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CURRENT TOPICS.

The Minister of Justice, in his report on appointments of Queen's Counsel, gives two reasons for not recommending any new appointments for the present,—one being that the number of such appointments in the past has been greatly in excess of what was proper, and the other, that the appointing power has not yet been definitely determined by the highest authority. The first ground, standing alone—though the fact asserted cannot be questioned—would be insufficient, for the indiscriminate benevolence of governments in the past would not be a valid reason for withholding the distinction from those who are now fairly entitled to professional preferment. But the second reason assigned is good ground for delay on the part of the federal government in making any new appointments until the question of right to appoint is settled by the best authority. The majority of the Supreme Court of Canada in *Lenoir* v. *Ritchie*, 3 Can. S.C.R. 575, certainly inclined to the opinion that the power to appoint is vested in the Dominion, but it is reasonable to await the decision of the Privy Council if the question is considered of sufficient importance. We say, if the question is considered of

sufficient importance, because a doubt may arise whether it is necessary or desirable to perpetuate the title in this new country. It is certain that the Crown has freely availed itself in the past of the services of gentlemen who were not Queen's Counsel, notwithstanding the great range of selection afforded by the long list of those who were. For example, Mr. T. K. Ramsay was not a Q.C. while conducting the Crown business for years in the leading city of Montreal. We might mention many similar cases. In some instances lawyers who were not Queen's Counsel have even been appointed to the Bench, and the title was somewhat superfluously conferred simultaneously with the judicial appointment,—the two announcements appearing in the same issue of the Official Gazette. It is therefore a title of no absolute necessity—perhaps of no practical utility—and might without injury be suffered to become extinct, like the title of Serjeant-at-law in England. Sir Oliver Mowat, apparently, does not favor the abolition or disuse of the title, but unless some check can be devised that will prevent its being conferred so frequently as a mere acknowledgment of election services, a doubt will obtrude itself as to the value of the institution.

A word may be added as to the number of Queen's Counsel. There have been 481 appointed since confederation. Numerous and loud have been the complaints on this score. It must not be supposed, however, that there are that number living. The hand of death is ever at work thinning the ranks. Our system of administering justice is largely the cause of the number of appointments. There is no distinction here between barrister and attorney. The bar is scattered over a vast area, every city and town having its own group of attorneys who are also barristers. The system in England is just the opposite. Bench and bar have their centre in

London, and cases not heard in London are tried by judges who go from the metropolis to hold the circuits, and then return to London. The Lord Chief Justice, in his address at Montreal, referred to the great prominence of lawyers in the Canadian parliament. This is because lawyers in every constituency are most actively engaged in local affairs of importance. And when we consider the vast extent of the Dominion, and the number of the constituencies, it is not surprising that the list of Queen's Counsel should make a great advance after every general election.

The splendid address of Lord Russell on International law and arbitration, concluded in the present issue, reveals to those who were ignorant of it, the remarkable ability of the gentleman now holding the distinguished position of Lord Chief Justice of England. No doubt, his studies and labours in connection with the Behring Sea Arbitration were an aid in the preparation of this paper, but much has been added. Every portion of it claims the attention and arouses the interest of the reader. We may be inclined at first sight to feel a little disappointed that his lordship is unable to express a more sanguine and a more confident view of the future of arbitration as a mode of settling international differences. But the Lord Chief Justice is too clear-sighted and too honest to claim more for it than the present state of the world justifies—to cry peace when there is no peace immediately in sight. A calm judicial tone pervades the composition, but at times there shines through it the glow of an eloquence kept in check. If well heeded, this address cannot fail to work good, to awaken the conscience of those who control nations, and the world may hereafter have reason to be grateful for it, and the American Bar Association to be proud that it afforded an opportunity for its delivery.

THE LORD CHIEF JUSTICE OF ENGLAND ON INTERNATIONAL LAW.

[Conclusion—From p. 272.]

In this field of humane work the United States took a prominent part. When the civil war broke out President Lincoln was prompt in entrusting to Professor Franz Lieber the duty of preparing a manual of systematized rules for the conduct of forces in the field—rules aimed at the prevention of those scenes of cruelty and rapine which were formerly a disgrace to humanity. That manual has, I believe, been utilized by the governments of England, France and Germany.

Even more important are the changes wrought in the position of neutrals in war times; who, while bound by strict obligations of neutrality, are in great measure left free and unrestricted in the pursuit of peaceful trade.

But in spite of all this who can say these times breathe the spirit of peace? There is war in the air. Nations armed to the teeth prate of peace, but there is no sense of peace. One sovereign burthens the industry of his people to maintain military and naval armament at war strength, and his neighbour does the like and justifies it by the example of the other; and England, insular though she be, with her imperial interests scattered the world over, follows, or is forced to follow, in the wake. If there be no war, there is at best an armed peace.

Figures are appalling. I take those for 1895. In Austria the annual cost of army and navy was, in round figures, 18 millions sterling; in France, 37 millions; in Germany, 27 millions; in Great Britain, 36 millions; in Italy, 13 millions, and in Russia, 52 millions.

The significance of these figures is increased, if we compare them with those of former times. The normal cost of the armaments of war has of late years enormously increased. The annual interest on the public debt of the great powers is a war tax. Behind this array of facts stands a tragic figure. It tells a dismal tale. It speaks of over-burthened industries, of a waste of human energy unprofitably engaged, of the squandering of treasure which might have let light into many lives, of homes made desolate, and all this, too often, without recompense in the thought that these sacrifices have been made for the love of country or to preserve national honor or for national safety. When will governments learn the lesson that wisdom and justice in policy are a stronger security than weight of armament?

> "Ah! when shall all men's good,
> Be each man's rule, and universal peace,
> Lie, like a shaft of light, across the land."

It is no wonder that men—earnest men—enthusiasts, if you like, impressed with the evils of war, have dreamt the dream that the millenium of peace might be reached by establishing a universal system of international arbitration.

The cry for peace is an old world cry. It has echoed through all the

ages, and arbitration has long been regarded as the handmaiden of peace. Arbitration has, indeed, a venerable history of its own. According to Thucydides, the historian of the Peloponnesian war, Archidamus, King of Sparta, declared that "it was unlawful to attack an enemy who offered to answer for his acts before a tribunal of arbiters."

The fifty years treaty of alliance between Argos and Lacedaemon contained a clause to the effect that if any difference should arise between the contracting parties, they should have recourse to the arbitration of a neutral power, in accordance with the custom of their ancestors. These views of enlightened Paganism have been reinforced in Christian times. The Roman emperors for a time, and afterwards in fuller measure the popes (as we have seen) by their arbitrament often preserved the peace of the old world and prevented the sacrifice of blood and treasure. But from time to time, and more fiercely when the influence of the head of Christendom lessened, the passions of men broke out, the lust for dominion asserted itself and many parts of Europe became so many fields of Golgotha. In our own times the desire has spread and grown strong for peaceful methods for the settlement of international disputes. The reason lies on the surface. Men and nations are more enlightened; the grievous burden of military armament is sorely felt, and in these days when, broadly speaking, the people are enthroned, their views find free and forcible expression in a world-wide press. The movement has been taken up by societies of thoughtful and learned men in many places. The "*Bureau International de la Paix*" records the fact that some ninety-four voluntary Peace Associations exist, of which some forty are in Europe and fifty-four in America. Several congresses have been held in Europe to enforce the same object, and in 1873 there was established at Ghent the "*Institut du Droit International*," the declared objects of which are to put international law on a scientific footing, to discuss and clear up moot points, and to substitute a system of rules conformable to right for the blind chances of force and the lavish expenditure of human life.

In 1873 also the association for the Reform and Codification of the Laws of Nations was formed, and it is to-day pursuing active propaganda under the name of the International Law association, which it adopted in 1894. It also has published a report affirming the need of a system of international arbitration.

In 1888 a congress of Spanish and American jurists was held at Lisbon, at which it was resolved that it was indispensable that a tribunal of arbitration be constituted with a view to avoid the necessity of war between nations.

But more hopeful still—the movement has spread to legislative representative bodies. As far back as 1833, the Senate of Massachusetts proclaimed the necessity for some peaceful means of reconciling international differences, and affirmed the expediency of establishing a Court of Nations.

In 1890, the Senate and the House of Representatives of the United States adopted a concurrent resolution, requesting the president to make

use of any fit occasion to enter into negotiations with other governments, to the end that any difference or dispute, which could not be adjusted by diplomatic agency, might be referred to arbitration and peacefully adjusted by such means.

The British House of Commons, in 1893, responded by passing, unanimously, a resolution expressive of the satisfaction it felt with the action of Congress, and of the hope that the government of the Queen would lend its ready co-operation to give effect to it. President Cleveland officially communicated this last resolution to Congress, and expressed his gratification that the sentiments of two great and kindred nations were thus authoritatively manifested in favor of the national and peaceable settlement of international quarrels by recourse to honorable arbitration. The parliaments of Denmark, Norway and Switzerland, and the French Chamber of Deputies have followed suit.

It seemed eminently desirable that there should be some agency, by which members of the great representative and legislative bodies of the world, interested in this far-reaching question, should meet on a common ground and discuss the basis for common action.

With this object there has recently been founded "The Permanent Parliamentary Committee in favor of Arbitration and Peace," or, as it is sometimes called, "The Inter-Parliamentary Union." This union has a permanent organization—its office is at Berne. Its members are not vain idealists. They are men of the world. They do not claim to be regenerators of mankind, nor do they promise the mellenium, but they are doing honest and useful work in making straighter and less difficult, the path of intelligent progress. Their first formal meeting was held in Paris, in 1889, under the presidency of the late M. Jules Simon; their second, in 1890, in London, under the presidency of Lord Herschel, ex-Lord Chancellor of Great Britain; their third in 1891, at Rome, under the presidency of Signor Bianchieri; their fourth in 1892, at Berne, under the presidency of M. Droz; their fifth in 1894, at the Hague, under the presidency of M. Rohnsen; their sixth in 1895, at Brussels, under the presidency of M. Deschamps, and their seventh will, it is arranged, be held this year at Buda-Pesth. Speaking in this place, I need only refer, in passing, to the remarkable Pan-American Congress held in your States in 1890, at the instance of the late Mr. Blaine, directed to the same peaceful object.

It is obvious, therefore, that the sentiment for peace and in favor of arbitration as the alternative for war, is growing apace. How has that sentiment told on the direct action of nations? How far have they shaped their policy according to its methods? The answers to these questions are also hopeful and encouraging.

Experience has shown that over a large area, international differences may honorably, practically and usefully be dealt with by peaceful arbitrament. There have been since 1815 some sixty instances of effective international arbitration. To thirty-two of these the United States have been a party and Great Britain to some twenty of them.

There are many instances, also, of the introduction of arbitration clauses into treaties. Here again the United States appear in the van. Amongst the first of such treaties—if not the very first, is the Guadaloupe-Hidalgo treaty of 1848, between the United States and Mexico. Since that date many other countries have followed this example. In the year 1873 Signor Mancini recommended that in all treaties to which Italy was a party, such a clause should be introduced. Since the treaty of Washington, such clauses have been constantly inserted in commercial, postal and consular conventions. They are to be found also in the delimitation treaties of Portugal with Great Britain, and the Congo Free State, made in 1891. In 1895, the Belgian senate in a single day, approved of four treaties with similar clauses, namely, treaties concluded with Denmark, Greece, Norway and Sweden.

There remains to be mentioned a class of treaties in which the principle of arbitration has obtained a still wider acceptance. The treaties of 1888 between Switzerland and San Salvador, of 1888 between Switzerland and Ecuador, of 1888 between Switzerland and the French Republic, and of 1894 between Spain and Honduras, respectively contain an agreement to refer all questions in difference, without exception, to arbitration. Belgium has similar treaties with Venezuela, with the Orange Free State and with Hawaii.

These facts, dull as is the recital of them, are full of interest and hope for the future.

But are we thence to conclude that the millenium of peace has arrived—that the dove bearing the olive branch has returned to the ark, sure sign that the waters of international strife have permanently subsided?

I am not sanguine enough to lay this flattering unction to my soul. Unbridled ambition—thirst for wide dominion—pride of power still hold sway, although I believe with lessened force and in some sort under the restraint of the healthier opinion of the world.

But further, friend as I am of peace, I would yet affirm that there may be even greater calamities than war—the dishonor of a nation, the triumph of an unrighteous cause, the perpetuation of hopeless and debasing tyranny:

> "War is honorable,
> In those who do their native rights maintain:
> In those whose swords an iron barrier are,
> Between the lawless spoiler and the weak;
> But is, in those who draw th' offensive blade
> For added power or gain, sordid and despicable."

It behooves then all who are friends of peace and advocates of arbitration to recognize the difficulties of the question, to examine and meet these difficulties and to discriminate between the cases in which friendly arbitration is, and in which it may not be, practically, possible.

Pursuing this line of thought, the short-comings of international law reveal themselves to us and demonstrate the grave difficulties of the position.

The analogy between arbitration as to matters in difference between individuals and matters in difference between nations, carries us but a short way.

In private litigation the agreement to refer is either enforceable as a rule of court, or, where this is not so, the award gives to the successful litigant a substantive cause of action. In either case there is behind the arbitrator the power of the judge to decree, and the power of the executive to compel compliance with the behest of the arbitrator. There exist elaborate rules of court and provisions of the legislature governing the practice of arbitrations. In fine, such arbitration is a mode of litigation by consent, governed by law, starting from familiar rules, and carrying the full sanction of judicial decision. International arbitration has none of these characteristics. It is a cardinal principle of the law of nations that each sovereign power, however politically weak, is internationally equal to any other power, however politically strong. There are no rules of international law relating to arbitration, and of the law itself there is no authoritative exponent nor any recognized authority for its enforcement.

But there are differences to which, even as between individuals, arbitration is inapplicable—subjects which find their counterpart in the affairs of nations. Men do not arbitrate where character is at stake, nor, will any self-respecting nation readily arbitrate on questions touching its national independence or affecting its honor.

Again, a nation may agree to arbitrate and then repudiate its agreement. Who is to coerce it? Or, having gone to arbitration and been worsted, it may decline to be bound by the award. Who is to compel it?

These considerations seem to me to justify two conclusions:—The first is that arbitration will not cover the whole field of international controversy, and the second that unless and until the great powers of the world, in league, bind themselves to coerce a recalcitrant member of the family of nations—we have still to face the more than possible disregard by powerful States of the obligations of good faith and of justice. The scheme of such a combination has been advocated, but the signs of its accomplishment are absent. We have, as yet, no league of nations of the Amphictyonic type.

Are we then to conclude that force is still the only power that rules the world? Must we then say that the sphere of arbitration is a narrow and contracted one?

By no means. The sanctions which restrain the wrongdoer—the breaker of public faith—the disturber of the peace of the world, are not weak, and year by year they wax stronger. They are the dread of war and the reprobation of mankind. Public opinion is a force which makes itself felt in every corner and cranny of the world, and is most powerful in the communities most civilized. In the public press and in the telegraph, it possesses agents by which its power is concentrated, and speedily brought to bear where there is any public wrong to be exposed and reprobated. It year by year gathers strength as general enlightenment extends its empire, and a higher moral altitude is attained by mankind.

It has no ships of war upon the seas, or armies in the field, and yet great potentates tremble before it and humbly bow to its rule.

Again, trade and travel are great pacificators. The more nations know of one another, the more trade relations are established between them, the more good will and mutual interest grow up; and these are powerful agents working for peace.

But although I have indicated certain classes of questions on which sovereign powers may be unwilling to arbitrate, I am glad to think that these are not the questions which most commonly lead to war. It is hardly too much to say that arbitration may fitly be applied in the case of by far the largest number of questions which lead to international differences. Broadly stated, (1) wherever the right in dispute will be determined by the ascertainment of the true facts of the case; (2) where, the facts being ascertained, the rights depend on the application of the proper principles of international law to the given facts, and (3) where the dispute is one which may properly be adopted on a give-and-take principle, with due provision for equitable compensation, as in cases of delimitation of territory and the like—in such cases, the matter is one which ought to be arbitrated.

The question next arises, what ought to be the constitution of the tribunal of arbitration? Is it to be a tribunal *ad hoc*, or is it to be a permanent international tribunal?

It may be enough to say that, at this stage, the question of the constitution of a permanent tribunal is not ripe for practical discussion, nor will it be until a majority of the great powers have given in their adhesion to the principle. But whatever may be said for vesting the authority in such powers to select the arbitrators, from time to time, as occasion may arise, I doubt whether in any case a permanent tribunal, the members of which shall be *a priori* designated, is practicable or desirable. In the first place, what, in the particular case, is the best tribunal must largely depend upon the question to be arbitrated. But, apart from this, I gravely doubt the wisdom of giving that character of permanence to the *personnel* of any such tribunal. The interests involved are commonly so enormous and the forces of national sympathy, pride and prejudice are so searching, so great and so subtle, that I doubt whether a tribunal, the membership of which had a character of permanence, even if solely composed of men accustomed to exercise the judicial faculty, would long retain general confidence, and, I fear, it might gradually assume intolerable pretensions.

There is danger, too, to be guarded against from another quarter. So long as war remains the sole court wherein to try international quarrels, the risks of failure are so tremendous, and the mere rumor of war so paralyzes commercial and industrial life that pretensions wholly unfounded will rarely be advanced by any nation, and the strenuous efforts of statesmen, whether immediately concerned or not, will be directed to prevent war. But if there be a standing court of nations to which any power may resort, with little cost and no risk, the temptation may be strong to put forward pretentious and unfounded claims, in support of

which there may readily be found in most countries (can we except even Great Britain and the United States?) busy-body Jingoes only too ready to air their spurious and inflammatory patriotism.

There is one influence which by the law of nations may be legitimately exercised by the powers in the interests of peace—I mean mediation.

The plenipotentiaries assembled at the congress of Paris 1856, recorded the following admirable sentiments in their twenty-third protocol: "The plenipotentiaries do not hesitate to express, in the names of their governments, the wish that States between which any serious misunderstanding may arise should, before appealing to arms, have recourse as far as circumstances may allow to the good offices of a friendly power. The plenipotentiaries hope that the governments not represented at the congress will unite in the sentiment which has inspired the wish recorded in the present protocol."

In the treaty which they concluded they embodied, but with a more limited application, the principle of mediation, more formal than that of good offices, though substantially similar to it. In case of a misunderstanding between the Porte and any of the signatory powers, the obligation was undertaken "before having recourse to the use of force, to afford the other contracting parties the opportunity of preventing such an extremity by means of their mediation." (Art. 8.) Under this act Turkey, in 1877, appealed to the other powers to mediate between her and Russia. It is not, perhaps, to be wondered at, considering the circumstances, that the appeal did not succeed in preventing the Russo-Turkish war. But the powers assembled in the African conference at Berlin were not discouraged from repeating the praiseworthy attempt, and in the final act of that conference the following proviso (article 12) appears:

"In case of a serious disagreement arising between the signatory powers on any subjects within the limits of the territory mentioned in article 1 and placed under the *regime* of commercial freedom, the powers mutually agree, before appealing to arms, to have recourse to the mediation of one or more of the neutral powers."

It is to be noted that this provision contemplates not arbitration but mediation, which is a different thing. The mediator is not, at least, in the first instance, invested, and does not seek to be invested, with authority to adjudicate upon the matter in difference. He is the friend of both parties. He seeks to bring them together. He avoids a tone of dictation to either. He is careful to avoid, as to each of them, anything which may wound their political dignity or their susceptibilities. If he cannot compose the quarrel, he may at least narrow its area and probably reduce it to more limited dimensions, the result of mutual concessions; and, having narrowed the issues, he may pave the way for a final settlement by a reference to arbitration or by some other method.

This is a power often used, perhaps not so often as it ought to be—and with good results.

It is obvious that it requires tact and judgment, as to mode, time and circumstance, and that the task can be undertaken hopefully, only where

the mediator possesses great moral influence, and, where he is beyond the suspicion of any motive except desire for peace and the public good.

There is, perhaps, no class of question in which mediation may not, time and occasion being wisely chosen, be usefully employed, even in delicate questions affecting national honor and sentiment.

Mr. President, I come to an end. I have but touched the fringe of a great subject. No one can doubt that sound and well-defined rules of international law conduce to the progress of civilization and help to ensure the peace of the world.

In dealing with the subject of arbitration I have thought it right to sound a note of caution, but it would, indeed, be a reproach to our nineteen centuries of christian civilization, if there were now no better method for settling international differences than the cruel and debasing methods of war. May we not hope that the people of these States and the people of the mother land—kindred peoples—may in this matter, set an example of lasting influence to the world? They are blood relations. They are indeed separate and independent peoples, but neither regards the other as a foreign nation.

We boast of our advance and often look back with pitying contempt on the ways and manners of generations gone by. Are we ourselves without reproach? Has our civilization borne the true marks? Must it not be said, as has been said of religion itself, that countless crimes have been committed in its name? Probably it was inevitable that the weaker races should, in the end, succumb, but have we always treated them with consideration and with justice? Has not civilization too often been presented to them at the point of the bayonet and the Bible by the hands of the filibuster? And apart from races we deem barbarous, is not the passion for dominion and wealth and power accountable for the worst chapters of cruelty and oppression written in the world's history? Few peoples—perhaps none—are free from this reproach. What, indeed, is true civilization? By its fruit you shall know it. It is not dominion, wealth, material luxury; nay, not even a great literature and education wide spread—good though these things be. Civilization is not a veneer; it must penetrate to the very heart and core of societies of men.

Its true signs are thought for the poor and suffering, chivalrous regard and respect for woman, the frank recognition of human brotherhood, irrespective of race or color or nation or religion, the narrowing of the domain of mere force as a governing factor in the world, the love of ordered freedom, abhorrence of what is mean and cruel and vile, ceaseless devotion to the claims of justice. Civilization in that, its true, its highest sense, must make for peace. We have solid grounds for faith in the future. Government is becoming more and more, but in no narrow class sense, government of the people by the people and for the people. Populations are no longer moved and manœuvred as the arbitrary will or restless ambition or caprice of kings and potentates may dictate. And although democracy is subject to violent gusts of passion and prejudice, they are gusts only. The abiding sentiment of the masses is for peace—

for peace to live industrious lives and to be at rest with all mankind. With the prophet of old they feel—though the feeling may find no articulate utterance—"how beautiful upon the mountains are the feet of him that bringeth good tidings that publisheth peace."

Mr. President, I began by speaking of the two great divisions—American and British—of that English speaking world which you and I represent to-day, and with one more reference to them I end.

Who can doubt the influence they possess for ensuring the healthy progress and the peace of mankind? But if this influence is to be fully felt, they must work together in cordial friendship, each people in its own sphere of action. If they have great power, they also have great responsibility. No cause they espouse can fail; no cause they oppose can triumph. The future is, in large part, theirs. They have the making of history in the times that are to come. The greatest calamity that could befall would be strife which should divide them.

Let us pray that this shall never be. Let us pray that they, always self-respecting, each in honor upholding its own flag, safeguarding its own heritage of right and respecting the rights of others, each in its own way fulfilling its high national destiny, shall yet work in harmony for the progress and the peace of the world.

QUEEN'S COUNSEL APPOINTMENTS.

The Minister of Justice of Canada, under date of July 16th, made the following report to Council, which has been approved by His Excellency:—The undersigned has had under consideration an Order-in-Council dated July 8th, appointing 173 members of the Bars of Canada Queen's Counsel. These are in addition to 481 appointed since Confederation, of which number eighty-four were appointed between July, 1867 and Nov. 5th, 1873; and 397 after Oct. 16th, 1878. No appointments were made during Mr. Mackenzie's Administration. Thus the number appointed previously to the recent order had been enormous, and the addition to it now of 173 more, is startling. In England it appears from the law list of 1895, that the total number of Queen's Counsel there at the time of making up the list was only 217, and it appears that the total number appointed for twenty-two years up to 1895 inclusive, was only 254, while the number of barristers in England exceeds by several times the number in Canada. No commission has yet issued under the recent order, and the undersigned is of opinion that the order should not be acted upon and should be rescinded on account of the excessive number of names, and for additional reasons which he will now

mention. The question of the respective rights and powers of the Dominion and Provincial Governments as to such appointments has been matter of controversy for several years, the exclusive right of making such appointments having been claimed on behalf of the Dominion as a prerogative of the Crown, which, it is said, could only be exercised by the Governor-General, and some of the judges of the Supreme Court in the case of 'Lenoir & Ritchie' so held. An opinion to the contrary was given by Sir Horace Davey, now Lord Davey, and Mr. Haldane, another distinguished member of the English Bar, and the claim made on behalf of the Dominion was otherwise controverted. A case on the subject was four years ago submitted to the Court of Appeal of Ontario, and the matter was ripe for argument early in 1893, but no argument has yet taken place in consequence of the refusal of the Dominion Government at that time to appoint counsel on behalf of the Dominion, the Court declining to hear argument on one side only. No other mode of obtaining a decision was suggested or proposed on behalf of the Dominion. The undersigned intends to employ counsel forthwith so that the argument may be proceeded with and a decision obtained with the least possible delay. The decision of the Ontario Court will be subject to revision by the Supreme Court of Canada and by Her Majesty's Privy Council in case the decision which may be given should not be satisfactory to all parties. The undersigned respectfully submits that no appointments should be made until a final decision is obtained on this point. The undersigned is informed that the publication of the names contained in the recent order has created a sensation among members of the profession and others, that the list has been very generally disapproved of, and that the disapproval is shared by some who are named on the list, as well as by gentlemen previously holding the rank of Queen's Counsel, and by others. An examination of the list shows that the selection of the names was not made on the basis of professional or personal merit. On the contrary, there are names in the list of gentlemen, in regard to whom there could be no pretence or supposition of their having any claims on that ground, and on the other hand many gentlemen have been omitted from the list whose professional merits exceed that of many of those named. Queen's Counsel have precedence in the Courts over other barristers, and obviously there is great injustice in the bestowal of the honor and precedence upon infer-

ior barristers to the prejudice of those better entitled thereto. Such a wholesale and indiscriminate selection as was recommended to Your Excellency is a degradation of the office and is a grievance as regards the Bar generally, instead of being a merited honor to those appointed. The existence of the degree is useful if the jurisdiction to make the appointments is reasonably exercised. In England the appointments are made by the Lord High Chancellor, and it is stated in a recent legal publication that an applicant for the appointment has to communicate by letter to barristers of longer standing than himself (not being Queen's Counsel) his intention to apply, and that before making any appointment the Lord Chancellor submits to the judges the names of the applicants whom he thinks of appointing. If in this country the power of appointment belongs exclusively to Your Excellency-in-Council, it will be well to consider hereafter whether some checks may not and should not be devised to confine within proper bounds the recommendations made to the Governor-General.

Meanwhile the undersigned respectfully recommends that as a matter of justice to the profession and in the interests of the public, the order which has been made be rescinded, and the consideration of any appointments be deferred until the jurisdiction to make such appointments shall be judicially decided and declared. (Signed) O. MOWAT.'

LORD CHIEF JUSTICE RUSSELL AT MONTREAL.

Lord Chief Justice Russell and party were entertained at luncheon, at the St. James' Club, by the Montreal Bar, on Thursday the 3rd of September. The *bâtonnier*, Mr. J. E. Robidoux, Q.C., ex-attorney general of the province of Quebec, presided. On his right was the guest, the Lord Chief Justice of England, and on his left Chief Justice Sir Alexander Lacoste, of the Court of Queen's Bench. Many members of the Bar being absent during the vacation, the attendance was not so large as it otherwise would have been, but notwithstanding this fact, there were present ten judges of the superior courts, and over sixty members of the Bar.

The CHAIRMAN, in proposing the health of the Lord Chief Justice, said that the members of the Bar of Montreal, as soon as they heard of the coming of Lord Russell, decided upon giving him a lunch and invited the judges on the Bench to join them, and it was a great pleasure to all to have as their guest Lord Russell and his distinguished companions. His Lordship was not a stranger to them; they had known him for years as Mr. Charles Russell, Q.C., and as Sir Charles Russell, through the telegraph and the press, which brought us the echoes of his eloquent voice, not only as a great lawyer, but as a prominent member of one of the great political parties of England. To a portion of our own population

in Canada his name became endeared when he devoted himself, and gave his valuable advice, eloquence and assistance to the great Irish Nationalist Parnell; and the gratitude of the whole Empire, and more particularly of Canadians, was due to him for his defence of our rights in the Behring Sea.

The LORD CHIEF JUSTICE, in replying, said in substance:—I feel, indeed, highly honored at the fact that so distinguished a body of members of my own profession and judges of your courts have thought it within their gracious and kind hospitality to pay this marked compliment to me and my friends who accompany me. I have to thank your Lord Chief Justice (Sir Alexander Lacoste), and the other learned brethren of the Bench for their presence here to-day. I am not sure from an incident whispered to me during the morning, that there has not been an interruption of the business of the courts on the part of learned brethren on the Bench, for I learned that the Hon. Mr. Justice Ouimet followed a course which only the greatest sense of hospitality could have prompted, and adjourned his court that he might do myself and the friends who accompany me the honor of his presence on this occasion. You, Monsieur le Bâtonnier, have made reference to me and to my career in my professional character, and some reference even to my political career. As to my professional career, what I have most desired to obtain, what I flatter myself and I believe I did obtain, was the esteem and approval of my brethren in my own profession. You have made kind allusion to the fact that I had the honor of representing important interests of the Dominion in the Behring Sea Tribunal of Arbitration. I had that honor, and I am very glad indeed that the efforts I was able to make ensured, at least, some measure of success for those interests. A complete vindication was established of the legal rights advanced by Great Britain, and a vindication of rights advanced on the part of the United States; and, although I am far from thinking that the Dominion interests were not somewhat lessened and somewhat restricted by that august tribunal, I feel most strongly that the fact of the establishment of that tribunal, presided over by a great statesman of the Republic of France, the fact that the great English-speaking nations had agreed to refer their matters of difference to a peaceful arbitration was a grand step in advance in connection with the relations between sovereign powers. Monsieur le Bâtonnier, I cannot omit to mention that on that great occasion I was assisted not only by eminent brethren in England, but also in Canada; but prominent amongst able men and most zealous for the advancement of Canadian rights were my esteemed and learned friend, Mr. Christopher Robinson, of the Toronto Bar, and another, although in the capacity of an advocate, but as the agent for the Dominion, was Sir Charles Hibbert Tupper, who brought the utmost zeal and devotion to the discharge of the duty he had to perform, and which he discharged manfully and well. You have made reference to one part, at least, of my political life which touches closely upon politics, still possessing a living interest, and dividing parties—the humble part I took, in conjunction with that most distinguished man, Gladstone, on the Irish question. I regret nothing that I did on that question. I am no longer an active politician, but I look back with pride to the fact that on the back of the first bill to give Ireland rights of local government, that on the back of that bill, in conjunction with that of Mr. Gladstone and that of Mr. Morley, my own name appears. I have said that this is a question which divides political parties; and I will not further dwell upon it, beyond saying that while in the part I took I was anxious to serve the interests of the land of my birth, my advocacy of that cause was not merely given for Ireland itself, but because in giving it for Ireland I was giving it for the interests of the whole Empire. I turn now from the allusions to myself and the friends who accompany me; and let me say a word about our own profession in

this land. There is nothing that has struck me more in Canada than the exalted and important place which the profession of the law has in the public affairs of Canada. It was only last night that I was alluding to the fact that in the Government of Mr. Laurier they are all, with one or two exceptions, men who have been, or who are now, in the profession of the law. Even as to Sir Richard Cartwright I find that, although not admitted, he studied for the Bar for two years. It speaks volumes for the confidence which the community place in the ability and integrity of the lawyers. The lawyers are not in these positions merely because they are barristers. The electors who elect their representatives know that they have the qualifications for the positions they occupy. It shows that there is confidence placed in the integrity and honor of the great profession of the law. But when all is said and done, the words of that great orator and lawyer, Webster, are true, that the greatest abiding interest of any nation is the law, the settled, honest administration of the law. I have sometimes thought that in the case of the judges charged with the great and responsible duty of the administration of the law, the State did not recognize sufficiently the position that these judges fill. Even in England it is true to-day that in the cases of nine out of ten appointed to hold office in the Supreme Court they have to make great sacrifices in taking a seat on the bench. I do not mean to say that the payment of judges should approach the very great incomes of the leading individual members of the Bar; but I venture to say that, in England and here, the remuneration and position of the judges ought to be such as to attract the ambition and desire of the best men in the profession. It certainly does so in this land and in England to a great extent; but there is a great discrepancy between the incomes of the leading members of the Bar and those of the great body of the judges on the Bench. I think it in the interest of the community, not in the narrow sense of the profession, that the position should be looked up to as an elevated one, worthy of the noblest and highest ambition. One word more; you are working out on this great continent an experiment which the world is noticing. You are showing to the world, demonstrating to the world, that men who are of different races, different nationalities, different creeds and different languages can yet live in harmony together.

The following are the names of those present:—Sir Alexander Lacoste, Chief Justice of the Court of Queen's Bench; Acting Chief Justice Tait, of the Superior Court; Hon. Judges Hall, J. A. Ouimet, Loranger, Mathieu, A. Ouimet, Doherty, Curran and de Lorimier; Judge Dugas, of the Court of Sessions; Messrs. J. E. Robidoux, Q.C.; Strachan Bethune, Q.C.; John Dunlop, Q.C.; R. D. McGibbon, Q.C.; H. C. St. Pierre, Q.C.; J. Alex. Bonin, Q.C.; F. L. Béique, Q.C.; James Kirby, Q.C.; G. Lamothe, Q.C.; C. B. Carter, Q.C.; S. J. Beaudin, Q.C.; H. Abbott, Q.C.; Selkirk Cross, Q.C.; P. B. Mignault, Q.C.; D. R. McCord, Q.C.; L. W. Sicotte, Q.C.; G. B. Cramp, Q.C.; P. J. Coyle, Q.C.; H. J. Kavanagh, Q.C.; Hon. L. O. Taillon, Q.C.; F. de S. A. Bastien, Q.C., W. J. White, C. S. Campbell, A. Falconer, R. Dandurand, F. S. McLennan, Peers Davidson, R. A. E. Greenshields, J. A. Drouin, Ernest Pelissier, R. G. Delorimier, Hon. P. E. Leblanc, J. T. Cardinal, E. N. St. Jean, J. F. Mackie, Chas. M. Holt, J. U. Emard, Jas. Crankshaw, Geo. G. Foster, Edmund Guerin, Lomer Gouin, T. Brosseau, Albert J. Brown, D. C. Robertson, E. Lafleur, E. W. P. Buchanan, R. L. Murchison, L. T. Marechal, A. R. Hall, A. R. Johnson, Honoré Gervais, Gordon W. McDougall, J. Herbert Burroughs, N. Driscoll, L. J. Loranger, A. G. Cross, H. A. Hutchins, W. Ritchie, Arch. McGoun, A. E. DeLorimier, M. Hutchinson, A. E. Beckett, L. E. Bernard, Chas. Raynes. Sir Frank Lockwood, and Messrs. J. J. Crackenthorpe and Charles Russell, members of Lord Russell's party, were also present.