members, which forms the ratio of representation on which a decennial re-adjustment is based. Each of the other Provinces is assigned such a number of representatives as will leave the same proportion to the number of its population as the number 65 bears to the population of Quebec, when ascertained by a census. The Province of Ontario, with nearly two millions of people, is now represented by 92 members; Nova Scotia has 21 members; New Brunswick, 16; Manitoba, 5; British Columbia, 6; Prince Edward

Island, 6; and the North-West Territories, 4. Previous to 1885 the franchise for the several Provincial Legislatures was the franchise for the House of Commons, but in that year an Electoral Franchise Act was passed for the whole Dominion. The franchise adopted though somewhat complicated in its details, is so broad as practically to be on the border of universal suffrage. Every intelligent, industrious man, who is a British subject by birth or naturalization, and not a convict or a lunatic, or otherwise disqualified by law, is in a position to qualify himself to vote for a member of the Commons. The qualifications of electors are more fully set forth in the accompanying table:—

Title of Voters	Occupation of Premises, or Residence in the Electoral District.	Value.
<i>Real Property Franchise.</i>		
1. Owner. (a). In his own right. (b). In right of wife. (c). His wife owner.	Ownership prior to or at the date of revision of the voters' lists.	Cities, \$300; towns, \$200; other places, \$150.
2. Occupant. (a). In his own right. (b). In right of wife. (c). His wife occupant.	Both occupation and residence for one year next before: (1) the date of his being placed upon the list of voters; or (2) the date of the application for the placing of his name on the list of voters.	Farm or other real property, if equally divided among the father and sons or (if mother the owner) among the sons, sufficient, according to the above values, to give each a vote.
3. Farmer's Son. (a). Father owner. (b). Mother owner.		
4. Owner's Son. (a). Father owner. (b). Mother owner.		
5. Tenant.		
6. Tenant-Farmer's Son. (a). Father tenant. (b). Mother tenant.		\$2 monthly or \$6 quarterly, or \$12 half-yearly, \$20 yearly.
7. Fisherman (owner).		
8. Indian.		
<i>Income Franchise.</i>		
9. Income.	Prior to or at the date of the revision of the voters' lists, and one years' residence in Canada.	\$300 a year.
10. Annuitant.	Residence for one year prior to the revision of the voters' lists.	\$100 a year.

Persons specially disqualified from voting by the Franchise Act are: 1st, the judges of the various courts; 2nd, revising and returning officers and election clerks; 3rd, counsel, agents, attorneys and clerks employed by the candidate, either before or during the election, and who have received or expect to receive any sum of money, fee, office, place or employment from any candidate; 4th, Indians outside of the four original Provinces of the Confederation. Voting in elections, except in the North-West Territories, is by ballot. No property qualification is demanded from a member of the Commons, nor is he limited to a residence in the district for which he is elected.

The laws enacted for the preservation of the independence of Parliament and the prevention of corrupt practices at elections are in principle and details practically those in operation in the Mother Country. Members of the House, when called to the Government as Heads of Departments, must at once resign their seats and be re-elected, though an exchange of office can take place between Ministers after their election under the conditions laid down in the law. All officers of the Public Service

and contractors with the Government are forbidden to sit in Parliament, an exception being made, as in England, of officers in the military service.

Since 1874 the House has given up its jurisdiction over the trial of controverted elections, which previously had been considered by committees. The courts in the several Provinces are now the tribunals for the trial of all such contested elections.

The laws for the prevention of bribery and corruption are strict, and members are frequently unseated for trivial breaches of the law, committed by their agents through ignorance or carelessness. The election expenses of candidates must be published by their legal agents after election. The whole intent of the law is to make elections as economical as possible, and prevent all kinds of corruption. A candidate may be disqualified from sitting in the Commons or voting, or holding any office in the gift of the Crown for seven years, when he is proved personally guilty of bribery.

The classes of subjects respecting which the Parliament of Canada may exclusively make laws are set forth in the preceding section of this report, and therefore need not again be enumerated. The fullest discussion is allowed on all questions, and the Houses have never been compelled by obstruction as in England, to resort to "closure" of debate. As previously stated, either the English or French language may be used in debate. The Standing Committees of the Commons are few in number, and include: 1st, the Committee of Public Accounts; 2nd, the Committee of Agriculture and Colonization; 3rd, the Committee of Privileges and Elections,—and four Committees to which all Private Bills respecting Banking and Commerce, Navigation and Shipping, Railways and Canals, Telephone and Telegraph lines, Bridges, Insurance and the Incorporation of Companies for other purposes are referred. There are also two Committees on which members from the two Houses sit to consider the printing of documents and the management of the Library, which are matters of common interest and care. The publication of the Debates of the House of Commons is under the control of a Special Committee of the House. The membership of these bodies varies in number from 26 to over 160 members. The most numerous is the Railway Committee which has 164 members; Agriculture and Colonization, 106; Banking and Commerce, 104; Miscellaneous Private Bills, 75. The committees are appointed by a Committee of Selection, on which the Government of the day has a majority, and both sides of the House are fully represented.

The House holds daily sittings during the Session of Parliament, commencing at 3 p.m. (Saturdays excepted, unless otherwise ordered), and, as in the Senate, the proceedings commence with prayer, read, alternately in English and French, by the Speaker. The order of business laid daily on the desk of each member is divided into Government Orders, Public Bills and Orders, and Private Bills, besides Questions put to the Government, and Notices of Motion, all of which are taken upon particular days, in accordance with the rules of the House. Certain days are set apart for the Government business, and others for private members but near the close of the Session the Government control every day in the week. The Private Bills, which always outnumber the Public and Government measures, are presented and passed in conformity with special rules, which do not apply to the other classes. The Crown, with the advice of the Privy Council, recommends all appropriations of public money. All measures of taxation can only be introduced by Ministers of the Crown, and must be shown necessary for the public service. The Speaker of the Commons, who, like the Speaker of the Senate, receives a salary of \$4,000 per annum, is elected by the majority at the opening of a new Parliament, and holds office until Parliament is dissolved or he resigns. He presides at all sittings of the House, and, in his absence at any time, is replaced by a Deputy Speaker, or Chairman of Committees, who is elected from the members of the House, in like manner to the Speaker, at the commencement of a new Parliament. The latter also is paid an annual salary amounting in his case to \$2,000. The Speaker and four members of the Privy Council sitting in the Commons, compose a Commission, annually appointed, for regulating the Internal Economy of the House, the

Speaker being Chairman of the Board. The direction and control of the Library of Parliament, and of its officers, are vested in the two Speakers, assisted during the Session by a Joint Committee appointed by the two Houses. Members of the Commons and the Senate receive a sessional indemnity at the rate of \$10 per diem if the Session is less than thirty days, and \$1,000 a Session if it extends beyond that time, together with an allowance of 10 cents per mile for travelling expenses. Twenty members, including the Speaker, constitute a quorum. Questions arising in the Commons are decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote.

At the last general election for the House of Commons, held in February, 1887, the total number of electors on the voters' lists (excluding the North-West Territories, where there were no lists) amounted to 983,599.

C.—*Local Legislatures.*

The Constitutions of the four Provinces, viz., Ontario, Quebec, Nova Scotia and New Brunswick, which composed the Dominion in 1867, when the Confederation Act was passed, are the same in principle and details, except in the case of Ontario, where there is only one Chamber, a Legislative Assembly. The same may be said of the other Provinces that have been admitted into the Union since the date mentioned. All the provisions of the Confederation Act that applied to the original Provinces were, as far as possible, made applicable to them, just as if they had formed part of the Union in 1867. Manitoba was given a constitution similar to the other Provinces, and it was expressly provided in the terms of Union with British Columbia that the Government of Canada would consent to the introduction of Responsible Government into that Province, and that the constitution of the Legislature should be amended by making a majority of its members elective. Immediately upon the union with Canada these reforms were carried out and the Province was placed on the same footing as all the other Provinces. All the Local or Provincial Constitutions are now, therefore, practically on an equality, so far as the Executive, Legislative, and all essential powers of self-government are concerned; and all of them have the authority, under the fundamental law, to amend their constitutions, except as regards the office of Lieutenant Governor. British Columbia and Manitoba have accordingly availed themselves of their constitutional privileges, and there is now only one House, elected by the people, in those Provinces. In all the Provinces, at the present time, there is a very complete system of local self-government, administered under the authority of the Confederation Act, and by means of the following machinery:—

1st. A Lieutenant Governor, appointed by the Governor General in Council, who holds office during pleasure, and shall not be removable within five years from his appointment, except for cause assigned, which, under the constitution, must be communicated to Parliament. He is therefore an officer of the Dominion, as well as the head of the Local Executive, and possesses within his constitutional sphere all the authority of a Lieutenant Governor before Confederation. He acts in accordance with the rules and conventions governing the relations between the Governor General and his Ministry. He appoints his Executive Council, and is guided by their advice, so long as they retain the confidence of the Legislature. The salaries of Lieutenant Governors, which are paid by the Dominion Treasury, vary from \$7,000, given in the smaller Provinces, to \$10,000, paid in larger and more important Provinces, like Ontario and Quebec. These officers are also appointed by Commission under the Great Seal, and on appointment must take the Oath of Allegiance.

2nd. An Executive or advisory Council, responsible to the Legislature, which Council comprises from eight members in the larger Provinces to three in the smaller ones. Their official titles also vary in some cases, but generally there is in every Executive Council an Attorney-General, a Provincial Secretary and a Commissioner of Crown Lands. In the Ontario Government there is a Minister of Education, constituted in view of that branch of the local public service being considered of exceptional importance in that Province. All the members of the Executive Council who hold

departmental and salaried offices must vacate their seats in the Legislature and be re-elected, as in the Dominion Ministry. The principle of ministerial responsibility to the Lieutenant Governor and to the Legislature is observed in the fullest sense.

3rd. A Legislature consisting of an elective House in all cases, with the addition of an Upper Chamber appointed by the Crown in three Provinces, viz., Quebec, Nova Scotia and New Brunswick; and elected by the people in one, viz., Prince Edward Island. The Legislatures have a duration of four years, (in Quebec five), unless sooner dissolved by the Lieutenant Governor. They are governed by the constitutional principles which obtain in the General Government at Ottawa. The Lieutenant Governor opens and prorogues the Assembly, as in Ontario, Manitoba and British Columbia, or the Assembly and Legislative Council in the other Provinces, with the usual formality of a speech. A Speaker is elected by the majority in each Assembly, or is appointed by the Crown in the Upper Chamber. The rules and usages which govern their proceedings do not differ in any material respect from the procedure in the Dominion Parliament. The rules respecting Private Bill legislation are also equally restrictive. The same provisions of law apply to the Speakership of the Assemblies as obtain respecting the Speakership of the House of Commons. The Legislatures of Ontario and Quebec, like the Dominion Parliament, must sit once every twelve months; but apart from the existing usage that Supply has to be voted every twelve months, the Act demands an annual session. The number of members varies from 91 in the Legislature of Ontario to 27 in British Columbia. Members of the Legislative Council, where they exist, have a property qualification, except in Prince Edward Island; but the members of the Assemblies need only be citizens of Canada, and of the age of twenty-one years. They are elected in Ontario on a franchise which is manhood suffrage, qualified only by residence and citizenship, and the conditions of the suffrage are hardly less liberal in nearly all the Provinces, and vary little from each other, the Province of Quebec imposing in a few particulars, the most restrictions and showing an indisposition to adopt universal suffrage. Members are paid an indemnity, which varies from \$800 in Quebec to \$172 in Prince Edward Island, with a small mileage rate, in most cases, to pay travelling expenses. The laws providing for the independence of the Legislatures and for the prevention of bribery and corruption are fully as strict as those in force for Dominion elections. In all cases the courts are the tribunals for the trial of controverted elections. Dual representation is illegal, except in the case of the Quebec Legislative Council, where a member may also hold a seat in the Dominion Senate. Touching the question of disallowance, it may be briefly stated that the Confederation Act gives the Lieutenant Governor, as well as the Governor General, the power to "reserve" and also to "veto" a Bill when it comes before him. The classes of subjects respecting which Local Legislatures may make laws are set forth in the preliminary part of this report. As regards the revenues of the Provinces, they are largely derived from certain annual subsidies receivable from the General Government. The Dominion at the Union assumed the debts of the several Provinces, agreeing at the same time to pay them an annual subsidy, equal to 80 cents per head of the population of the first four Provinces, as ascertained by the census of 1861, except in the case of New Brunswick and Nova Scotia, where it was arranged that the subsidy should increase each decennial census, until the population in each case reached 400,000. Besides this subsidy, there is given to each Province an annual allowance for government and also an annual allowance of interest on the amount of the debt allowed, where the Province has not reached the limit of the authorized debt. Under this arrangement there is now paid annually to the Provinces in subsidies a total sum of \$4,169,341. The Provinces also retain possession of the lands belonging to them before entering the Union. Manitoba, having no public lands at the time of its creation as a Province has since received a gift of swamp lands from the General Government. The great North West Territories, owing to their somewhat remote situation and anomalous condition, occupy a position by themselves under this division. Previous to 1888, the Territories were governed by a Lieutenant Governor and Council, partly nominated by the Governor General in Council, and partly elected by the people. In that year

legislation was had granting the Territories a Legislative Assembly of twenty-two members, but without Responsible Government. The Lieutenant-Governor, who is appointed by the Dominion authority for four years, has, however, the right of choosing from the Assembly four members to act as an Advisory Council in matters of finance. Three of the judges of the Territories sit in the Assembly as legal experts to give their opinion on legal and constitutional questions as they arise; but while they may take part in the debates they cannot vote. The Assembly has a duration of three years, and is called together at such time as the Lieutenant Governor appoints. It elects its own Speaker, and is governed by rules and usages similar to those that prevail in the Assemblies of the Provinces. Each member receives \$500, the legal experts \$250 a Session, besides an allowance for travelling expenses. The Dominion Treasury provides nearly all the funds necessary for carrying on the government and for other necessary expenses. The elections are by open voting; the electors must be *bonâ fide* male residents and householders of adult age, who are not aliens or unfranchised Indians, and who have resided within the district where they live for twelve months before the election. The civil and criminal laws of England are in force in the Territories, so far as they can be made applicable, and the Lieutenant Governor and Assembly have such powers to make ordinances for the government of the North-West as the Governor General in Council confers upon them, but their powers cannot at any time exceed those conferred by the Confederation Act upon the Provincial Legislatures. There is a Supreme Court of the North-West Territories, composed of five judges, appointed, like all other members of the judiciary, by the Dominion Government, and removable upon the address of Parliament. As previously indicated, the Territories are represented in the Senate by two Senators, and in the Commons by four members, who vote and have all the other privileges of the representatives of the Provinces. It may be added that there are in Manitoba and the Territories some 45,000 Indians, who are the wards of the Canadian Government. As regards the total number of electors on the several Provincial Voters' Lists, it is to be regretted that but three of the Provinces have furnished the information on this head desired by the Imperial House of Commons, viz., Ontario, which gives an estimated number of half a million, and Quebec and British Columbia, whose numbers are 249,519 and 8,163, respectively. In the other Provinces, and in the Territories, only the total number of votes polled at the last General Election can be given: Nova Scotia, 112,773; New Brunswick, 118,152; Manitoba, 24,527; Prince Edward Island, 23,746; the Territories, 10,384.

4th. A Provincial Judiciary, which is treated of separately elsewhere in the section devoted exclusively to the judiciary.

5th. A Civil Service, with officers appointed by the Provincial Government, holding office, as a rule, during pleasure, and not removable for political reasons.

6th. A municipal system, whose organization comprises in Ontario, where the system is to be found in its most complete and symmetrical form (1) Townships or rural districts of eight or ten square miles, with a population of 3,000 to 6,000, administered by a Reeve and four Councillors; (2) Villages with a population of 750, governed like the townships; (3) Towns with a population of over 2,000, governed by a Mayor and three councillors for each ward if there are less than five wards, and two Councillors if more than five. The Reeves, Deputy Reeves, Mayors and Councillors are all elected annually by the rate-payers. Above these stands the County Municipality, consisting of the Reeves and Deputy Reeves of the townships, villages and towns within the county; one of these, who presides, being called the "Warden" of the county. Alongside the county stands the city, with a population of over 15,000, governed by a municipal body of Mayor and three Aldermen for every ward, with powers and functions akin to those of counties and towns combined. The councils have power to levy rates, create debts, promote agriculture, trade or manufactures, or railways, and powers relating to drainage, roads, paupers, cemeteries, public schools, free libraries, markets, fire companies, preservation of the peace, and for all other objects falling within the legitimate scope of local municipal requirements. The exemptions from taxation comprise all Government and public property, places of

worship, and lands connected therewith, and a great number of buildings occupied by scientific, educational, and charitable institutions. The official incomes of the Judiciary and of all Dominion officials in Ontario are also exempt from taxation.

D.—Judiciary.

By the Act of Confederation it is provided that the Governor General shall appoint the judges of the Superior, District, and County Courts, except those of the Courts of Probate in Nova Scotia and New Brunswick, and that their salaries, allowances, and pensions shall be fixed and provided by the Dominion Parliament. It is also provided that the judges of the courts of Quebec shall be selected from the bar of that Province; and there is a similar provision for the selection of the judges in Ontario, Nova Scotia, and New Brunswick, until the laws relative to property and civil rights and the procedure of the courts in those Provinces are made uniform. The administration of justice in each Province, including the constitution, maintenance, and organization of Provincial courts, both of civil and criminal jurisdiction, and also including procedure in civil matters in those courts, is left to the Local Government. The highest court in the country is known as the Supreme Court of Canada. It was constituted in 1875, in accordance with the 101st section of the Confederation Act, which provides, "for the constitution, maintenance, and organization of a general Court of Appeal for Canada." This court has an appellate, civil, and criminal jurisdiction in and throughout Canada. It has also an appellate jurisdiction in cases of controverted elections, and may examine and report upon any private Bill or petition for the same. The Governor in Council may refer any matter to the Supreme Court for an opinion which he deems advisable in the public interest. It has also jurisdiction in cases of controversies between the Dominion and the Provinces, and between the Provinces themselves, on condition that the Legislature of a Province shall pass an Act agreeing to such jurisdiction. Either House of Parliament may also refer to the court any private Bill for its report thereon. The court is presided over by a Chief Justice, and five Puisne Judges, two of whom, at least, must be appointed from the bench or bar of the Province of Quebec, and all of whom must reside at, or within five miles of the City of Ottawa, where the court holds its sittings three times a year, viz., in February, May, and October. From the decisions of the Supreme Court, an appeal always lies, except in criminal cases, to the Sûdicial Committee of the Privy Council.

There is also an Exchequer Court for Canada, presided over by a judge, taken from any of the Provinces, who must reside at Ottawa, or within five miles thereof. The court has exclusive original jurisdiction in all cases in which demand is made, or relief sought, in any matter which might in England be the subject of a suit or action against the Crown, and in all cases in which the land, goods, or money of the subject are in the possession of the Crown, or in which the claim arises out of a contract entered into by or on behalf of the Crown. It also possesses exclusive original jurisdiction in the matter of various other claims against the Crown. It has concurrent original jurisdiction in Canada, in all cases relating to the revenue in which it is sought to enforce any law of Canada, including actions, suits, and proceedings to enforce penalties, and proceedings in all cases in which it is sought, at the instance of the Attorney-General of Canada, to impeach or annul any patent of invention, or any patent, lease, or other instrument respecting lands, in all cases in which demand is made, or relief sought, against any officer of the Crown, for anything done, or omitted to be done, in the performance of his duty as such officer; in all other actions and suits of a civil nature at common law or equity in which the Crown is plaintiff or petitioner. The court may sit at any time or at any place in Canada. As regards the Provincial courts, it may be said that, so far as circumstances have permitted, the changes in the organization and procedure of the English courts have been followed in the English-speaking Provinces, and this is especially true of Ontario, where the Judicature Act is modelled upon that of England, and provides for a Supreme Court of Judicature, consisting of two permanent divisions, called, respectively, the High Court of Justice for Ontario and the Court of Appeal for

Ontario. The first division is again divided into three parts, Queen's Bench, Chancery, and Common Pleas. In Ontario, as in the other English Provinces, the recent practice of England has been followed, and though the title of Chancellor, or Judge in Equity, still exists in some courts, there is a fusion of law and equity. The law provides every legitimate facility for appeals from every inferior court in a Province, and causes may be taken immediately to the Privy Council in England, or, as generally happens, to the Supreme Court of Canada, at Ottawa, previously to going before the court of the last resort for the Empire at large. The Criminal Law of England prevails in all the Provinces. The Roman, or French Civil Law exists in Quebec, but in the other Provinces the Common Law of England forms the basis of their jurisprudence in the latter department.
