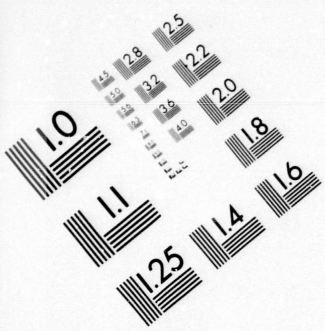

1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
4.5
5.0
5.6
6.3
7.1
8.0
9.0
10
11
12
13
14
16
18
20
22
25
28
32
36
40
45
50
56
63
71
80
90
100
110
125
140
160
180
200
220
250
280
320
360
400
450
500
560
630
710
800
900
1000
1100
1250
1400
1600
1800
2000
2200
2500
2800
3200
3600
4000
4500
5000
5600
6300
7100
8000
9000
10000
11000
12500
14000
16000
18000
20000
22000
25000
28000
32000
36000
40000
45000
50000
56000
63000
71000
80000
90000
100000
110000
125000
140000
160000
180000
200000
220000
250000
280000
320000
360000
400000
450000
500000
560000
630000
710000
800000
900000
1000000
1100000
1250000
1400000
1600000
1800000
2000000
2200000
2500000
2800000
3200000
3600000
4000000
4500000
5000000
5600000
6300000
7100000
8000000
9000000
10000000
11000000
12500000
14000000
16000000
18000000
20000000
22000000
25000000
28000000
32000000
36000000
40000000
45000000
50000000
56000000
63000000
71000000
80000000
90000000
100000000
110000000
125000000
140000000
160000000
180000000
200000000
220000000
250000000
280000000
320000000
360000000
400000000
450000000
500000000
560000000
630000000
710000000
800000000
900000000
1000000000
1100000000
1250000000
1400000000
1600000000
1800000000
2000000000
2200000000
2500000000
2800000000
3200000000
3600000000
4000000000
4500000000
5000000000
5600000000
6300000000
7100000000
8000000000
9000000000
10000000000
11000000000
12500000000
14000000000
16000000000
18000000000
20000000000
22000000000
25000000000
28000000000
32000000000
36000000000
40000000000
45000000000
50000000000
56000000000
63000000000
71000000000
80000000000
90000000000
100000000000
110000000000
125000000000
140000000000
160000000000
180000000000
200000000000
220000000000
250000000000
280000000000
320000000000
360000000000
400000000000
450000000000
500000000000
560000000000
630000000000
710000000000
800000000000
900000000000
1000000000000
1100000000000
1250000000000
1400000000000
1600000000000
1800000000000
2000000000000
2200000000000
2500000000000
2800000000000
3200000000000
3600000000000
4000000000000
4500000000000
5000000000000
5600000000000
6300000000000
7100000000000
8000000000000
9000000000000
10000000000000
11000000000000
12500000000000
14000000000000
16000000000000
18000000000000
20000000000000
22000000000000
25000000000000
28000000000000
32000000000000
36000000000000
40000000000000
45000000000000
50000000000000
56000000000000
63000000000000
71000000000000
80000000000000
90000000000000
100000000000000
110000000000000
125000000000000
140000000000000
160000000000000
180000000000000
200000000000000
220000000000000
250000000000000
280000000000000
320000000000000
360000000000000
400000000000000
450000000000000
500000000000000
560000000000000
630000000000000
710000000000000
800000000000000
900000000000000
1000000000000000
1100000000000000
1250000000000000
1400000000000000
1600000000000000
1800000000000000
2000000000000000
2200000000000000
2500000000000000
2800000000000000
3200000000000000
3600000000000000
4000000000000000
4500000000000000
5000000000000000
5600000000000000
6300000000000000
7100000000000000
8000000000000000
9000000000000000
10000000000000000
11000000000000000
12500000000000000
14000000000000000
16000000000000000
18000000000000000
20000000000000000
22000000000000000
25000000000000000
28000000000000000
32000000000000000
36000000000000000
40000000000000000
45000000000000000
50000000000000000
56000000000000000
63000000000000000
71000000000000000
80000000000000000
90000000000000000
100000000000000000
110000000000000000
125000000000000000
140000000000000000
160000000000000000
180000000000000000
200000000000000000
220000000000000000
250000000000000000
280000000000000000
320000000000000000
360000000000000000
400000000000000000
450000000000000000
500000000000000000
560000000000000000
630000000000000000
710000000000000000
800000000000000000
900000000000000000
1000000000000000000
1100000000000000000
1250000000000000000
1400000000000000000
1600000000000000000
1800000000000000000
2000000000000000000
2200000000000000000
2500000000000000000
2800000000000000000
3200000000000000000
3600000000000000000
4000000000000000000
4500000000000000000
5000000000000000000
5600000000000000000
6300000000000000000
7100000000000000000
8000000000000000000
9000000000000000000
10000000000000000000
11000000000000000000
12500000000000000000
14000000000000000000
16000000000000000000
18000000000000000000
20000000000000000000
22000000000000000000
25000000000000000000
28000000000000000000
32000000000000000000
36000000000000000000
40000000000000000000
45000000000000000000
50000000000000000000
56000000000000000000
63000000000000000000
71000000000000000000
80000000000000000000
90000000000000000000
100000000000000000000
110000000000000000000
125000000000000000000
140000000000000000000
160000000000000000000
180000000000000000000
200000000000000000000
220000000000000000000
250000000000000000000
280000000000000000000
320000000000000000000
360000000000000000000
400000000000000000000
450000000000000000000
500000000000000000000
560000000000000000000
630000000000000000000
710000000000000000000
800000000000000000000
900000000000000000000
1000000000000000000000
1100000000000000000000
1250000000000000000000
1400000000000000000000
1600000000000000000000
1800000000000000000000
2000000000000000000000
2200000000000000000000
2500000000000000000000
2800000000000000000000
3200000000000000000000
3600000000000000000000
4000000000000000000000
4500000000000000000000
5000000000000000000000
5600000000000000000000
6300000000000000000000
7100000000000000000000
8000000000000000000000
9000000000000000000000
10000000000000000000000
11000000000000000000000
12500000000000000000000
14000000000000000000000
16000000000000000000000
18000000000000000000000
20000000000000000000000
22000000000000000000000
25000000000000000000000
28000000000000000000000
32000000000000000000000
36000000000000000000000
40000000000000000000000
45000000000000000000000
50000000000000000000000
56000000000000000000000
63000000000000000000000
71000000000000000000000
80000000000000000000000
90000000000000000000000
100000000000000000000000
110000000000000000000000
125000000000000000000000
140000000000000000000000
160000000000000000000000
180000000000000000000000
200000000000000000000000
220000000000000000000000
250000000000000000000000
280000000000000000000000
320000000000000000000000
360000000000000000000000
400000000000000000000000
450000000000000000000000
500000000000000000000000
560000000000000000000000
630000000000000000000000
710000000000000000000000
800000000000000000000000
900000000000000000000000
1000000000000000000000000
1100000000000000000000000
1250000000000000000000000
1400000000000000000000000
1600000000000000000000000
1800000000000000000000000
2000000000000000000000000
2200000000000000000000000
2500000000000000000000000
2800000000000000000000000
3200000000000000000000000
3600000000000000000000000
4000000000000000000000000
4500000000000000000000000
5000000000000000000000000
5600000000000000000000000
6300000000000000000000000
7100000000000000000000000
8000000000000000000000000
9000000000000000000000000
10000000000000000000000000
11000000000000000000000000
12500000000000000000000000
14000000000000000000000000
16000000000000000000000000
18000000000000000000000000
20000000000000000000000000
22000000000000000000000000
25000000000000000000000000
28000000000000000000000000
32000000000000000000000000
36000000000000000000000000
40000000000000000000000000
45000000000000000000000000
50000000000000000000000000
56000000000000000000000000
63000000000000000000000000
71000000000000000000000000
80000000000000000000000000
90000000000000000000000000
100000000000000000000000000
110000000000000000000000000
125000000000000000000000000
140000000000000000000000000
160000000000000000000000000
180000000000000000000000000
200000000000000000000000000
220000000000000000000000000
250000000000000000000000000
280000000000000000000000000
320000000000000000000000000
360000000000000000000000000
400000000000000000000000000
450000000000000000000000000
500000000000000000000000000
560000000000000000000000000
630000000000000000000000000
710000000000000000000000000
800000000000000000000000000
900000000000000000000000000
1000000000000000000000000000
1100000000000000000000000000
1250000000000000000000000000
1400000000000000000000000000
1600000000000000000000000000
1800000000000000000000000000
2000000000000000000000000000
2200000000000000000000000000
2500000000000000000000000000
2800000000000000000000000000
3200000000000000000000000000
3600000000000000000000000000
4000000000000000000000000000
4500000000000000000000000000
5000000000000000000000000000
5600000000000000000000000000
6300000000000000000000000000
7100000000000000000000000000
8000000000000000000000000000
9000000000000000000000000000
10000000000000000000000000000
11000000000000000000000000000
12500000000000000000000000000
14000000000000000000000000000
16000000000000000000000000000
18000000000000000000000000000
20000000000000000000000000000
22000000000000000000000000000
25000000000000000000000000000
28000000000000000000000000000
32000000000000000000000000000
36000000000000000000000000000
40000000000000000000000000000
45000000000000000000000000000
50000000000000000000000000000
56000000000000000000000000000
63000000000000000000000000000
71000000000000000000000000000
80000000000000000000000000000
90000000000000000000000000000
100000000000000000000000000000
110000000000000000000000000000
125000000000000000000000000000
140000000000000000000000000000
160000000000000000000000000000
180000000000000000000000000000
200000000000000000000000000000
220000000000000000000000000000
250000000000000000000000000000
280000000000000000000000000000
320000000000000000000000000000
360000000000000000000000000000
400000000000000000000000000000
450000000000000000000000000000
500000000000000000000000000000
560000000000000000000000000000
630000000000000000000000000000
710000000000000000000000000000
800000000000000000000000000000
900000000000000000000000000000
1000000000000000000000000000000
1100000000000000000000000000000
1250000000000000000000000000000
1400000000000000000000000000000
1600000000000000000000000000000
1800000000000000000000000000000
2000000000000000000000000000000
2200000000000000000000000000000
2500000000000000000000000000000
2800000000000000000000000000000
3200000000000000000000000000000
3600000000000000000000000000000
4000000000000000000000000000000
4500000000000000000000000000000
5000000000000000000000000000000
5600000000000000000000000000000
6300000000000000000000000000000
7100000000000000000000000000000
8000000000000000000000000000000
9000000000000000000000000000000
10000000000000000000000000000000
11000000000000000000000000000000
12500000000000000000000000000000
14000000000000000000000000000000
16000000000000000000000000000000
18000000000000000000000000000000
20000000000000000000000000000000
22000000000000000000000000000000
25000000000000000000000000000000
28000000000000000000000000000000
32000000000000000000000000000000
36000000000000000000000000000000
40000000000000000000000000000000
45000000000000000000000000000000
50000000000000000000000000000000
56000000000000000000000000000000
63000000000000000000000000000000
71000000000000000000000000000000
80000000000000000000000000000000
90000000000000000000000000000000
100000000000000000000000000000000
110000000000000000000000000000000
125000000000000000000000000000000
140000000000000000000000000000000
160000000000000000000000000000000
180000000000000000000000000000000
200000000000000000000000000000000
220000000000000000000000000000000
250000000000000000000000000000000
280000000000000000000000000000000
320000000000000000000000000000000
360000000000000000000000000000000
400000000000000000000000000000000
450000000000000000000000000000000
500000000000000000000000000000000
560000000000000000000000000000000
630000000000000000000000000000000
710000000000000000000000000000000
800000000000000000000000000000000
900000000000000000000000000000000
1000000000000000000000000000000000
1100000000000000000000000000000000
1250000000000000000000000000000000
1400000000000000000000000000000000
1600000000000000000000000000000000
1800000000000000000000000000000000
2000000000000000000000000000000000
2200000000000000000000000000000000
2500000000000000000000000000000000
2800000000000000000000000000000000
3200000000000000000000000000000000
3600000000000000000000000000000000
4000000000000000000000000000000000
4500000000000000000000000000000000
5000000000000000000000000000000000
5600000000000000000000000000000000
6300000000000000000000000000000000
7100000000000000000000000000000000
8000000000000000000000000000000000
9000000000000000000000000000000000
10000000000000000000000000000000000
11000000000000000000000000000000000
12500000000000000000000000000000000
14000000000000000000000000000000000
16000000000000000000000000000000000
18000000000000000000000000000000000
20000000000000000000000000000000000
22000000000000000000000000000000000
25000000000000000000000000000000000
28000000000000000000000000000000000
32000000000000000000000000000000000
36000000000000000000000000000000000
40000000000000000000000000000000000
45000000000000000000000000000000000
50000000000000000000000000000000000
56000000000000000000000000000000000
63000000000000000000000000000000000
71000000000000000000000000000000000
80000000000000000000000000000000000
90000000000000000000000000000000000
100000000000000000000000000000000000
110000000000000000000000000000000000
125000000000000000000000000000000000
140000000000000000000000000000000000
160000000000000000000000000000000000
180000000000000000000000000000000000
200000000000000000000000000000000000
220000000000000000000000000000000000
250000000000000000000000000000000000
280000000000000000000000000000000000
320000000000000000000000000000000000
360000000000000000000000000000000000
400000000000000000000000000000000000
450000000000000000000000000000000000
500000000000000000000000000000000000
560000000000000000000000000000000000
630000000000000000000000000000000000
710000000000000000000000000000000000
800000000000000000000000000000000000
900000000000000000000000000000000000
1000000000000000000000000000000000000
1100000000000000000000000000000000000
1250000000000000000000000000000000000
1400000000000000000000000000000000000
1600000000000000000000000000000000000
1800000000000000000000000000000000000
2000000000000000000000000000000000000
2200000000000000000000000000000000000
2500000000000000000000000000000000000
2800000000000000000000000000000000000
3200000000000000000000000000000000000
3600000000000000000000000000000000000
4000000000000000000000000000000000000
4500000000000000000000000000000000000
5000000000000000000000000000000000000
5600000000000000000000000000000000000
6300000000000000000000000000000000000
7100000000000000000000000000000000000
8000000000000000000000000000000000000
9000000000000000000000000000000000000
10000000000000000000000000000000000000
11000000000000000000000000000000000000
12500000000000000000000000000000000000
14000000000000000000000000000000000000
16000000000000000000000000000000000000
18000000000000000000000000000000000000
20000000000000000000000000000000000000
22000000000000000000000000000000000000
25000000000000000000000000000000000000
28000000000000000000000000000000000000
32000000000000000000000000000000000000
36000000000000000000000000000000000000
40000000000000000000000000000000000000
45000000000000000000000000000000000000
50000000000000000000000000000000000000
56000000000000000000000000000000000000
63000000000000000000000000000000000000
71000000000000000000000000000000000000
80000000000000000000000000000000000000
90000000000000000000000000000000000000
100000000000000000000000000000000000000
110000000000000000000000000000000000000
125000000000000000000000000000000000000
140000000000000000000000000000000000000
160000000000000000000000000000000000000
180000000000000000000000000000000000000
200000000000000000000000000000000000000
220000000000000000000000000000000000000
250000000000000000000000000000000000000
280000000000000000000000000000000000000
320000000000000000000000000000000000000
360000000000000000000000000000000000000
400000000000000000000000000000000000000
450000000000000000000000000000000000000
500000000000000000000000000000000000000
560000000000000000000000000000000000000
630000000000000000000000000000000000000
710000000000000000000000000000000000000
800000000000000000000000000000000000000
900000000000000000000000000000000000000
1000000000000000000000000000000000000000
1100000000000000000000000000000000000000
1250000000000000000000000000000000000000
1400000000000000000000000000000000000000
1600000000000000000000000000000000000000
1800000000000000000000000000000000000000
2000000000000000000000000000000000000000
2200000000000000000000000000000000000000
2500000000000000000000000000000000000000
2800000000000000000000000000000000000000
3200000000000000000000000000000000000000
3600000000000000000000000000000000000000
4000000000000000000000000000000000000000
4500000000000000000000000000000000000000
5000000000000000000000000000000000000000
5600000000000000000000000000000000000000
6300000000000000000000000000000000000000
7100000000000000000000000000000000000000
8000000000000000000000000000000000000000
9000000000000000000000000000000000000000
10000000000000000000000000000000000000000
11000000000000000000000000000000000000000
12500000000000000000000000000000000000000
14000000000000000000000000000000000000000
16000000000000000000000000000000000000000
18000000000000000000000000000000000000000
20000000000000000000000000000000000000000
22000000000000000000000000000000000000000
25000000000000000000000000000000000000000
28000000000000000000000000000000000000000
32000000000000000000000000000000000000000
36000000000000000000000000000000000000000
40000000000000000000000000000000000000000
45000000000000000000000000000000000000000
50000000000000000000000000000000000000000
56000000000000000000000000000000000000000
63000000000000000000000000000000000000000
71000000000000000000000000000000000000000
80000000000000000000000000000000000000000
90000000000000000000000000000000000000000
100000000000000000000000000000000000000000
110000000000000000000000000000000000000000
125000000000000000000000000000000000000000
140000000000000000000000000000000000000000
160000000000000000000000000000000000000000
180000000000000000000000000000000000000000
200000000000000000000000000000000000000000
220000000000000000000000000000000000000000
250000000000000000000000000000000000000000
280000000000000000000000000000000000000000
320000000000000000000000000000000000000000
360000000000000000000000000000000000000000
400000000000000000000000000000000000000000
450000000000000000000000000000000000000000
500000000000000000000000000000000000000000
560000000000000000000000000000000000000000
630000000000000000000000000000000000000000
710000000000000000000000000000000000000000
800000000000000000000000000000000000000000
900000000000000000000000000000000000000000
1000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000
1250000000000000000000000000000000000000000
1400000000000000000000000000000000000000000
1600000000000000000000000000000000000000000
1800000000000000000000000000000000000000000
2000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000
2500000000000000000000000000000000000000000
2800000000000000000000000000000000000000000
3200000000000000000000000000000000000000000
3600000000000000000000000000000000000000000
4000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000
5000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000
6300000000000000000000000000000000000000000
7100000000000000000000000000000000000000000
8000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000
14000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000000000000
50

CIHM/ICMH
Microfiche
Series.

CIHM/ICMH
Collection de
microfiches.

Canadian Institute for Historical Microreproductions

Institut canadien de microreproductions historiques

1979

## Technical Notes / Notes techniques

The Institute has attempted to obtain the best original copy available for filming. Physical features of this copy which may alter any of the images in the reproduction are checked below.

- ☐ Coloured covers/ Couvertures de couleur
- ☐ Coloured maps/ Cartes géographiques en couleur
- ☑ Pages discoloured, stained or foxed/ Pages décolorées, tachetées ou piquées
- ☐ Tight binding (may cause shadows or distortion along interior margin)/ Reliure serré (peut causer de l'ombre ou de la distortion le long de la marge intérieure)
- ☐ Additional comments/ Commentaires supplémentaires

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Certains défauts susceptibles de nuire à la qualité de la reproduction sont notés ci-dessous.

- ☐ Coloured pages/ Pages de couleur
- ☐ Coloured plates/ Planches en couleur
- ☐ Show through/ Transparence
- ☐ Pages damaged/ Pages endommagées

---

## Bibliographic Notes / Notes bibliographiques

- ☐ Only edition available/ Seule édition disponible
- ☐ Bound with other material/ Relié avec d'autres documents
- ☐ Cover title missing/ Le titre de couverture manque
- ☐ Plates missing/ Des planches manquent
- ☐ Additional comments/ Commentaires supplémentaires

- ☐ Pagination incorrect/ Erreurs de pagination
- ☐ Pages missing/ Des pages manquent
- ☐ Maps missing/ Des cartes géographiques manquent

The image
possible c
of the orig
filming co

The last re
contain th
or the syn
applies.

The origin
filmed wit
institution

Maps or p
in one exp
upper left
bottom, a
following

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

The last recorded frame on each microfiche shall contain the symbol → (meaning CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

The original copy was borrowed from, and filmed with, the kind consent of the following institution:

National Library of Canada

Maps or plates too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:

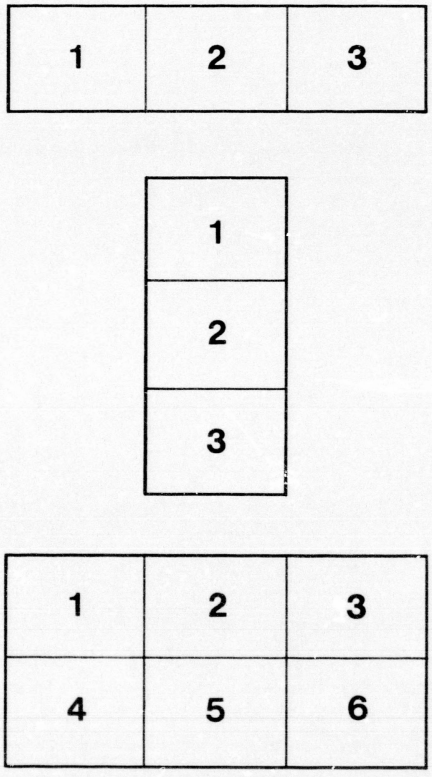
Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole → signifie "A SUIVRE", le symbole ∇ signifie "FIN".

L'exemplaire filmé fut reproduit grâce à la générosité de l'établissement prêteur suivant :

Bibliothèque nationale du Canada

Les cartes ou les planches trop grandes pour être reproduites en un seul cliché sont filmées à partir de l'angle supérieure gauche, de gauche à droite et de haut en bas, en prenant le nombre d'images nécessaire. Le diagramme suivant illustre la méthode :



# A MANUAL

OF THE

# CONSTITUTIONAL HISTORY

# OF CANADA

FROM THE EARLIEST PERIOD TO THE YEAR 1888

INCLUDING THE BRITISH NORTH AMERICA ACT, 1867, AND A DIGEST OF JUDICIAL DECISIONS ON QUESTIONS OF LEGISLATIVE JURISDICTION.

BY

JOHN GEORGE BOURINOT. LL.D., F.R.S. CAN.,

CLERK OF THE HOUSE OF COMMONS OF CANADA.

AUTHOR OF PARLIAMENTARY PRACTICE AND PROCEDURE IN CANADA, LOCAL GOVERNMENT IN CANADA, ETC.

MONTREAL:

DAWSON BROTHERS, PUBLISHERS.

1888.

JL28
B7
1888

131923

BOURINOT, J

*Entered according to Act of Parliament of Canada, in the year 1888, by* DAWSON BROTHERS, *in the Office of the Minister of Agriculture.*

J

To His Excellency the Most Noble

THE MARQUESS OF LANSDOWNE, G.C.M.G.

THIS LITTLE VOLUME IS RESPECTFULLY INSCRIBED BY

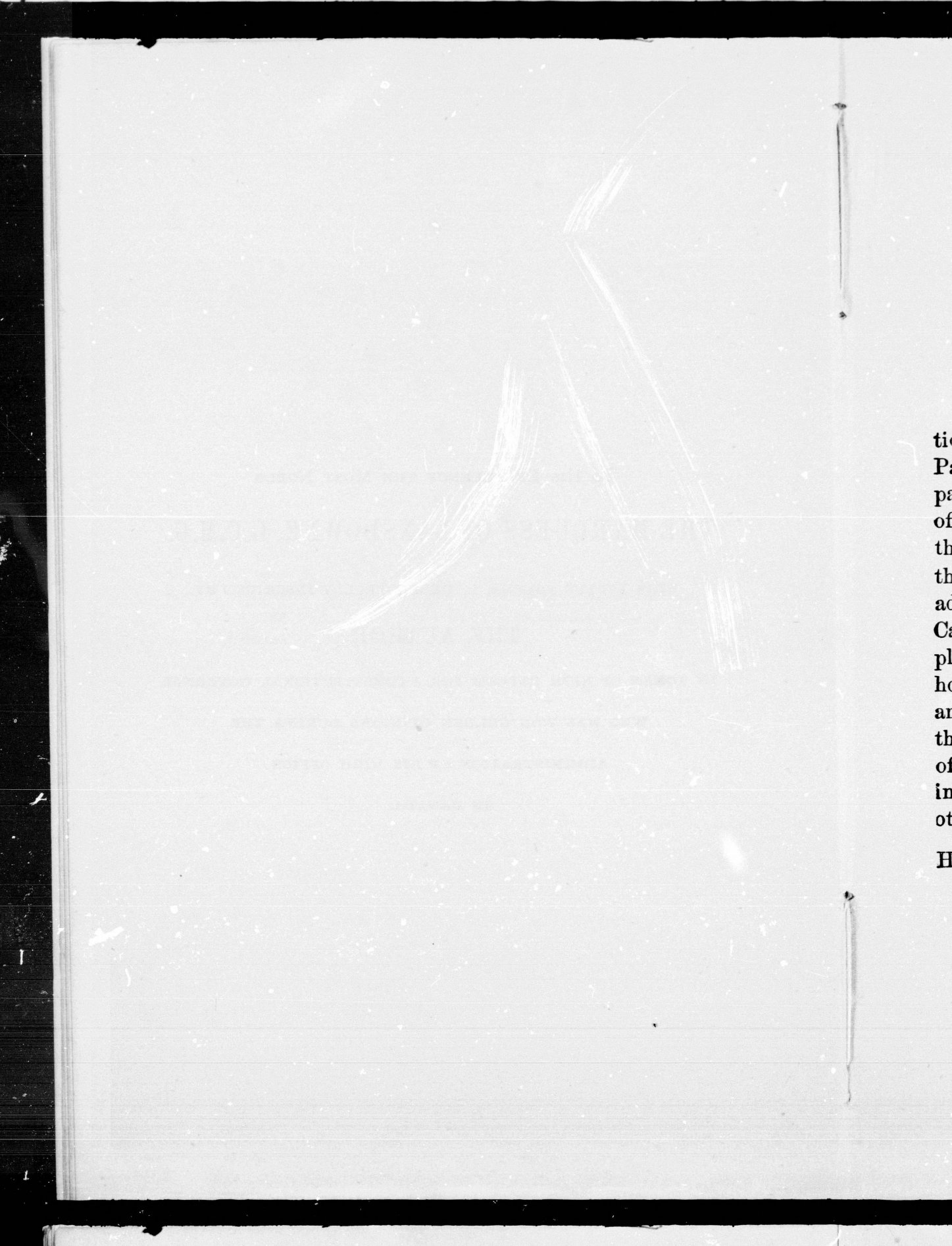
THE AUTHOR

IN TOKEN OF HIGH ESTEEM FOR A CONSTITUTIONAL GOVERNOR

WHO HAS WON GOLDEN OPINIONS DURING THE

ADMINISTRATION OF HIS HIGH OFFICE

IN CANADA.



## PREFATORY NOTE.

This treatise is in a large measure a revised republication of certain chapters of the author's large book on Parliamentary Practice and Procedure in Canada. Those parts of the work have been recently placed on the list of books required for the study of Political Science in the University of Toronto; and it has therefore been thought desirable to publish a separate volume, with such additions and alterations as will make the sketch of the Canadian Constitution, as it appeared originally, complete down to the present time. The author has much hope that the publication of this little work in a cheap and convenient form will be of some assistance to all those persons who wish to study the general character of the constitutional system of the Dominion, whose institutions are now attracting considerable attention in other countries.

HOUSE OF COMMONS,
12th April, 1888.

# CONTENTS.


## CHAPTER I.

CANADA UNDER THE FRENCH RÉGIME.

Nature of first Government, pp. 1-3—Constitution of Supreme, afterwards Superior, Council, pp. 3-4—No semblance of Municipal Government, pp. 4-5—Feudal Tenure, p. 5—Whole System of Administration centred in the King, p. 6.

## CHAPTER II.

GOVERNMENT FROM 1760 TO 1774.

Terms of Capitulation in 1760, p. 7—Treaty of Paris, pp. 7-8—Military Government for Three Years, p. 8—Proclamation of 1763, establishing System of Government in Quebec, pp. 8-10. No Assemblies called, p. 10—Unsettled State of the Country, pp. 10-11—Uncertainty as to Laws in Force, p. 11.

## CHAPTER III.

QUEBEC ACT, 1774.

Intervention of Parliament in Canadian Affairs; Charter of Government granted, p. 12—Opposition to the Quebec Act in the Province, p. 13—Details of the New Constitution, p. 14—Legislative Council Established, pp. 14-15—

Inauguration of the New Constitution, p. 16—Formation of a Privy Council, p. 16.

CHAPTER IV.

CONSTITUTIONAL ACT, 1791.

Two Provinces Established, p. 17—Immigration of United Empire Loyalists, pp. 17-18—Legislative Institutions in Upper and Lower Canada, pp. 19-23—Meeting of the Legislature of Lower Canada at Quebec, 17th December, 1792, p. 24—of Legislature of Upper Canada at Newark, 17th September, 1792, p. 24—A New Constitutional System intended as a Transcript of the British Constitution, p. 25—Description of Ceremonial at first Opening of Legislature in Upper Canada, p. 25. Political Difficulties, p. 25—Dispute between Executive and Assemblies with respect to Control of Supplies and Civil List, p. 26—Frequent Dissolutions of Quebec Legislature, p. 26—Political State of Provinces described, pp. 27-28—Rebellion of 1837-8, p. 28—Suspension of the Quebec Constitution, p. 29—Arrival of Lord Durham as Governor-General and High Commissioner, p. 30—His Ordinance of 28th June, 1838, p 31.

CHAPTER V.

UNION ACT, 1840.

Lord Durham's elaborate Report on Political Difficulties, p. 32—Value of his Suggestions, pp. 32-33—Upper and Lower Canada reunited, pp. 33-34—Outline of the New Constitution, pp. 35-36—Commencement of new Era, p. 36—Responsible Government, pp. 37-38—Arrival of Lord Elgin, p. 39—Importance of Legislation from 1841-1867, p. 40—Municipal System, p. 40—Settlement of Clergy Reserves, pp. 41-42—Abolition of Seigniorial Tenure, p. 43—Civil Service, pp. 43-44—Complete Control over Civil List and Provincial Revenues, 45—Freedom of Trade, pp. 46-47—Use of French Language in Records, etc., p. 47—Elective Legislative Council, pp. 47-48.

## CHAPTER VI.

FEDERAL UNION OF THE PROVINCES.

Political Difficulties, p. 49—Representation by Population, p. 50—Double Majority Theory, p. 51—Political Deadlock, p. 52—Understanding between Political Leaders, p. 53—Federal Union, pp. 53-54—Adoption of Seventy-Two Resolutions as Basis of Federal Union, pp. 54-55—Legislature of Canada pass Address to Queen, p. 55—Delay in the Maritime Provinces, pp. 55-56—New Constitution finally Adopted, p. 56—Passage of Act of Union (B. N. A. Act, 1867) by Imperial Parliament, pp. 56-57—Meeting of first Parliament of the Dominion, p. 57—Acquisition of the North-West, p 58—Insurrection in Red River, p. 59—Establishment of Province of Manitoba; Meeting of first Legislature; Representatives take Seats in Parliament, p. 59—Admission of British Columbia, p. 60—of Prince Edward Island, pp. 60-61—Newfoundland declines to enter Confederation, p. 61—Imperial Order-in-Council placing all British North America except Newfoundland under control of Canada, pp. 61-62.

## CHAPTER VII.

CONSTITUTION OF THE GENERAL GOVERNMENT.

Wide Extent of the Dominion, p. 63—Executive Government, p. 64—Office of Governor-General, pp. 64-5—Advised by a Privy Council, p. 68—Its Character and Functions, pp. 68-70—Formation of first Ministry of the Dominion, p. 71—Functions of Ministers, pp. 71-72—Organization of Public Departments, pp. 72-74.

## CHAPTER VIII.

CONSTITUTION OF PARLIAMENT.

Governor-General opens and prorogues Parliament; assents to or reserves Bills, p. 75—dissolves Parliament, pp. 76-77—General Features of the Senate or Upper House, pp. 77-81—of

the House of Commons, pp. 81-82—Duration of Parliament, pp. 82-83—Representation, pp. 83-85—The Franchise, pp. 86-87—Control over Revenues and Duties, p. 88.

## CHAPTER IX.

CONSTITUTION OF THE PROVINCIAL GOVERNMENTS AND ORGANIZATION OF THE NORTH-WEST TERRITORIES.

Control of General Government over Provinces, p. 90—Lieutenant-Governor appointed and removed by the Governor-General in Council, p. 90—His Duties and Responsibilities, pp. 91-92—Represents the Queen in the performance of certain Executive Acts, p. 93—Constitution of Local Legislature of Ontario, pp. 93-94—of Quebec, pp. 94-96—of Nova Scotia, pp. 96-97—of New Brunswick, pp. 98, 99—of Prince Edward Island, pp. 99, 100—of Manitoba, p. 101—of British Columbia, pp. 101, 102—Government of the North-West Territory, pp. 103, 104—Creation of Provincial District of Keewatin, p. 104—Imperial Legislation to remove doubts as to the power of Canadian Parliament to legislate with respect to new Provinces in the Territories, etc., pp. 105, 106—Local Legislatures may amend Local Constitutions, except as regards the Office of Lieutenant-Governor, p. 106.

## CHAPTER X.

DISALLOWANCE OF PROVINCIAL ACTS.

Power of disallowance, pp. 108-110—Disallowance of Streams Act of Ontario Legislature, pp. 110-112—Of Act of Manitoba Legislature incorporating Winnipeg South-Eastern Railway Company, pp. 112, 113—Powers and Responsibilities of Dominion Government in this respect, pp. 113, 114.

## CHAPTER XI.

DISTRIBUTION OF LEGISLATIVE POWERS.

Object of the Framers of the Constitution, pp. 115, 116—Powers

of the General Government, p. 116—Of the Provincial Governments, p. 117—Exclusive powers of Legislatures respecting Education, p. 117—Concurrent powers of Parliament and Legislatures as to Immigration and Agriculture, pp. 117, 118—Difficulties as to Jurisdiction, p. 119.

## CHAPTER XII.

JUDICIAL DECISIONS ON QUESTIONS OF LEGISLATIVE JURISDICTION.

On the Dominion Controverted Elections Act, pp. 121-123—On Insurance, pp. 123-128—On Acts respecting Temporalities Fund of the Presbyterian Church, pp. 128-130—On Ontario Act respecting Sale of Fermented or Spirituous Liquors, pp. 130, 131—On Fishery Leases and Licenses, pp. 132-134.

## CHAPTER XIII.

JUDICIAL DECISIONS—CONTINUED.

On Canada Temperance Act, pp. 135-139—On Liquor License Acts of Ontario and of the Dominion, pp. 139-146—On Escheats, pp. 147-151. On Indian Titles to Lands (*Re* St. Catharine's Milling and Lumber Co.), pp. 151-155—Judicial Committee of the Privy Council on Quebec Tax imposed on Banks and other Corporations, pp. 155, 156—Boundary Award, pp. 156-158.

## CHAPTER XIV.

RULES OF CONSTRUCTION AND CONSTITUTIONAL PRINCIPLES EVOLVED FROM JUDICIAL DECISIONS.

Rules laid down by the Judicial Committee of the Privy Council of England, for the Construction and Interpretation of provisions of B.N.A. Act relating to distribution of Legislative Powers, pp. 159-163—Constitutional Principles deduced from the decisions of High Judicial Authorities, and from the operation of the fundamental Law, pp. 163 *et seq.*

## CHAPTER XV.

POSITION OF THE JUDICIARY.

Laws in force in Canada, pp. 170, 171—Appointment of Judges; their Tenure of Office, pp. 171, 172—How impeached, pp. 172, 173.

## APPENDIX.

British North America Act, 1867, p. 179—British North America Act, 1871, p. 228—Parliament of Canada Act, 1875, p. 231.

# CHAPTER I.

## CANADA UNDER THE FRENCH RÉGIME.

The history of parliamentary institutions in Canada commences towards the close of the eighteenth century. Whilst the country remained in possession of France, the inhabitants were never represented in legislative assemblies, and never exercised any control over their purely local affairs by frequent town meetings. In this respect they occupied a position very different from that of the English colonists in America. The conspicuous features of the New England system of government were the extent of popular power and the almost entire independence of the parent state in matters of provincial interest and importance. All the freemen were accustomed to assemble regularly in township meetings, and take part in the debates and proceedings. The town, in fact, was "the political unit," and was accordingly represented in the legislature of the colony. Legislative assemblies,[1]

---

[1] Story on the Constitution of the United States (4th ed. Cooley), p.p. 113, 114, 193 n.; Bourinot's Local Government in Canada, in Johns Hopkins University Studies in Historical and Political Science, Baltimore, 1887.

indeed, were the rule in all the old colonies of England on this continent—even in proprietary governments like that of Maryland. On the other hand, in the French colony, a legislative system was never enjoyed by the inhabitants. The first government which was established by Samuel Champlain, the founder of Quebec, was invested with large authority.[1] For over half a century, whilst the country was practically under the control of trading corporations, the governor exercised all the powers of civil and military government, necessary for the security and peace of the colony. Though he had the assistance of a council, he was under no obligation whatever to follow its advice, on all occasions. After some years' experience of a system of government which made the early governors almost absolute, Colbert effected an entire change in the administration of colonial affairs. From 1663, the government of Canada was brought more directly under the control of the king, and made more conformable to the requirements of a larger population. But in all essential features the government resembled that of a French province. The governor and intendant were at the head of affairs and reported directly to the king.[2] Of these two high functionaries, the governor

---

[1] Garneau I., 87 (Bell's Translation). The "Instructions" in the early commissions ordered: "And according as affairs occur, you shall, in person, with the advice of prudent and capable persons, prescribe—subject to our good pleasure—all laws, statutes and ordinances; in so far as they may conform to our own, in regard to such things and concernments as are not provided for by these presents."

[2] The governor was styled in his commission, "Gouverneur et Lieutenant-Général en Canada, Acadie, Isle de Terre Neuve, et

was the superior in position; he commanded the troops, made treaties with the Indians, and took precedence on all occasions of state. The intendant came next to him in rank, and, by virtue of his large powers, exercised great influence in the colony. He presided at the council, and had control of all expenditures of public money. His commission also empowered him to exercise judicial functions, and in certain cases to issue ordinances having the force of law whenever it might be necessary.[1]

When the king reorganized the government of Canada, in the month of April 1663, he decreed the establishment of a supreme council at Quebec.[2] This body, afterwards called the superior council, consisted of the governor, the bishop, the intendant and five councillors, subsequently increased to seven,[3] and eventually to twelve.[4] This council exercised legislative, executive and judicial powers. It issued decrees for the civil, commercial, and

---

autres pays de la France Septentrionale;" and the intendant, "Intendant de la Justice, Police et Finances en Canada," etc. Doutre et Lareau, Histoire du Droit Canadien I., 130.

[1] See Commissions of Intendants in *Edits et Ordonnances*, III.

[2] *Edit de création du conseil souverain de Quebec, Ib* I. 37.

[3] In 1675, when the king confirmed the decree of 1663 (I. *Ib.* 83), and revoked the charter of the West India Co., to which exclusive trading privileges had been conceded in 1664. Doutre et Lareau, Histoire du Droit Canadian I., 118, 184.

[4] In 1703. The councillors were rarely changed, and usually held office for life. They were eventually chosen by the king from the inhabitants of the colony on the recommendation of the governor and intendant. The West India Co. made nominations for some years. The first council, after the edict of 1663, was selected by the governor and bishop, but practically by the latter, Monseigneur Laval. Parkman, pp. 135-6.

financial government of the colony, and gave judgment in civil and criminal causes according to the royal ordinances and the *coutume de Paris*, besides exercising the function of registration borrowed from the Parliament of Paris. An attorney-general sat in the council, which was also empowered to establish subordinate courts throughout the colony. From the decisions of the intendant or the council there was no appeal except to the king in his council of state. Local governors were appointed at Montreal and Three Rivers, but their authority was very limited; for they were forbidden to fine or imprison any person without obtaining the necessary order from Quebec. Neither the *seigneur* nor the *habitant* had practically any voice whatever in the government; and the royal governor called out the militia whenever he saw fit, and placed over it what officers he pleased. Public meetings for any purpose were jealously restricted, even when it was necessary to make parish or market regulations.[1] No semblance of municipal government was allowed in the town and village communities. Provision had been made in the constitution

[1] Il ne laisse pas d'être de très grande conséquence de ne pas laisser la liberté au peuple de dire son sentiment. (Meules au Ministre, 1685.) Even "meetings held by parishioners under the eye of the curé to estimate the cost of a new church seem to have required a special license from the intendant." (Parkman, The Old Régime in Canada, p. 280.) "Not merely was the Canadian colonist allowed no voice in the government of his province or the choice of his rulers, but he was not even permitted to associate with his neighbour for the regulation of those municipal affairs which the central authority neglected under the pretext of managing." Lord Durham's R., p. 10.

of 1663 for the election of certain municipal officers called syndics, to note any infraction of public rights in the large communities; but, after a few futile attempts to elect such functionaries, the government threw every obstacle in the way of anything like a municipal system, and the people finally were left without any control whatever over their most trivial local affairs.[1] The very social fabric itself rested on feudal principles modified to suit the condition of things in a new country. The *habitant* held his lands on a tenure which, however favourable to settlement, was based on the acknowledgment of his dependence on the *seigneur*. But at the same time, the lord of the manor, and the settler on his estate, were on an equal footing to all intents and purposes as respects any real influence in the administration of the public affairs of the colony. The very name of Parliament had to the French colonist none of that significance it had to the Englishman, whether living in the parent state or in its dependencies. The word in French was applied only to a body whose ordinary functions were of a judicial character, and whose very decrees bore the impress continually of royal dictation. In Canada, as in France, absolutism and centralization were the princi-

[1] Doutre et Lareau, Histoire du Droit Canadien, 138. The regulations of 1647 show that such officers existed in Quebec, Montreal and Three Rivers, but they had ceased to be appointed by 1661. The first elections held in 1663 were allowed to miscarry, and from that time forward, says Garneau, "There was no further question of free municipal government in Canada, so long as French dominion endured, although a nominal syndicate existed for a short time after that now under review." Garneau I., 189–90.

ples on which the government was conducted. The king administered public affairs through the governor and intendant, who reported to him as frequently as it was possible in those times of slow communication between the parent state and the colony.[1] The country prospered or languished, according as the king was able or disposed to take any interest in its affairs; but even under the most favourable circumstances, it was impossible that Canada could make any decided political or material progress with a system of government which centralized all real authority several thousand miles distant.[2]

---

[1] "The whole system of administration centred in the king, who, to borrow the formula of his edicts, 'in the fullness of our power and our certain knowledge,' was supposed to direct the whole machine, from its highest functions to its pettiest intervention, in private affairs." Parkman, Old Régime, pp. 285–6.

[2] For accounts of system of government in Canada till the Conquest, see Garneau I., book iii., chap. iii. Parkman's Old Régime in Canada, chap. xvi. Reports of Attorney-General Thurlow (1773), and Solicitor-General Wedderburne (1772), cited by Christie, I., chap. ii.

## CHAPTER II.

### GOVERNMENT FROM 1760 TO 1774.

Canada became a possession of Great Britain by the terms of capitulation signed on the 8th of September, 1760.[1] By these terms Great Britain bound herself to allow the French-Canadians the free exercise of their religion[2]; and certain specified fraternities, and all communities of *religieuses* were guaranteed the possession of their goods, constitutions and privileges, but a similar favour was denied to the Jesuits, Franciscans or Recollets and Sulpicians, until the King should be consulted on the subject. The same reservation was made with respect to the parochial clergy's tithes. These terms were all included in the Treaty of Paris, signed on the 10th of February, 1763, by which France ceded to Great Britain, Canada, and all the Laurentian isles, except

---

[1] Atty.-Gen. Thurlow; Christie's Hist., I., p. 48. Garneau, II., 70.

[2] The words "as far as the laws of Great Britain permit," appear in art. IV. of the Treaty of Paris. Doutre et Lareau, I., 329. They are also found in the Instructions given in 1763 to Governor Murray. Ib. 560.

St. Pierre and Miquelon, insignificant islands off the southern coast of Newfoundland, which were required for the prosecution of the French fisheries. In this treaty, Great Britain bound herself to allow the Canadians the free exercise of their religion, but no reference was made in the document to the laws that were to prevail throughout the conquered country.[1]

For three years after the conquest, the government of Canada was entrusted to military chiefs, stationed at Quebec, Montreal and Three Rivers, the headquarters of the three departments into which General Amherst divided the country.[2] Military councils were established to administer law, though, as a rule, the people did not resort to such tribunals, but settled their difficulties among themselves. In 1763, the King, George III., issued a proclamation establishing four new governments, of which Quebec was one.[3] Labrador, from St John's River to Hudson's Bay, Anticosti, and the Magdalen Islands, were placed under the jurisdiction of Newfoundland, and the islands of St. John (or Prince Edward Island, as it was afterwards called), and Cape Breton (Ile Royale), with the smaller islands adjacent thereto, were added to the government of Nova Scotia.

---

[1] Atty.-Gen. Thurlow; Christie, I., p. 48. Miles, History of Canada under French Régime, app. xvi. See also note 2, p. 7.

[2] These three divisions corresponded to the old ones under the French régime. General Murray was stationed at Quebec; General Gage at Montreal; Colonel Burton at Three Rivers. Garneau, II., 82.

[3] The others were East Florida, West Florida, and Grenada. The boundaries of the several governments are set forth in the proclamation.

Express power was given to the governors, in the letters-patent by which these governments were constituted, to summon general assemblies, with the advice and consent of His Majesty's Council, "in such manner and form as was usual in those colonies and provinces which were under the King's immediate government." Authority was also given to the governors, with the consent of the councils, and the representatives of the people, to make laws, statutes and ordinances for the peace, welfare and good government of the colonies in question. The governors were also empowered to establish, with the consent of the councils, courts of judicature and public justice, for the hearing of civil and criminal causes, according to law and equity, and, as near as may be, agreeable to the laws of England, with the right of appeal in all civil cases to the Privy Council.[1] General Murray,[2] who was appointed governor of Quebec on the 21st November, 1763, was commanded to execute his office according to his commission and accompanying instructions, or such other instructions as he should receive under His Majesty's signet and sign manual, or by His

---

[1] Proclamation of 7th October, 1763. Atty.-Gen. Thurlow's Report; Christie, I., pp. 49–50. In the debates on the Quebec, Bill, the vagueness of this proclamation was sharply criticised, and no one appears to have been willing to assume the responsibility of having framed it for the King. Atty.-Gen. Thurlow acknowledged that "it certainly gave no order whatever with respect to the constitution of Canada; it certainly was not a finished composition, etc." Cavendish's Debates, p. 29.

[2] Sir Jeffery Amherst was in reality the first, and Gen. Murray the second, governor-general of Canada. Garneau, II., 87; *supra* p. 8.

Majesty's Order-in-Council, and according to laws made with the advice and consent of the council and assembly —the latter to be summoned as soon as the situation and circumstances of the province should admit. The persons duly elected by the majority of the freeholders of the respective parishes and places were required, before taking their seats in the proposed assemblies, to take the oaths of allegiance and supremacy, and the declaration against transubstantiation.[1] All laws, in conformity with the letters-patent, were to be transmitted in three months to the King for disallowance or approval. The governor was to have a negative voice, and the power of adjourning, proroguing and dissolving all general assemblies.[2]

No assembly, however, ever met, as the French-Canadian population were unwilling to take the test oath,[3] and the government of the province was carried on solely by the governor-general, with the assistance of an executive council, composed in the first instance of the two lieutenant-governors of Montreal and Three Rivers, the chief justice, the surveyor general of customs, and

---

[1] The oaths of allegiance, supremacy, and abjuration were formerly required to be taken by every member in the English Commons under various statutes. By 29 and 30 Vict., c. 19, and 31 and 32 Vict., c. 72, a single oath was prescribed for members of all religious denominations; May, 205. 30 Car. II., st. 2, c. 1, required members of both houses to subscribe a declaration against transubstantiation, the adoration of the Virgin, and the sacrifice of the mass. Taswell-Langmead, Const. Hist., 447, 632.

[2] Atty.-Gen. Thurlow, in Christie, I., pp. 50-1.

[3] It was convoked *pro forma*, but never assembled. Garneau, II., 92, 108.

eight others chosen from the leading residents in the colony.[1] From 1763 to 1774 the province remained in a very unsettled state, chiefly on account of the uncertainty that prevailed as to the laws actually in force. The "new subjects," or French Canadians, contended that justice, so far as they were concerned, should be administered in accordance with their ancient customs and usages, by which for a long series of years their civil rights and property had been regulated, and which they also maintained were secured to them by the terms of the capitulation and the subsequent treaty. On the other hand, "the old," or English subjects, argued from the proclamation of 1763 that it was His Majesty's intention at once to abolish the old established jurisprudence of the country, and to establish English law in its place, even with respect to the titles of lands, and the modes of descent, alienation and settlement.[2]

---

[1] Garneau II., 87-8. Only one native French-Canadian was admitted into this council.

[2] Atty.-Gen. Thurlow, in Christie, I., pp. 51-63; also, Report of Atty.-Gen. Yorke, and Sol.-Gen. De Grey, 14th April, 1766, quoted by Thurlow, 55. The latter able lawyer expressed himself very forcibly as to the rights of the French Canadians: "They seem to have been strictly entitled by the *jus gentium* to their property, as they possessed it upon the capitulation and treaty of peace, together with all its qualities and incidents by tenure or otherwise, and also to their personal liberty. * * * * It seems a necessary consequence that all those laws by which that property was created, defined, and secured, must be continued to them. To introduce any other, as Mr. Yorke and Mr. DeGrey emphatically expressed it, tends to confound and subvert rights, instead of supporting them." *Ib.* 59.

## CHAPTER III.

### THE QUEBEC ACT OF 1774.

The province of Quebec remained for eleven years under the system of government established by the proclamation of 1763. In 1774, Parliament intervened for the first time in Canadian affairs and made important constitutional changes. The previous constitution had been created by letters-patent under the great seal of Great Britain, in the exercise of an unquestionable and undisputed prerogative of the Crown. The colonial institutions of the old possessions of Great Britain, now known as the United States of America, had their origin in the same way.[1] But in 1774, a system of government was granted to Canada by the express authority of Parliament.[2] This constitution was known as the Quebec

[1] Report of Committee of Council, 1st May, 1849, app. A., vol. ii. Earl Grey's Colonial Policy.

[2] 14 Geo. III., c. 83, "making more effectual provision for the government of the province of Quebec, in North America." The bill, on the motion for its passage, with amendments, in the House of Commons, was carried by 56 yeas to 20 nays. In the House of Lords it had a majority of 19; Contents 26, Non. Con. 7. Cav. Deb. iv., 296.

Act, and greatly extended the boundaries of the province of Quebec, as defined in the proclamation of 1763. On one side, the province extended to the frontiers of New England, Pennsylvania, New York province, the Ohio, and the left bank of the Mississippi; on the other, to the Hudson's Bay Territory. Labrador, and the islands annexed to Newfoundland by the proclamation of 1763, were made part of the province of Quebec.

The bill was introduced in the House of Lords on the 2nd of May, 1774, by the Earl of Dartmouth, then colonial secretary of state, and passed that body without opposition. Much discussion, however, followed the bill in its passage through the House of Commons, and on its return to the Lords, the Earl of Chatham opposed it "as a most cruel, oppressive, and odious measure, tearing up justice and every good principle by the roots." The opposition in the province was among the British inhabitants, who sent over a petition for its repeal or amendment. Their principal grievance was that it substituted the laws and usages of Canada for English law.[1] The Act of 1774 was exceedingly unpopular in England and in the English-speaking colonies, then at the commencement of the Revolution.[2] Parliament, however, appears to have been influenced by a desire to adjust the

---

[1] Cav. Deb., preface, iii.-vi.

[2] The American Congress, in an address to the people of Great Britain, September 5, 1774, declared the act to be "unjust, unconstitutional, and most dangerous and destructive of American rights." (Christie, I., 8-9.) In 1779, Mr. Masères, formerly attorney-general of Quebec, stated that "it had not only offended the inhabitants of the province, but alarmed all the English provinces in America." Cav. Deb., v.

government of the province so as to conciliate the majority of the people.[1] In the royal speech closing the session, the law was characterized as "founded on the plainest principles of justice and humanity, and would have the best effect in quieting the minds and promoting the happiness of our Canadian subjects."[2]

The new constitution came into force in October, 1774. The Act sets forth among the reasons for legislation that the provisions made by the proclamation of 1763 were "inapplicable to the state and circumstances of the said province, the inhabitants whereof amounted at the conquest, to above sixty-five thousand persons professing the religion of the Church of Rome, and enjoying an established form of constitution and system of laws, by which their persons and property had been protected, governed, and ordered for a long series of years, from the first establishment of the province." Consequently, it is provided that Roman Catholics should be no longer obliged to take the test oath, but only the oath of allegiance. The government of the province was entrusted to a governor and a legislative council, appointed by the Crown, inasmuch as it was "inexpedient to call an assembly."[3] This council was to comprise not more than twenty-three, and not less than seventeen

---

[1] Garneau, who represents French Canadian views in his history, acknowledges that "the law of 1774 tended to reconcile the Canadians to British rule." II., 125.

[2] Cav. Deb., iv.

[3] Fox contended for a representative assembly, but Lord North expressed his opinion that it was not wise for a Protestant government to delegate its powers to a Catholic assembly. Cav. Deb., 246-8.

members, and had the power, with the consent of the governor or commander-in-chief for the time being, to make ordinances for the peace, welfare, and good government of the province. They had no authority, however, to lay on any taxes or duties except such as the inhabitants of any town or district might be authorized to assess or levy within its precincts for roads and ordinary local services.[1] No ordinance could be passed, except by a majority of the council, and every one had to be transmitted within six months after its enactment to His Majesty for approval or disallowance. It was also enacted that in all matters of controversy, relative to property and civil rights, recourse should be had to the French civil procedure, whilst the criminal law of England should obtain to the exclusion of every other criminal code which might have prevailed before 1764. Both the civil and the criminal law might be modified and amended by ordinances of the governor and legislative council. Owners of lands, however, might bequeath their property by will, to be executed either according to the laws of England or the forms prescribed by the laws of England. The Act also expressly gave the French Canadians additional assurance that they would be secured in the rights guaranteed to them by the terms of the capitulation and the subsequent treaty. Roman Catholics were permitted to observe their religion with

[1] A supplementary bill, passed in the session of 1774 (14 Geo. III., c. 88), provided a revenue for defraying expenses of administration of justice and civil government by imposing duties on spirits and molasses, in place of old French colonial custom dues. The deficiency in the expenses was supplied from the imperial treasury. Christie, I., 1-2.

perfect freedom, and their clergy were to enjoy their "accustomed dues and rights" with respect to such persons as professed that creed. Consequently, the Roman Catholic population of Canada were relieved of their disabilities many years before people of the same belief in Great Britain and Ireland received similar privileges.

The new constitution was inaugurated by Major General Carleton, afterwards Lord Dorchester,[1] who nominated a legislative council of twenty-three members, of whom eight were Roman Catholics.[2] This body sat, as a rule, with closed doors;[3] both languages were employed in the debates, and the ordinances agreed to were drawn up in French and English. It was not able to sit regularly, on account of the government being fully occupied with the defence of the province during the progress of the American war of independence.[4] In 1776, the governor-general called to his assistance a privy council of five members, in accordance with the royal instructions accompanying his commission. This advisory, not legislative, body, was composed of the lieutenant-governor and four members of the legislative council.[5]

[1] He was appointed Governor of Canada in 1772; in 1776 created a Knight of the Bath; in 1786 raised to the peerage with the above title. Caven. Deb., 100, *note*.

[2] Several were public functionaries. Garneau, II., 166.

[3] Councillors were required to take the following oath:—"I swear to keep close and secret all such matters as shall be treated, debated, and resolved in Council, without disclosing or publishing the same or any part thereof." Doutre et Lareau, 718.

[4] It did not meet during 1776. Garneau, II., 165.

[5] Garneau, II., 169. Exception was taken to the legality of this body by Chief-Justice Livius, who contended that the law of 1774 only gave authority to establish a legislative council.

## CHAPTER IV.

### CONSTITUTIONAL ACT, 1791.

The constitution of 1774 remained in force until the 20th of December, 1791, when two provinces were established in Canada, and a more liberal system of government was given to each section. Whilst the American war of independence was in progress, the French Canadian people remained faithful to their allegiance, and resisted all the efforts of the Americans to induce them to revolt against England.[1] One very important result of the war was the immigration into British North America of a large body of people who had remained faithful to British connection throughout the struggle in the old colonies, and were destined, with their descendants, to exercise a great influence on the material and political development of Canada. Some forty thousand loyalists, as near as can be ascertained, came into the British American provinces. The ma-

[1] In 1775, General Washington addressed a proclamation to the French Canadians; Baron D'Estaing, commander of the French fleet, did the same in 1788. All such efforts were ineffectual. Speech of Sir G. E. Cartier, Confed. Deb., 57-60.

jority settled in the maritime colony of Nova Scotia, and founded the province of New Brunswick; but a large number, some ten thousand probably, established themselves in the country known as Upper Canada.[1] By 1790, the total population of Canada had reached, probably, over one hundred and sixty thousand souls.[2] In 1788, the governor created five judicial districts in Upper and Lower Canada, in order to meet the requirements of the new population.[3] It had by this time become the opinion of English statesmen that it would be advisable to make further constitutional changes in the province, more consonant with the wishes of its large population, of which the British element now formed a very important part. The question of representative

---

[1] Introduction to Canada Census Statistics of 1871, vol. iv., xxxviii.-xlii.

[2] The population of New France in 1760 was estimated at between 60,000 and 70,000, a considerable emigration to France having taken place after the conquest. In 1775, the population of all Canada was estimated at 90,000. In 1790, Nova Scotia had probably 30,000 inhabitants; 1793, Cape Breton, 2,000; St. John or Prince Edward Island, 4,500 in 1796; New Brunswick had 35,000 by 1806.—(Census Statistics of 1871, vol. iv.) Others estimate the population of Canada in 1790 at only 135,000. Garneau, II., 205.

[3] The district in the province of Quebec was called Gaspé; the other four in the upper section were called Luneburg, Mecklenburg, Nassau and Hesse, after great houses in Germany, allied to the royal family of England. Luneburg extended from the Ottawa to the Gananoque; Mecklenburg, from the Gananoque to the Trent; Nassau, from the Trent to Long Point, on Lake Erie; and Hesse embraced the rest of Canada to the St. Clair. Doutre et Lareau, Histoire du Droit Canadien, I., 744. Bourinot's Local Government in Canada, 30.

government agitated the province from 1783 to 1790, and petitions and memorials, embodying the conflicting views of the political parties into which the people were divided, were presented to the home government, which decided to deal with the question, after receiving a report from Lord Dorchester, who had been authorized to make full enquiry into the state of the colony. In the session of 1791, George III. sent a message to the House of Commons declaring that it would be for the benefit of the people of the province if two distinct governments were established therein under the names of Lower Canada and Upper Canada.[1] The result was the passage through Parliament of the Constitutional Act of 1791,[2] which was introduced in the House of Commons by Mr. Pitt. This act created much discussion in Parliament and in Canada, where the principal opposition came from the British inhabitants of Lower Canada.[3] Much jealousy

[1] March 4, 1791. Christie, I., 68-8.

[2] 31 Geo. III., c. 31. "In Upper and Lower Canada the three estates of governor, council and assembly were established, not by the Crown (as in the case of the old colonies), but by the express authority of Parliament. This deviation from the general usage was unavoidable, because it was judged right to impart to the Roman Catholic population of the Canadas privileges which, in the year 1791, the Crown could not have legally conferred upon them. There is also reason to believe that the settlement of the Canadian constitution, not by a grant from the Crown merely, but in virtue of a positive statute, was regarded by the American loyalists as an important guarantee for the secure enjoyment of their political franchises." Rep. of Com. of Council, 1st May, 1849; Earl Grey's Colonial Policy, II., app. A.

[3] Mr. Adam Lymburner, a Quebec merchant, was heard on the 23rd March, 1791, at the bar of the House of Commons against the bill. Christie, I., 74-114.

already existed between the two races, who were to be still more divided from each other in the course of the operation of the new constitution. The authors of the new scheme of government, however, were of opinion that the division of Canada into two provinces would have the effect of creating harmony, since the French would be left in the majority in one section, and the British in the other.[1] The Quebec Act, it was generally admitted, had not promoted the prosperity or happiness of the people. Great uncertainty still existed as to the laws actually in force under the act. Although it had been sixteen years in operation, neither the judges nor the bar clearly understood the character of the laws of Canada previous to the conquest. No certainty existed in any matters of litigation except in the case of the possession, transmission, or alienation of landed property, where the custom of Paris was quite clear. The Canadian courts sometimes admitted, and at other times rejected, French law, without explaining the grounds of their determination. In not a few cases, the judges were confessedly ignorant of French Canadian jurisprudence.[2]

The Constitutional Act of 1791 established in each province a legislative council and assembly, with power

---

[1] Mr. Pitt said: "I hope this separation will put an end to the competition between the old French inhabitants and the new settlers from Britain and the British colonies." Edmund Burke was of opinion that "to attempt to amalgamate two populations composed of races of men diverse in language, laws, and customs, was a complete absurdity." For debates on bill see Eng. Hans., Parl. Hist., vol. 28, p. 1271; vol. 29, pp. 104, 359-459, 655. Garneau, II., 198-203. Christie, I., 66-114.

[2] Christie, I., 67. Mr. Lymburner, *Ib.* 77-79; Report on Administration of Justice, 1787. Garneau, II., 189-90.

to make laws. The legislative council was to be appointed by the King for life—in Upper Canada to consist of not less than seven, and in Lower Canada of not less than fifteen members. Members of the council and assembly must be of the age of 21, and either natural-born subjects or naturalized by act of Parliament, or subjects of the Crown by the conquest and cession of Canada. The sovereign might, if he thought proper, annex hereditary titles of honour to the right of being summoned to the legislative council in either province.[1] The speaker of the council was to be appointed by the governor-general. The whole number of members in the assembly of Upper Canada was not to be less than sixteen; in Lower Canada not less than fifty[2]—to be chosen by a majority of votes in either case. The limits of districts returning representatives, and the number of representatives to each, were fixed by the governor-

---

[1] No titles were ever conferred under the authority of the act. Colonel Pepperell was the first American colonist who was made a baronet for his services in the capture of Louisbourg, 1745. Such distinctions were very rare in Canada during the years previous to Confederation. Chief Justices James Stuart and J. B. Robinson were both made baronets in the early times of Canada. But, since 1867, the Queen has conferred special marks of royal favour on not a few Canadians of merit. (See Todd Parl. Govt. in the Colonies, 232 *et seq.*) The Order of St. Michael and St. George was expressly enlarged with the view of giving an Imperial recognition of the services of distinguished colonists in different parts of the Empire.

[2] Mr. Fox was of opinion that the assembly in Lower Canada should have at least one hundred members; he was also in favour of an elective legislative council.

general. The county members were elected by owners of lands in freehold, or in fief or roture, to the value of forty shillings sterling a year over and above all rents and charges payable out of the same. Members for the towns and townships were elected by persons having a dwelling house and lot of ground therein of the yearly value of £5 sterling or upwards, or who have resided in the town for twelve months previous to the issue of the election writ, should have *bonâ fide* paid one year's rent for the dwelling-house in which he shall have resided, at the rate of £10 sterling a year or upwards. No legislative councillor or clergyman could be elected to the assembly in either province. The governor was authorized to fix the time and place of holding the meeting of the legislature, and to prorogue and dissolve it whenever he deemed either course expedient; but it was also provided that the legislature was to be called together once at least every year, and that each assembly should continue for four years, unless it should be sooner dissolved by the governor. It was in the power of the governor to withhold as well as give the royal assent to all bills, and to reserve such as he should think fit for the signification of the pleasure of the Crown. The British Parliament reserved to itself the right of providing regulations imposing, levying and collecting duties, for the regulation of navigation and commerce to be carried on between the two provinces, or between either of them and any other part of the British dominions or any foreign country. Parliament also reserved the power of appointing or directing the payment of duties, but at the same time left the exclusive apportionment of all moneys levied in this way to the legislature, which could apply them to

such public uses as it might deem expedient. It was also provided in the new constitution that all public functionaries, including the governor-general, should be appointed by the Crown, and removable at the royal pleasure. The free exercise of the Roman Catholic religion was guaranteed permanently. The king was to have the right to set apart, for the use of the Protestant clergy in the colony, a seventh part of all uncleared crown-lands. The governors might also be empowered to erect parsonages and endow them, and to present incumbents or ministers of the Church of England, and whilst power was given to the provincial legislatures to amend the provisions respecting allotments for the support of the Protestant clergy, all bills of such a nature could not be assented to until thirty days after they had been laid before both houses of the Imperial Parliament.[1] The governor and executive council were to remain a court of appeals until the legislatures of the provinces might make other provisions.[2] The right of bequeathing property, real and personal, was to be absolute and unrestricted. All lands to be granted in Upper Canada were to be in free and common socage, as well as in Lower Canada, when the grantee desired it. English criminal law was to obtain in both provinces.

A proclamation was issued on the 18th of November,

---

[1] The intent of these provisions was to preserve the rights and interests of the established Church of England in both provinces from invasion by their respective legislatures. Christie, I. 122.

[2] An ordinance of the province of Quebec had so constituted the Executive; provision was made subsequently as required by the Act.

1791.[1] On the 7th of May, 1792, Lower Canada was divided into fifty electoral districts, returning altogether fifty members. The legislature of that province was called together by proclamation of the 30th of October, and met for the first time accordingly at Quebec on the 17th of December, 1792. The legislative council was composed of fifteen members.[2] The government of Upper Canada was organized at Kingston in July, 1792, when the members of the executive and legislative councils were sworn, and writs issued for the election of the assembly. The first meeting of the legislature of Upper Canada—with seven members in the legislative council and sixteen in the assembly—was held at Newark (the old name of Niagara) on the 17th of September, 1792, and was formally opened by Lieutenant-Governor Simcoe.[3] Both legislatures, even in those early times of

---

[1] By the lieutenant-governor, General Alured Clarke. The governor-general, Lord Dorchester, was absent in England. This proclamation set forth the division line between the provinces as stated in the order of council of the previous August—the Ottawa River being the line as far as Lake Temiscamingue. Christie, I. 124.

[2] Hon. W. Smith, chief justice, was appointed speaker of the legislative council of Lower Canada; J. A. Panet was elected speaker of the legislative assembly. See Christie, I. 126-8, where names of members of both Houses are given. The legislature met for some years in the building known as the old Bishop's Palace, situated between the Grand Battery and Prescott Gate.

[3] Hon. W. Osgoode, chief justice, speaker of legislative council; W. Macdonnell, speaker of legislative assembly. The first meeting was in a rude frame house, about half a mile from the village—it was not unusual for the members to assemble in the

the provinces, assembled with all the formalities that are observed at the opening of the Imperial Parliament.[1] The rules and orders adopted in each legislature were based, as far as practicable in so new a country, on the rules and usages of its British prototype.[2]

The Constitutional Act of 1791 was framed with the avowed object of "assimilating the constitution of Canada to that of Great Britain, as nearly as the difference arising from the manners of the people, and from the present situation of the province will admit."[3]

For some years after the inauguration of the new constitution, political matters proceeded with more or less harmony, but eventually a conflict arose between the governors and the representatives in the assembly, as well as between the latter and the upper house, which

---

open air. (Scadding's Toronto, p. 29.) The legislature of Upper Canada was removed to York, now Toronto, in 1797—that town having been founded and named by Governor Simcoe in 1794. (Withrow, 292.) The provincial legislature met in a wooden building on what is now known as Parliament street. (Scadding's Toronto, pp. 26–7.)

[1] The Duke de la Rochefoucault-Liancourt, who was present at an "opening" in 1795, at Newark, gives a brief account of the ceremonial observed even amid the humble surroundings of the first Parliament. See vol. ii., p. 88.

[2] Chap. v., Bourinot's Parliamentary Practice and Procedure.

[3] Despatch of Lord Grenville to Lord Dorchester, 20th Oct., 1789, given in App, to Christie, VI., pp. 16–26. Lt.-Governor Simcoe, in closing the first session of the legislature of Upper Canada, said that it was the desire of the imperial government to make the new constitutional system "an image and transcript of the British constitution." See Journals of U. C., 1792; E. Commons Papers, 1839, vol. 33, p. 166.

kept the people in the different provinces, especially in Lower Canada, in a state of continual agitation. In Upper and Lower Canada the official class was arrayed, more or less, with the legislative council against the majority in the assembly. In Lower Canada the dispute was at last so aggravated as to prevent the harmonious operation of the constitution. The assembly was constantly fighting for the independence of Parliament, and the exclusive control of the supplies and the civil list. The control of "the casual and territorial revenues" was a subject which provoked constant dispute between the crown officials and the assemblies in all the provinces. These revenues were not administered or appropriated by the legislature, but by the governors and their officers, At length, when the assemblies refused supplies, the executive government availed itself of these funds in order to make itself independent of the legislature, and the people through their representatives could not obtain those reforms which they desired, nor exercise that influence over officials which is essential to good government.[1] The governor dissolved the Quebec legislature with a frequency unparalleled in political history, and was personally drawn into the conflict. Public officials were harassed by impeachments. The assembly's bills of a financial, as well as of a general character, were frequently rejected by the legislative council, and the disputes between the two branches of the legislature eventually rendered it impossible to pass any useful legislation. In this contest, the two races were found

[1] Mr. W. Macdougall: Mercer v. Attorney-General for Ontario, Canada Sup. Court Rep., vol. v., pp. 545-6.

arrayed against each other in the bitterest antagonism.[1] Appeals to the home government were very common, but no satisfactory results were attained as long as the constitution of 1791 remained in force. In Upper Canada the financial disputes, which were of so aggravated a character in the lower province, were more easily arranged; but nevertheless a great deal of irritation existed on account of the patronage and political influence being almost exclusively in the hands of the official class, which practically controlled the executive and legislative councils.[2]

In Nova Scotia the majority of the house of assembly were continually protesting against the composition of the executive and legislative councils, and the preponderance therein of certain interests which they conceived to be unfavourable to reform.[3] In New Brunswick, for years, the disputes between the executive and legislative powers were characterized by much acrimony, but eventually all the revenues of the province were conceded to

---

[1] "I expected to find a contest between a government and a people; I found two nations warring in the bosom of a single state; I found a struggle, not of principles, but of races." Lord Durham's R., p. 7.

[2] Lord Durham's R., pp. 56-58.

[3] Mr. Young to Lord Durham, R., p. 75, and App. At the time of the border difficulties with Maine, the Nova Scotia legislature voted the necessary supplies. "Yet," said Mr. Howe, those who voted the money, who were responsible to their constituents for its expenditure, and without whose consent (for they formed two-thirds of the Commons) a shilling could not have been drawn, had not a single man in the local cabinet, by whom it was to be spent, and by whom, in that trying emergency, the governor would be advised."

the assembly, and the government became more harmonious from the moment it was confided to those who had the confidence of the majority in the house.[1] In Prince Edward Island the political difficulty arose from the land monopoly,[2] which was not to disappear in its entirety until the colony became a part of the confederation of Canada. But when we come to review the political condition of all the provinces, we find, as a rule, "representative government coupled with an irresponsible executive, the same abuse of the powers of the representative bodies, owing to the anomaly of their position, aided by the want of good municipal institutions; and the same constant interference of the imperial administration in matters which should be left wholly to the provincial governments."[3] In Lower Canada, the descendants of the people who had never been allowed by France a voice in the administration of public affairs, had, after some years' experience of representative institutions, entered fully into their spirit and meaning, and could not now be satisfied with the workings of a political system which always ignored the wishes of the majority who really represented the people in the legislature. Consequently, the discontent at last assumed so formidable a character, that legislation was completely obstructed. Eventually, this discontent culminated in the rebellion of 1837–38,[4] which inflicted much injury on the province,

---

[1] Lord Durham's R., p. 74.

[2] *Ibid*, p. 75.

[3] Lord Durham's R., p. 74.

[4] For various accounts of this ill-advised rebellion in L. C., see Garneau, II. chaps. ii. and iii., Book 16, pp. 418-96; Christie, vols. iv. and v.; Withrow, chap. xxvii.

though happily it was confined to a very small part of the people. An attempt at a rebellion was also made in the upper province, but so unsuccessfully, that the leaders were obliged to fly almost simultaneously with the rising of their followers;[1] though it was not for many months afterwards that the people ceased to feel the injurious effects of the agitation which the revolutionists and their emissaries endeavoured to keep up in the province. In the lower or maritime colonies, no disturbance occurred,[2] and the leaders of the popular party were among the first to assist the authorities in their efforts to preserve the public tranquillity, and to express themselves emphatically in favour of British connection.[3]

The result of these disturbances in the upper provinces was another change in the constitution of the Canadas. The imperial government was called upon to intervene promptly in their affairs. Previous to the outbreak in Canada the government had sent out royal commissioners with instructions to inquire fully into the state of the province of Lower Canada, where the ruling party in the assembly had formulated their grievances in the shape of ninety-two resolutions, in which, among other

---

[1] Life of W. Lyon Mackenzie, C. Lindsey. Withrow, chap. xxviii.

[2] "If in these provinces there is less formidable discontent and less obstruction to the regular course of government, it is because in them there has been recently a considerable departure from the ordinary course of the colonial system, and a nearer approach to sound constitutional practice." Lord Durham's R., p. 74.

[3] See remarks of Mr. Joseph Howe at a public meeting held at Halifax, N.S., in 1838. Howe's Life and Letters, I. 171.

things, they demanded an elective legislative council.[1] Lord Gosford came out in 1835 as governor-general and as head of the commission,[2] but the result tended only to intensify the discontent in the province. In 1837, Lord John Russell carried, in the House of Commons, by a large majority, a series of resolutions, in which the demand for an elective legislative council and other radical changes was positively refused.[3] In this public emergency the Queen was called upon, on the 10th of February, 1838, to sanction a bill passed by the two houses, suspending the constitution, and making temporary provision for the government of Lower Canada. This act[4] was proclaimed in the Quebec Gazette on the 29th of March in the same year, and, in accordance with its provisions, Sir John Colborne appointed a special council.[5] which continued in office until the arrival of Lord Durham, who superseded Lord Gosford as governor-general,[6] and was also entrusted with large powers as high commissioner[7] "for the adjustment of certain important affairs, affecting the provinces of Upper and Lower

[1] Garneau, II. 415-5. Journals, L. C., 1834, p. 310.

[2] Withrow, 365. Sir C. Grey and Sir G. Gipps were associated with Lord Gosford on the Commission.

[3] Eng. Com. J. [92] 305; Mirror of P., 1243-4.

[4] 1 and 2 Vict., c. 9; 2 and 3 Vict., c. 53.

[5] Christie V., 51. The first ordinance suspended the *Habeas Corpus* and declared that the enactment of the council should take effect from date of passage.

[6] Christie, V. 48-9. Sir John Colborne was only administrator at this time.

[7] For instructions, in part, to Lord Durham and his remarks in the House of Lords on accepting the office, see Christie V., 47-50.

Canada." Immediately on Lord Durham's arrival he dissolved the special council just mentioned and appointed a new executive council.[1] This distinguished statesman continued at the head of affairs in the province from the last of May, 1838, until the 3rd of November in the same year, when he returned to England, where his ordinance of the 28th of June, sentencing certain British subjects in custody to transportation without a form of trial, and subjecting them, and others not in prison, to death in case of their return to the country without permission of the authorities, had been most severely censured in and out of Parliament as entirely unwarranted by law.[2] So strong was the feeling in the Imperial Parliament on this question, that a bill was passed to indemnify all those who had issued or acted in putting the ordinance in force.[3]

---

[1] Christie, V. 150-51.

[2] For debates on question, text of ordinance and accompanying proclamation, see *Ibid.* 158-83.

[3] This bill was introduced by Lord Brougham, the severest critic of Lord Durham's course in this matter. (1 and 2 Vict., c. 112.) In admitting the questionable character of the ordinance, Lord Durham's friends deprecated the attacks made against him, and showed that all his measures had been influenced by an anxious desire to pacify the dissensions in the provinces. Christie, V. 183-94.

## CHAPTER V.

### UNION ACT, 1840.

The immediate result of Lord Durham's mission was an elaborate report,[1] in which he fully reviewed the political difficulties of the provinces, and recommended imperial legislation with the view of remedying existing evils and strengthening British connection. The most important recommendation in the report was to the effect that "no time should be lost in proposing to Parliament a bill for restoring the union of the Canadas under one legislature, and reconstructing them as one province." On no point did he dwell more strongly than on the absolute necessity that existed for entrusting the government to the hands of those in whom the representative body had confidence.[2] He also proposed that the Crown

---

[1] Officially communicated to Parliament, 11th Feb., 1839.

[2] "I know not how it is possible to secure harmony in any other way than by administering the government on those principles which have been found perfectly efficacious in Great Britain. I would not impair a single prerogative of the Crown; on the contrary, I believe that the interests of the people of these provinces require the protection of prerogatives which

should give up its revenues, except those derived from land sales, in exchange for an adequate civil list, that the independence of the judges should be secured, and that municipal institutions should be established without delay, "as a matter of vital importance." The first immediate result of these suggestions was the presentation to the Imperial Parliament, on the 3rd of May, 1839, of a royal message,[1] recommending a union of the Canadas. In the month of June, in the same year, Lord John Russell introduced a bill to reunite the two provinces, but it was allowed, after its second reading, to lie over for that session of Parliament, in order that the matter might be fully considered in Canada, and more information obtained on the subject.[2] Mr. Poulett Thomson[3] was appointed governor-general with the avowed object of carrying out the policy of the imperial government, and immediately after his arrival at Montreal in November, 1839, he called the special council together, and ex-

---

have not hitherto been exercised. But the crown must, on the other hand, submit to the necessary consequences of representative institutions; and if it has to carry on the government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence." Page 106 of R.

[1] Mr. Poulett Thomson's remarks to special council, 11th Nov., 1839. Christie, V. 316.

[2] Christie, V. 289-90. The opinion of the British Parliament was decidedly favourable to the bill.

[3] Mr. Thomson was a member of the Imperial Parliament, and of decidedly advanced views in politics. Sir John Colborne was governor in the interval between Lord Durham's retirement and Mr. Thomson's appointment.

plained to them "the anxious desire felt by Parliament and the British people that a settlement of the questions relating to the Canadas should be speedily arrived at." The council passed an address in favour of a reunion of the provinces under one legislature, as a measure of "indispensable and urgent necessity."[1] The governor-general, in the month of December, met the legislature of Upper Canada, and, after full consideration of the question, both branches passed addresses in favour of union, setting forth at the same time the terms which would be considered most acceptable to the province."[2]

It will be seen that the imperial government considered it necessary to obtain the consent of the legislature of Upper Canada, and of the special council of Lower Canada, before asking Parliament to reunite the two provinces. Accordingly, Lord John Russell, in the session of 1840, again brought forward his bill entitled, "An Act to reunite the provinces of Upper and Lower Canada, and for the government of Canada,"[3] which was assented to on the 23rd of July, but did not come into effect until the 10th of February in the following year, in accordance

---

[1] Special Coun. J., Nov. 11, 12, 13, 14. Christie V., 316-22.

[2] Leg. Coun. J. (1839-40) 14, &c. Leg. Ass. J. (1839-40), 16, 57, 63, 66, 161, 164. Christie, V. 326-56. Previously, however, in 1838, a committee of the House of Assembly of Upper Canada had declared itself in favour of the proposed union. Upp. Can. Ass. J. (1838), 282.

[3] 3 and 4 Vict., c. 35. The bill passed with hardly any opposition in the Commons, but it was opposed in the Lords by the Duke of Wellington, the Earl of Gosford, and the Earl of Ellenborough, besides others.

with a suspending clause to that effect.[1] The act provided for a legislative council of not less than twenty members, and for a legislative assembly in which each section of the united provinces would be represented by an equal number of members—that is to say, forty-two for each, or eighty-four in all. The speaker of the council was appointed by the Crown, and ten members, including the speaker, constituted a quorum. A majority of voices was to decide, and in case of an equality of votes, the speaker had a casting vote. A legislative councillor would vacate his seat by continuous absence for two consecutive sessions. The number of representatives allotted to each province could not be changed

[1] Mr. Poulett Thomson, now created Lord Sydenham, issued his proclamation on February 5, 1841, and took the oath on that day as governor-general from Chief Justice Sir James Stuart at Government House in Montreal. Mr. Thomson's title was Baron Sydenham, of Sydenham in the County of Kent, and of Toronto in Canada. (Christie V., 357-8.) The first Parliament of the united Canadas was held at Kingston, 14th June, 1841. In 1844 it was removed to Montreal (then a city of 40,000 souls), on address. Mr. Speaker Jameson and other Upper Canadian legislative councillors left their seats rather than agree to the vote for the change. The legislature remained at Montreal until the riots of 1849, on the occasion of the Rebellion Losses Bill, led to the adoption of the system, under which the legislature met alternately at Quebec and Toronto—the latter city being first chosen by Lord Elgin. An address to the Queen to select a permanent capital was agreed to in 1857, and Ottawa finally chosen. The Canadian Parliament assembled for the first time on the 8th June, 1866, in the new edifice constructed in that city. The British North America Act, 1867, s. 16, made that city the political capital of the Dominion. Turcotte, 1st part, 71, 144; 2nd part, 119, 315-16.

except with the concurrence of two-thirds of the members of each house. The quorum of the assembly was to be twenty, including the speaker. The speaker was elected by the majority, and was to have a casting vote in case of the votes being equal on a question. No person could be elected to the assembly unless he possessed a freehold of lands and tenements to the value of five hundred pounds sterling over and above all debts and mortgages. The English language alone was to be used in the legislative records.[1] A session of the legislature should be held once, at least, every year, and each legislative assembly was to have a duration of four years, unless sooner dissolved. Provision was made for a consolidated revenue fund, on which the first charges were expenses of collection, management, and receipt of revenues, interest of public debt, payment of the clergy, and civil list. The fund, once these payments were made, could be appropriated for the public service as the legislature might think proper. All votes, resolutions or bills involving the expenditure of public money were to be first recommended by the governor-general.[2]

The passage of the Union Act of 1840 was the com-

---

[1] The address from the Upper Canada Assembly prayed for the equal representation of each province, a permanent civil list, the use of the English language in all judicial and legislative records, as well as in the debates after a certain period, and that the public debt of the province be charged on the joint revenues of the United Canadas. These several propositions, except that respecting the French language, were recommended in the governor-general's messages. Christie, V. 334-48.

[2] See chapter on Supply. Bourinot's Parliamentary Practice and Procedure.

mencement of a new era in the constitutional history of Canada as well as of the other provinces. The statesmen of Great Britain had learned that the time had arrived for enlarging the sphere of self-government in the colonies of British North America; and, consequently, from 1840 we see them year by year making most liberal concessions, which would never have been thought of under the old system of restrictive colonial administration. The most valuable result was the admission of the all important principle that the ministry advising the governor should possess the confidence of the representatives of the people assembled in parliament. Lord Durham, in his report, had pointed out most forcibly the injurious consequences of the very opposite system which had so long prevailed in the provinces. His views had such influence on the minds of the statesmen then at the head of affairs, that Mr. Poulett Thomson (as he informed the legislature of Upper Canada), "received her Majesty's commands to administer the government of these provinces in accordance with the well-understood wishes and interests of the people."[1] Subsequently he communicated to the legislature of the united provinces two despatches from Lord John Russell,[2] in which the gover-

[1] In answer to an address from the Assembly, 13th December, 1839. (Christie V., 353.) The views of the great body of Reformers (in Upper Canada) appear to have been limited, according to their favourite expression, to making the colonial constitution "an exact transcript" of that of Great Britain; and they only desired that the Crown should, in Upper Canada, as at home, entrust the administration of affairs to men possessing the confidence of the Assembly. Lord Durham's R. 58.

[2] Lord J. Russell was colonial secretary from 1839 to 1841; the

nor-general was instructed, in order "to maintain the utmost possible harmony," to call to his counsels and to employ in the public service "those persons who, by their position and character, have obtained the general confidence and esteem of the inhabitants of the province." He wished it to be generally made known by the governor-general that thereafter certain heads of departments would be called upon "to retire from the public service as often as any sufficient motives of public policy might suggest the expediency of that measure."[1] During the first session subsequent to the message conveying these despatches to the legislature, the assembly agreed to certain resolutions which authoritatively expressed the views of the supporters of responsible government. It was emphatically laid down, as the very essence of the principle, that "in order to preserve between the different branches of the provincial parliament that harmony which is essential to the peace, welfare, and good government of the province, the chief advisers of the representative of the sovereign, constituting a provincial administration under him, ought to be men possessed of the confidence of the representatives of the people,

---

office was afterwards held successively from 1841 to 1852 by Lord Stanley, Mr. Gladstone, and Earl Grey. So that all these eminent statesmen assisted in enlarging the sphere of self-government in the colonies. Todd's Parl. Gov. in the Colonies, 25.

[1] Can. Ass. J. (1841), App. BB. These papers were in response to an address from the Assembly of 5th August, 1841. The instructions to the governor-general repeated substantially the despatches on responsible government. Journals of Ass., 20th August, 1841.

thus affording a guarantee that the well-understood wishes and interests of the people, which our Gracious Sovereign has declared shall be the rule of the provincial government, will, on all occasions, be faithfully represented and advocated."[1] Nevertheless, during the six years that elapsed after the passage of this formal expression of the views of the large majority in the legislature, "Responsible Government" did not always obtain in the fullest sense of the phrase, and not a few misunderstandings arose between the governors and the supporters of the principle as to the manner in which it should be worked out."[2] In 1847, Lord Elgin was appointed governor-general, and received positive instructions "to act generally upon the advice of his executive council, and to receive as members of that body those persons who might be pointed out to him as entitled to do so by their possessing the confidence of the Assembly."[3] No Act of Parliament was necessary to effect this important change; the insertion and alteration of a few paragraphs

[1] The resolutions, which were agreed to, were proposed by Mr. Harrison, then provincial-secretary in the Draper-Ogden ministry, in amendment to others of the same purport, proposed by Mr. Baldwin. The resolution quoted in the text was carried by 56 yeas to 7 nays; the others passed without division. Journals of Ass., 1841, pp. 480-82.

[2] Especially during the administration of Lord Metcalfe (1843-45), who believed he could make appointments to office without taking the advice of his Council. Dent's Canada since the Union, vol. i., chap. xvi.

[3] Grey, Colonial Policy, vol. i. pp. 206-34; Adderley, p. 31. See also Colonial Reg., 57. Lord John Russell was premier, and Earl Grey, colonial secretary, when Lord Elgin was appointed. Todd, Parl. Gov. in the Colonies, 54-60.

in the governor's instructions were sufficient.[1] By 1848 the provinces of Canada, Nova Scotia, and New Brunswick[2] were in the full enjoyment of the system of self-government, which had been so long advocated by their ablest public men; and the results have proved eminently favourable to their political as well as material development.

From 1841 to 1867, during which period the new constitution remained in force, many measures of a very important character were passed by the legislature. The independence of parliament was effectually secured, and judges and officials prevented from sitting in either house.[3] An elaborate system of municipal institutions was perfected in the course of a few years for Upper and Lower Canada. It had been proposed to make such a system a part of the constitution of 1840,[4] but the clauses on the subject were struck out of the bill during its passage in the House of Commons, on the ground that such a purely local matter should be left to the new legisla-

---

[1] Mr. Merivale, quoted in Creasy's Constitutions of the Britannic Empire, 389. Lord John Russell, in his instructions to Lord Sydenham, expressly stated that it was "impossible to reduce into the form of a positive enactment, a constitutional principle of this nature." Journals of Assembly, 1841, p. 392.

[2] Earl Grey was colonial secretary in 1848, when the system was fully inaugurated in the maritime provinces. E. Commons Papers, 1847-8, vol. 42, pp. 51-88.

[3] Chap. ii. Bourinot's Parliamentary Practice and Procedure.

[4] Lord Durham so proposed it, R. 109. (Scrope's Life of Lord Sydenham, 194.) The address of the Assembly of Upper Canada to the governor-general in 1840 called attention to the necessity of introducing a system into Lower Canada, in order to provide for local taxation. Christie, V. 347.

ture.[1] Lord Sydenham, who had very strong opinions on the subject, directed the attention of the legislature in the first session to the necessity of giving a more extended application to the principles of local self-government, which already prevailed in the province of Upper Canada; and the result was the introduction and passage of a measure in that direction.[2] At this time there was already in force an ordinance passed by the special council to establish a municipal system in Lower Canada—a measure which created much dissatisfaction in the province. Eventually the ordinance was revoked, and a system established in both provinces which met with general approval.[3] This measure demands special mention, even in this chapter, inasmuch as it has had a most valuable effect in educating the mass of the people in self-government, besides relieving the legislature of a large amount of business, which can be more satisfactorily disposed of in town or county organizations, as provided for by law. In fact, the municipal system of Canada lies at the very basis of its parliamentary institutions.

Among the distinguishing features of the important legislation of this period was the passage of a measure which may be properly noticed here, since it disposed of a vexatious question which had arisen out of the provisions of the Constitutional Act of 1791. It will be seen

---

[1] Christie, V. 356.

[2] Introduced by Mr. Harrison; 4 & 5 Vict., c. 10.

[3] See Bourinot's Local Government in Canada; Turcotte 1st Part, 97, 180; 2nd Part, 260,384. Also, Cons. Stat. of Upper Canada, c. 54; of Lower Canada, c. 24.

by reference to the summary given elsewhere of that Act that it reserved certain lands for the support of a Protestant clergy. The Church of England always claimed the sole enjoyment of these lands, and, in 1835, Sir John Colborne established a number of rectories which gave much offence to the other Protestant denominations, who had earnestly contended that these lands, under a strict interpretation of the law, belonged equally to all Protestants.[1] The Church of Scotland, however, was the only other religious body that ever received any advantage from these reserves. The Reform party in Upper Canada made this matter one of their principal grievances, and in 1839 the legislature passed an Act to dispose of the question, but it failed to receive the approval of the imperial authorities. It was not until 1853 that the British Parliament recognized the right of the Canadian legislature to dispose of the clergy reserves on the condition that all vested rights were respected. In 1854, the Canadian legislature passed a measure making existing claims a first charge on the funds, and dividing the balance among the several municipalities in the province according to population. Consequently, so far as the Act of 1791 attempted to establish a connection between Church and State in Canada, it signally failed."[2]

---

[1] In fact, in 1840, the highest judicial authorities of England gave it as their opinion that the words "a Protestant clergy" in the Act of 1791 included other clergy than those of the Church of England. Mirror of P., May 4, 1840.

[2] See Lord Durham's R., 66, 83; Turcotte, II., pp. 137, 234: Cons. Stat. of Canada, c. 25. The measure of 1854 (18 Vict. c. 2) was in charge of Attorney General (now Sir John) Macdonald, then a member of the MacNab-Morin administration. Leg. Ass. J. (1854–5) 193 *et seq.*

Nor can the writer well leave out a brief reference to the abolition of the seigniorial tenure, after an existence of over two centuries, since the system deeply affected in many ways the social and political life of the French Canadian people. In the days of the French regime, this system had certain advantages in assisting settlement and promoting the comfort of the inhabitants; but, as Lower Canada became filled up by a large population, this relic of feudal times became altogether unsuited to the condition of the country, and it was finally decided to abolish it in the session of 1854.[1]

It was during this period that the Canadian legislature dealt with the civil service, on whose character and ability so much depends in the working of parliamentary institutions. During the time when responsible government had no existence in Canada, the legislature had virtually no control over public officials in the different provinces, but their appointment rested with the home government and the governors. In the appointments, Canadians were systematically ignored, or a selection made from particular classes, and the consequence was the

[1] Mr. Drummond, attorney-general in the MacNab Morin administration, introduced the bill which became law, 18 Vict., c. 3. A bill in the session of 1853 had been thrown out by the Legislative Council. For historical account of this tenure see Garneau, I., chap. iii.; Parkman's Old Regime, chap. xv.; Turcotte, II., 161, 203, 234: Cons. Stat. of Lower Canada, chap. xli. The number of fiefs at the time of the passage of the Act of 1854, was ascertained to be 220, possessed by 160 *seigneurs*, and about 72,000 *rentiers*. The entire superficial area of these properties comprised 12,822,503 acres, about one-half of which was found under rental. Garneau, I., 185. Report of Seigniorial Commission.

creation of a bureaucracy which exercised a large influence in public affairs, and was at the same time independent of the popular branch. When self-government was entrusted to the provinces, the British authorities declared that they had "no wish to make the provinces the resource for patronage at home," but, on the contrary, were earnestly intent on giving to the talent and character of leading persons in the colonies advantages similar to those which talent and character employed in the public service obtain in the United Kingdom."[1] But at the same time the British government, speaking through the official medium of the secretary of state for the colonies, always pressed on the Canadian authorities the necessity of giving permanency and stability to the public service, by retaining deserving public officers without reference to a change of administration.[2] The consequence of observing this valuable British principle has been to create a large body of public servants, on whose ability and intelligence depends, in a large measure, the easy working of the machinery of government. According as the sphere of government expanded, and the duties of administration became more complicated, it was found necessary to mature a system better

---

[1] Lord John Russell, 1839. Journals of Ass. U.C., App. B.B.

[2] Lord John Russell, 1839, App. B.B., Jour. of Ass., 1841. Earl Grey to Lieut.-Governor Harvey of Nova Scotia, 31 March, 1847. E. Com. P. 1847–48, vol. 42, p. 77. In Nova Scotia, the advice of the British government was never practically followed, and public officers have been very frequently changed to meet the necessities of politicians. See despatch of the Duke of Newcastle to Governor Gordon, Feb. 22, 1862, New Brunswick Jour., 1862, p. 192.

adapted to the public exigencies. The first important measure in this direction was the bill of 1857, which has been followed by other legislation in the same direction of improving the machinery of administration.[1]

But in no respect have we more forcible evidence of the change in the colonial policy of the imperial government than in the amendments that were eventually made in the Union Act of 1840. All those measures of reform, for which Canadians had been struggling during nearly half a century, were at last granted. The control of the public revenues and the civil list had been a matter of serious dispute for years between the colonies and the parent state; but, six years after the union, the legislature obtained complete authority over the civil list, with the sanction of the imperial government, which gave up every claim to dispose of provincial moneys.[2] About the

[1] Mr. Spence, when postmaster general in the Taché-Macdonald administration, introduced the Act of 1857, appointing permanent deputy heads and grades in the departments. 20 Vict., chap. 24. Cons. Stat. of Canada, c. 11. Since Confederation, 24 Vict., c. 34. See Reports of Civil Service Commission, presented to Canadian Parliament, 1880-81 and 1882, in which the present condition of the service is fully set forth, Ses. Pap., No. 113. (1880-81) and Sess. P., No. 32, (1882). In 1882, Parliament passed an Act to improve the efficiency of the service (45 Vict., c. 4), which has been amended by 46 Vict., c. 7. See Rev. Stat. of Canada, c. 17.

[2] S.s. 50 to 57, respecting consolidated revenue fund and charges thereon, and with the schedules therein referred to, were repealed by the Imperial Act 10 and 11 Vict., c. 71, and the Provincial Act 9 Vict., c. 114, brought into force under sec. 9 of said Prov. Act, which provided a permanent Civil List in place of that arranged by the Imperial authorities. See Cons. Stat. of Canada, c. 10.

same time, the imperial government conceded to Canada the full control of the post office, in accordance with the wishes of the people as expressed in the legislature.[1] The last tariff framed by the Imperial Parliament for the British possessions in North America was mentioned in the speech at the opening of the legislature in 1842,[2] and not long after that time, Canada found herself, as well as the other provinces, completely free from imperial interference in all matters affecting trade and commerce. In 1846, the British Colonies in America were authorized by an imperial statute[3] to reduce or repeal by their own legislation duties imposed by imperial acts upon foreign goods imported from foreign countries into the colonies in question. Canada soon availed herself of this privilege, which was granted to her as the logical sequence of the free trade policy of Great Britain, and, from that time to the present, she has been enabled to legislate very freely with regard to her own commercial interests. In 1849, the Imperial Parliament, in response to addresses of the legislature, and memorials from boards of trade

---

[1] See Speech of Lord Elgin, sess. of 1847, Jour. of Ass., p. 7; Can. Stat., 13 and 14 Vict., c. 17, s. 2, and Cons. Stat., c. 31, s. 2, under authority of Imperial Act, 12 and 13 Vict., c. 66.

[2] Ass. Jour., 1842, p. 3.

[3] Imp. Stat. 9 and 10 Vict., c. 94. Todd Parl. Gov. in the Colonies, 176-80. See speech of Lord Elgin, 1847, Jour. p. 7, in which he refers to the power given to the colonial legislatures to repeal differential duties heretofore imposed by the Colonies in favour of British produce. In response, the legislature passed, 10 and 11 Vict., c. 30, the first measure necessary to meet "the altered state of our colonial relations with the mother country." Speech of Speaker of Assembly in presenting Supply Bill. Jour. p. 218.

and merchants in Canada, repealed the navigation laws, and allowed the river St. Lawrence to be used by vessels of all nations.[1] With the repeal of those old laws, which had been first enacted in the days of the commonwealth to impede the commercial enterprise of the Dutch, Canadian trade and shipping received an additional impulse.

No part of the constitution of 1840 gave greater offence to the French Canadian population than the clause restricting the use of the French language in the legislature. It was considered as a part of the policy, foreshadowed in Lord Durham's report,[2] to denationalize, if possible, the French Canadian province. The repeal of the clause in 1848 was one evidence of the harmonious operation of the union, and of the better feeling between the two sections of the population.[3] Still later, provision was made for an elective legislative council, so long and earnestly demanded by the old legislature of Lower

---

[1] Leg. Ass. J. (1849). 43, 48, 57; app. C.; Imp. Acts, 12 and 13 Vict., c. 29, s. 5. The memorandum of the Canadian government sets forth very clearly that since it was no longer the policy of the Empire to give a preference to colonial products in the markets of the United Kingdom, no reason could possibly exist for monopolies and restrictions in favour of British shipping. App. C. as above.

[2] "Without effecting the change so rapidly or so roughly as to shock the feelings and trample on the welfare of the existing generation, it must henceforth be the first and steady purpose of the British Government to establish an English population, with English laws and language, in this province, and to trust its government to have but a decidedly English legislature." P. 110, *et seq.*

[3] See chap. v., Bourinot's Practice and Procedure.

Canada. In 1854 the Imperial Parliament passed, in response to an address of the legislative assembly, an Act to empower the legislature to alter the constitution of the legislative council.[1] In 1856, the Canadian legislature passed a bill providing for an elective upper house; the province was divided into 48 electoral divisions, 24 for each section; twelve members were to be elected every two years; every councillor was to hold real estate to the value of $8,000 within his electoral district. The members were only to remain in the council for eight years, but could of course be reelected. Existing members were allowed to retain their seats during their lives.[2] The speaker was appointed by the Crown from the council until 1862, when he was elected by the members from among their own number.[3] The first election of councillors under the new Act took place in the summer of 1856.

---

[1] Leg. Ass. J. (1853), 944; Imp. Act, 17 and 18 Vict., c. 118. In the course of the debate the Duke of Newcastle said: "The proper course to pursue was to legislate no more for the colonies than we could possibly help; indeed, he believed that the only legislation now required for the colonies consisted in undoing the bad legislation of former years." 134 E. Hans (3) 159. 22 and 23 Vict. c. 10, Imp. Stat.

[2] 19 and 20 Vict., c. 140; Cons. Stat. of Canada, c. 1. Mr. Cauchon, commissioner of Crown Lands, in the McNab-Taché Administration, introduced the bill in the Assembly.

[3] Can. Stat., 23 Vict., c. 3, repealed s, 26 of 19 and 20 Vict., c. 140. The Act made also provision for supplying the place of the speaker in case of his being obliged to leave the chair from illness, &c. The first election took place in 1862, March 20, when Sir Allan McNab was chosen Speaker.

## CHAPTER VI.

### Federal Union of the Provinces.

The union between Upper and Lower Canada lasted until 1867, when the provinces of British North America were brought more closely together in a federation and entered on a new era in their constitutional history. For many years previous to 1865, the administration of government in Canada had become surrounded with political difficulties of a very perplexing character. The union had not at first been viewed with favour by the majority of the French Canadians who regarded it as a scheme to anglicize their province in the course of time. One of their grievances[1] was the fact that the Act gave each province the same representation in the legislature, though Lower Canada had in 1840 the greater popula-

[1] See address of Mr. Lafontaine (Turcotte, I. 60), in which he laid before the electors of Terrebonne his opinion as to the injustice of the Union Act: "L'union est un acte d'injustice et de despotisme en ce qu'elle nous est imposée sans notre consentement; en ce qu'elle prive le Bas-Canada du nombre légitime de ses représentants, etc."

tion.[1] But the large immigration that flowed into Upper Canada for many years after the union soon gave the preponderance of population to that province, where in the course of no long time a demand was made for a representation in the legislature according to the population. This demand was always strenuously resisted by the Lower Canadian representatives as unjust in view of the conditions under which they entered the union. The Act itself afforded them sufficient protection inasmuch as it embodied the proviso[2] that the governor could not assent to any bill of the legislature to alter the representation, unless it should have been passed with the concurrence of two-thirds of the members in each house. This clause was, however, suddenly repealed by the Imperial Act of 1854, empowering the legislature to alter the constitution of the legislative council, but no practical result ever followed in respect to the representation.[3]

---

[1] In 1839, Lord Durham gave the population of Upper Canada at 400,000, and that of Lower Canada at 600,000, of whom 450,000 were French. The census compiler of 1870 gives the population of Upper Canada in 1840, at 432,159; of Nova Scotia in 1838, 202,575; of New Brunswick, in 1840, 156,162; of Assiniboia, 7,704; of Prince Edward Island, 47,042 in 1841. No figures are given for Lower Canada in 1840, but we find the number was 697,084 in 1844. The figures given by Lord Durham were as accurate as they could be made at the time.

[2] 3 and 4 Vict., c. 35, s. 26. This clause was added to the bill by the British Ministry to protect the French Canadian representation. Garneau, II. 480.

[3] 17 and 18 Vict., c. 118, s. 5. The legislature had never asked an amendment in this direction, and the history of the repeal is a mystery. Garneau, in the edition of 1859, accused Sir Francis Hincks of having been the inspiring cause; but in a pam-

It is interesting to note that one of the expedients by which it was hoped to arrange the political conflict between the two sections was the principle of a double majority. In the course of the first decade after the union, prominent public men laid it down as necessary to the harmonious operation of the constitution, that no administration ought to continue in power unless it was supported by a majority from each section of the united provinces.[1] As a matter of justice, it was urged, that no measure touching the interests of a particular province should be passed, except with the consent of a majority of its representatives.[2] The principle had more or less recognition in the government and legislature after 1848.[3] The very formation of the ministry, in which each province was equally represented, was an acknowledgment of the principle. But this acknowledgment, it was contended, was of no substantial value so long as the executive councillors taken from either section of the pro-

---

phlet published in 1877, he denied it most emphatically. In a subsequent edition, the onus of the change is placed on Mr. Henry John Boulton, a member of the Legislative Assembly, who was in England in 1854, about the same time as Sir F. Hincks. Garneau (ed. of 1882), III., 275,376. In 1854, the total number of representatives 1n the Assembly was 130—65 from each province. 16 Vict., c. 152.

[1] Messrs. Lafontaine and Caron to Mr. Draper, 1845. Turcotte I., 202-10.

[2] Mr. Baldwin resigned in 1851 on a vote of the Upper Canada representatives adverse to the court of chancery, Turcotte II., 171-3. See remarks of Sir John A. Macdonald, Confederation Debates, 30.

[3] See resolution moved by Mr. (now Sir Hector) Langevin, 19th of May, 1858.

vince did not possess the confidence of the majority of the representatives of that section in the assembly.[1] The principle, however specious in theory, was not at all practicable in legislation, and even its most strenuous supporters too often found that it could not be conveniently carried out in certain political crises. Its observance was always, to a great extent, a matter of political convenience, and it was at last abandoned even by its former advocates, who had urged it as the only means of doing justice to each province, and preserving the equality of representation provided in the constitution of 1840.[2]

The demands of the representatives from Upper Canada for additional representation were made so persistently that the time arrived when the administration of public affairs became surrounded with the gravest embarrassment. Parties at last were so equally balanced on account of the antagonism between the two sections, that the vote of one member might decide the fate of an administration, and the course of legislation for a year or series of years. From the 21st of May, 1862, to the end of June, 1864, there were no less than five different ministries in charge of the public business.[3] Legislation,

[1] See amendment moved by Mr. Cauchon to Mr. Thibaudeau's motion. Jour. Ass. (1858) 145,876. Also *Ib.* (1856), 566.

[2] Mr. J. Sandfield Macdonald was always one of its warmest supporters, on the ground that it did away with the necessity of a change in the representation, as advocated by Mr. Brown and his followers from Upper Canada; but he virtually gave it up on the separate school question in 1863, when a majority of the representatives of his own province pronounced against a measure to which he was pledged as the head of the Macdonald-Sicotte Ministry. Turcotte II., 477-487. See Dent II., 429.

[3] Sir J. A. Macdonald. Con. Deb., p. 26; Sir E. P. Taché, *ib.* 9.

in fact, was at last practically at a dead-lock, and it became an absolute political necessity to arrive at a practical solution of difficulties, which appeared to assume more gravity with the progress of events. It was at this critical juncture of affairs that the leaders of the government and opposition, in the session of 1864, came to a mutual understanding, after the most mature consideration of the whole question. A coalition government was formed on the basis of a federal union of all the British American provinces, or of the two Canadas, in case of the failure of the larger scheme.[1] The union of the provinces had been discussed more than once in the legislatures of British North America since the appearance of Lord Durham's report, in which it was urged with great force that "it would enable the provinces to co-operate for all common purposes, and above all, it would form a great and powerful people, possessing the means of securing good and responsible government for itself, and which, under the protection of the British Empire, might, in some measure, counterbalance the preponderant and increasing influence of the United States on the American continent." Lord Durham even went so far as to recommend that the "bill should contain provisions by which any or all of the other North American colonies may, on the application of the legislature, be, with the consent of the two Canadas or their united legislature, admitted into the union on such terms

[1] Sir J. A. Macdonald, Conf. Deb., 26-27. "The opposition and government leaders arranged a larger and a smaller scheme; if the larger failed, then they were to fall back upon the minor, which provided for a federation of the two sections of the province." Sir E. P. Taché, *Ib.* 9.

as may be agreed on between them."[1] The expediency of a union was made a part of the programme of the Cartier-Macdonald government in 1858, and expressly referred to in the governor's speech at the close of the session;[2] but no practical result was ever reached until the political necessities of the provinces forced them to take up the question and bring it to a satisfactory issue. It was a happy coincidence that the legislatures of the lower provinces were about considering a maritime union at the time the leading statesmen of Canada had combined to mature a plan of settling their political difficulties. The Canadian ministry at once availed themselves of this fact to meet the maritime delegates at their convention in Charlottetown, and the result was the decision to consider the question of the larger union at Quebec. Accordingly, on the 10th of October, 1864, delegates from all the British North American provinces assembled in conference, in "the ancient capital," and after very ample deliberations during eighteen days, agreed to seventy-two resolutions, which form the basis of the Act of Union.[3] These resolutions were formally submitted to the legislature of Canada in January, 1865,

---

[1] Rep. pp. 116-21. He preferred a legislative union.

[2] Conf. Deb., Sir G. E. Cartier, p. 53; Ass. J. (1858) 1043. See also Mr. Brown's speech (pp. 110-24), in which he claimed that the essence of the federation measure was found in the "joint authority" resolutions of the Reform Convention of 1859.

[3] For historical accounts of initiation of confederation see Doutre, Constitution of Canada, 15; Gray, Confederation of Canada, vol. i.; Turcotte II., 518-59; Confederation Debates, 1865, especially speeches of Sir E. P. Taché, Sir J. A. Macdonald, Sir G. E. Cartier, Hon. Geo. Brown, and Sir A. Campbell. Canada

and after an elaborate debate which extended from the 3rd of February to the 14th of March, both houses agreed by very large majorities to an address to her Majesty praying her to submit a measure to the Imperial Parliament "for the purpose of uniting the provinces in accordance with the provisions of the Quebec resolutions."[1] Some time, however, had to elapse before the union could be consummated, in consequence of the strong opposition that very soon exhibited itself in the maritime provinces, more especially to the financial terms of the scheme. In New Brunswick, there were two general elections during 1865 and 1866, the latter of which resulted in the return of a legislature favourable to union,

---

was represented by 12 delegates, 6 for each province, New Brunswick by 7, Nova Scotia by 5. P. E. Island by 7, and Newfundland by 2; each province had a vote, and the convention sat with closed doors. The delegates: Canada, Sir E. P. Taché, Messrs. J. A. Macdonald, Cartier, Brown, Galt, Campbell, Chapais, McGee, Langevin, Mowat, McDougall and Cockburn. Nova Scotia, Messrs. Tupper, Henry, McCully, Archibald and Dickey. New Brunswick, Messrs. Tilley, Mitchell, Fisher, Steeves, Gray, Chandler and Johnson. P. E. Island, Messrs. Gray, Coles, Haviland, Palmer, Macdonald, Whelan and Pope. Newfoundland, Messrs. Shea and Carter,

[1] The address was agreed to in the legislative council by 45 contents to 15 non-contents, Jour. (1865, 1st sess.), p. 130; in the assembly by 91 yeas to 33 nays, Jour., pp. 192-3; Confed. Debates, 1865. p. 962. Sir E. P. Taché introduced the resolutions in the council; Atty.-Gen. (now Sir J. A.) Macdonald moved, and Atty.-Gen. (afterwards Sir) G. E. Cartier, seconded them in the assembly. Four members of the government went to England after the session of 1865, in reference to confederation, the cession of the North-West, and other important questions. Jour., 1865, 2nd sess., 7-16.

and finally to the adoption of the measure. The question was never submitted to the people at the polls in Nova Scotia, but the legislature eventually, after months of hesitation, agreed to the union, in view of the facts that it was strongly approved by the imperial government as in the interests of the Empire, that both Canada and New Brunswick had given their consent, and that it was proposed to make such changes in the terms as would be more favourable to the interests of the maritime provinces. The result of the action of the two provinces in question was another conference at London in the fall of 1866, when a few changes were made in the direction of maritime interests, chiefly in the financial terms, and without disturbing the important features of the Quebec resolutions, to which Canada had already pledged herself in the session of 1865.[1] The provinces of Canada, Nova Scotia, and New Brunswick, being at last in full accord, through the action of their respective legislatures, the plan of union was submitted on the 12th of February, 1867, to the Imperial Parliament, where it met with the warm support of the statesmen of all parties, and passed without amendment in the course of a few weeks, the royal assent being given on the 29th of March.[2] The new constitution came into force on the

[1] The Westminster Palace Conference was held in London, in December, 1866, and the result was the Union Act of 1867.

[2] Imp. Act, 30 and 31 Vict., c. 3. "An Act for the Union of Canada, Nova Scotia and New Brunswick, and the government thereof, and for purposes connected therewith." Lord Carnarvon, then secretary of state for the colonies, had charge of the measure in the Lords. Mr. Adderley, under-secretary in the Commons. 185 L. Hans 3 (Lords), 557, 804, 1011; (Commons) 1164, 1310, 1701.

first of July, 1867, and the first parliament of the united provinces met on November of the same year[1]—the Act requiring it to assemble not later than six months after the union.[2]

The confederation, as inaugurated in 1867, consisted only of the four provinces of Ontario, Quebec, Nova Scotia and New Brunswick.[3] By the 146th section of the Act of Union, provision was made for the admission of other colonies on addresses from the parliament of Canada, and from the respective legislatures of Newfoundland, Prince Edward Island, and British Columbia. Rupert's Land and the North-West Territory might also at any time be admitted into the union on the address of the Canadian Parliament. The acquisition of the North-West Territory had been for years the desire of the people of Canada, and was the subject of consultation with the imperial government in 1865, when Canadian delegates went to England.[4] During the first session of the par-

[1] Her Majesty's proclamation, giving effect to the Union Act, was issued on the 22nd May, 1867, declaring that on and after the 1st July, 1867, the provinces of Canada, Nova Scotia and New Brunswick shall form and be one Dominion, under the name of Canada. The proclamation also contained names of first senators. Jour. House of Commons of Canada, V-VI. B. N. A. Act, 1867, ss. 3 and 25. Lord Monck was the first governor-general of the Dominion. Com. Jour. (1867-8), VII. Parliament met on the 7th November, and Hon. J. Cockburn was elected first speaker of the Commons. Hon. J. Cauchon was first speaker of the Senate.

[2] Sec. 19.

[3] B. N. A. Act, 1867, ss. 5-7.

[4] Can. Com. J., 1865, 5 sess., pp. 12-13. For papers on the subject of the acquisition of the territory, see Can. Sess. P., 1867-8, No. 19, and p. 367 of Journals.

liament of Canada, an address was adopted praying her Majesty to unite Rupert's Land and the North-West Territory to the dominion.[1] This address received a favourable response, but it was found necessary in the first place to obtain from the Imperial Parliament authority to transfer to Canada the territory in question. An Act was passed in the month of July, 1868,[2] and in accordance with its provisions, negotiations took place between Canadian delegates and the Hudson's Bay Company for the surrender of the North-West to the Dominion. An agreement was finally arrived at for the payment of £300,000 sterling on condition of the surrender of Rupert's Land to the Dominion—certain lands and privileges at the same time being reserved to the company. The terms were approved by the Canadian Parliament in the session of 1869,[3] and an Act at once passed for the temporary government of Rupert's Land and the North-West Territories when united with Canada.[4] The Act of 1869 provided for the appointment of of a lieutenant-governor and council, to make provision for the administration of justice, and establish such laws and ordinances as might be necessary for peace and good government in the North-West Territories. In the autumn of 1869 an

[1] Can. Com. J. (1867-8), 67.

[2] Imp. Stat., 31 and 32 Vict., c. 105 (Can. Stat. for 1869), entitled "An Act for enabling her Majesty to accept the surrender upon terms of the lands, privileges and rights of the governor and company of adventurers of England trading into Hudson's Bay, and for admitting the same into the dominion of Canada."

[3] Can. Com. (1869), pp. 149-56, in which the negotiations for the transfer are set forth in the address to her Majesty, accepting the terms of agreement for the surrender of the territory.

[4] Can. Stat. 32 and 33 Vict., c. 3.

order in council was passed appointing the first lieutenant-governor of the territories, but the outbreak of an insurrection among the French half-breeds prevented the former ever exercising his executive functions.[1] It was not until the appearance of an armed force in the country in the fall of 1870 that the remnant of the insurgents fled from the territory; but, during the twelve months that preceded, means had been taken by the Canadian authorities to arrange terms on which the people of the Red River might enter confederation. In the session of 1870, the Canadian parliament passed an Act[2] to establish and provide for the government of Manitoba—a new province formed out of the North-West Territory, to which was given representation in the Senate and House of Commons. Provision was also made for a local or provincial government on the same basis as existed in the older provinces. On the 30th of June, 1870, by an imperial order in council,[3] it was declared that after the 15th of July, 1870, the North-West Territory and Rupert's Land should form part of the dominion of Canada. The legislature of Manitoba was elected in the early part of 1871, and the provincial government regularly and peacefully established.[4] The members for the House of Commons took their seats in the session of the same year,[5]—the

[1] Hon. W. McDougall.

[2] 33 Vict., c. 3. The limits of the province were enlarged in 1881; Can. Stat. 44 Vict., c. 14. See Rev. Stat. of Can., c. 47. Also Man. Stat., 44 Vict., c.c. 1, 12, 13, 14.

[3] In accordance with s. 146, B. N. A. Act, 1867; Can. Stat., 1872, p. lxiii.

[4] Annual Register, 1878, pp. 18-19.

[5] Com. J. (1871), 154, 221, 226. Only three members were returned; a new election in one constituency being requisite on account of a tie. Jour. p. 152.

new senators in the session of 1872.[1] When we come to consider the provincial constitutions we shall refer to the local government of Manitoba as well as to the provisions made in several statutory enactments for the administration of affairs in the North-West.

In accordance with addresses from the Canadian parliament, and the legislative council of British Columbia, that colony was formally admitted into the confederation by imperial order in council declaring that from and after the 20th of July, 1871, the colony should form part of the dominion. The terms of union provided for representation in the Senate and House of Commons, and responsible government in the province, as well as for the construction of a transcontinental railway.[2] The members for the province took their seats in the Senate and House of Commons during the session of 1872.[3]

The province of P. E. Island, had been represented in the Quebec conference of 1864, but, owing to the opposition that existed to the union for some years, it was not until the first session of 1873 that both the parliament of Canada and the legislature of the island passed addresses for the admission of the province into the confederation on certain conditions which included representation in the Senate and House of Commons, and the continuance of the local government on the same basis as in the other provinces.[4] A bill was also passed during the same ses-

[1] 5 Sen. J. (1872), 18.

[2] Can. Com. J. (1871); 193-99; Parl. Deb., 1871. Can. Stat. for 1872, p. lxxxiv. Also, as to preparatory steps, Can. Sess. Pap., No. 59, 1867-8, pp. 3-7.

[3] Sen. J. (1872) 18; Com. J. (1872) 4. The elections for the Commons were held in accordance with 34 Vict., c. 20.

[4] Can. Com. J. (1873) 403.

sion, — in anticipation of her Majesty's government taking the necessary steps to admit the island — providing that certain Acts should come into force in the province as soon as it was united to Canada.[1] By an imperial order in council, it was declared that from and after the first of July, 1873, the colony should form part of the dominion.[2] The members for the two houses took their seats for the first time during the second session of 1873.[3]

Newfoundland was also represented at the Quebec convention of 1864, but the general elections of 1865 resulted adversely to the union.[4] Subsequently the House of Commons, in the session of 1869, went into committee on certain resolutions providing for the admission of Newfoundland, and an address was passed in accordance therewith. The union was to take effect on such day as "Her Majesty by order in council, on an address to that effect, in terms of the 146th section of the British North American Act, 1867, may direct;"[5] but the legislature of Newfoundland has so far refused to sanction the necessary address.

In response to an address of the parliament of Canada, in the session of 1878, an imperial order in council was passed on the 31st of July, 1880, declaring that "from and after the 1st of September, 1880, all British territories and possessions in North America, not already included within the dominion of Canada, and all islands

---

[1] 36 Vict., c. 40.
[2] Can. Stat. for 1873, p. ix.
[3] Sen. J. 1873, 2nd session, p. 9. Com. J., *Ib.* pp. 2-4.
[4] Turcotte II., 562.
[5] Can. Com. J. (1869), 221.

adjacent to any of such territories or possessions shall (with the exception of the colony of Newfoundland and its dependencies) become and be annexed to and form part of the said dominion of Canada; and become and be subject to the laws, for the time being in force in the said dominion, in so far as such laws may be applicable thereto." This order in council was considered necessary to remove doubts that existed regarding the northerly and north-easterly boundaries of the North-West Territories and Rupert's Land, transferred to Canada by order of council of the 23rd of June, 1870, and to place beyond question the right of Canada to all of British North America, with the exception of Newfoundland.[1]

---

[1] Can. Com. J. (1878), 256-7; Can. Stat. 1881, p. ix, Order in Council. Can. Hans. (1878), 2386. (Mr. Mills.)

## CHAPTER VII.

### Constitution of the General Government and Parliament.

The Dominion[1] of Canada has, therefore, been extended since 1867 over all the British possessions between the Atlantic and Pacific oceans to the north of the United States—the territory under the jurisdiction of the Newfoundland government alone excepted. The seven provinces embraced within this vast area of territory are united in a federal union, the terms of which have been arranged on "principles just to the several provinces."

---

[1] The title of Dominion (s. 3, of B. N. A. Act, 1867), did not appear in the Quebec resolutions. The 71st Res. is to the effect that "Her Majesty be solicited to determine the rank and name of the federated Provinces." See remarks of Sir J. A. Macdonald, Confed. Deb., p. 43. The name was arranged at the conference held in London in 1866, when the union bill was finally drafted. This was not the first time the title was applied to Canada; we find in the address of the old Colonies assembled at Philadelphia, 1774, strong objection taken to the Act of 1774, by which "the dominion of Canada is to be so extended, modelled and governed." Christie I., 9. The old commonwealth of Virginia was known as "the Old Dominion."

In order "to protect the diversified interests of the several provinces, and secure efficiency, harmony, and permanency in the working of the union," the system of government, as set forth in the Act of 1867, combines in the first place a general government, "charged with matters of common interest to the whole country," and local governments for each of the provinces, "charged with the control of local matters in their respective sections." With a view to the perpetuation of our connection with the mother country, the promotion of the best interests of the people of these provinces," the constitution of the general government has been so framed as "to follow the model of the British constitution, so far as our circumstances will permit." Accordingly, "the executive authority or government" is vested in express terms in the "Sovereign of the United Kingdom of Great Britain and Ireland," and is administered "according to the well understood principles of the British Constitution." [1]

The sovereign is represented in the dominion by a governor-general, appointed by letters patent under the great seal. His jurisdiction and powers are defined by the terms of his commission, and by the royal instructions which accompany the same.[2] He holds office during the pleasure of the Crown, but he may exercise his functions for at least six years from the time he has entered

---

[1] These quotations are from the Quebec resolutions, Can. Com. J. (1865), 203. The preamble of the B. N. A. Act, 1867, declares, "with a constitution similar in principle to that of the United Kingdom."—Sec. 9. "The executive government and authority is hereby declared to continue and be vested in the Queen."

[2] See App. at end of this work for B. N. A. Act, 1867.

on his duties.[1] In all his communications with the imperial government, of which he is an officer, he addresses the secretary of state for the colonies, the constitutional avenue through which he must approach the sovereign.[2] His first duty, when he enters on his duties, is to take the necessary oaths of allegiance and office before the chief justice, or any other judge of the supreme court of the dominion, and at the same time to cause his commission to be formally read.[3]

In view of the larger measure of self-government conceded to the dominion of Canada by the imperial legislation of 1867—in itself but the natural sequence of the new colonial policy inaugurated in 1840—the letters patent and instructions, which accompanied the commission given to the governor-general in 1878, have been modified and altered in certain material features. The measure of power now exercised by the government and parliament of Canada is not merely "relatively greater than that now enjoyed by other colonies of the empire, but absolutely more than had been previously intrusted to Canada itself, during the administration of any for-

---

[1] Colonial Reg. sec. 7, Col. Office List, 1883, p. 254. Todd, 90. Lord Lorne held the position for only five years. Lord Dufferin was appointed in the spring of 1872, and retired in the fall of 1878.

[2] Todd, 90; Col. Reg., sec. 165, p. 265.

[3] Instructions to governor-general, Can. Sess. P. 1870, No. 14. The Marquis of Lorne was sworn in on the 25th of November, 1878, in the old Province Building, Halifax, by acting Chief Justice Ritchie. Annual Register for 1878, pp. 255-7. The oath of office is given in same account of ceremonies on that occasion.

mer governor-general."[1] Without entering at length into this question, it is sufficient for present purposes to notice that the governor-general is authorized, among other things, to exercise all powers lawfully belonging to the Queen, with respect to the summoning, proroguing or dissolving of parliament;[2] to administer the oaths of allegiance and office;[3] to transmit to the imperial government copies of all laws assented to by him or reserved for the signification of the royal assent;[4] to administer the prerogative of pardon;[5] to appoint all ministers of state, judges, and other public officers, and to remove or suspend them for sufficient cause.[6] He may also appoint a deputy or deputies to exercise certain of his powers and functions.[7] He may not leave the dominion upon any pretence whatsoever without having first obtained permission to do so through one of the principal secretaries of state.[8] In case of the death, incapacity,

---

[1] The modifications in these official instruments were the result of the mission of Mr. Blake, whilst minister of justice, to England in 1876. For full information on this subject, see Todd 76, *et seq.*, and Can. Sess., P. (1877), No. 13; also chapter on bills in Bourinot's Parliamentary Practice and Procedure. For royal commission, letters patent, and instructions to the Marquis of Lorne, Sess. P. (1879), No. 14; to Lord Monck, Sess. P. (1867-8), No. 22; also to Lord Dufferin, Can. Com. J. (1873), 85.

[2] Letters-Patent, 1878, s. 5.

[3] Instructions, 1878, s. 2.

[4] *Ib.* s. 4.

[5] *Ib.* s. 5. See Todd, 271.

[6] Letters Patent, s.s. 3, 4.

[7] *Ib.* s. 6; also B. N. Act, 1867, s. 14. See chapter VI., for appointment of deputy-governors since 1840.

[8] Instructions, s. 6.

removal[1] or absence from Canada of the governor-general, his powers are vested in a lieutenant-governor or administrator appointed by the Queen, under the royal sign-manual; or, if no such appointment has been made, in the senior officer in command of the imperial troops in the dominion. The administrator must also be formally sworn, as in the case of the governor-general.[2]

The senior executive councillor frequently administered the government in the absence of the governor-general before the union of 1840.[3] But whenever the lieutenant-governor was in the country, during the period in question, it was his duty to administer the government.[4] Since 1840, in the old province of Canada, and in the dominion, the government has been administered in the absence of the governor-general by the senior officer in command of the imperial troops in accordance with the letters patent issued by the Crown.[5]

---

[1] It is always competent for the imperial government to remove the governors of colonies, who are appointed during pleasure. See memorable case of Governor Darling of Victoria. Eng. Com. P. 1866, vol. 50, p. 701; Todd, 99.

[2] Letters-patent, s. 7. *Canada Gazette*, Dec. 30, 1882.

[3] In 1805, when Sir R. Shore Milnes, lieutenant-governor, went to England, Mr. Dunn assumed the government as "President and Commander-in-Chief;" he was one of the judges, and an executive councillor. Christie I., 259. On the death of the Duke of Richmond, in 1819, the government devolved on Mr. Monk, as senior executive councillor. Christie III., 322.

[4] General Prescott on departure of Lord Dorchester in 1796, Christie I., 173; Sir R. Shore Milnes in 1799, *Ib.* 203; Sir F. Burton in 1824, *Ib.* III. 55. No such official now exists in the dominion, the functions of the present lieutenant-governors being confined to the provinces to which they are appointed.

[5] In 1841, Sir R. D. Jackson; 1845, Lord Cathcart; 1853, Lieut.-

The constitution provides for the appointment of a council to aid and advise the representative of the sovereign in the government of Canada. This body is styled the Queen's Privy Council, and its members are chosen and may be removed at any time by the governor-general.[1] In accordance with the principles of the British constitutional system, this council represents the views of the majority of the people's representatives in parliament, and can only hold office as long as its members retain the confidence of the House of Commons. The name chosen for this important body has been borrowed from that ancient institution of England, which so long discharged the functions of advising the supreme executive of the kingdom in the government of the country.[2] Since the revolution of 1688, the privy council of England has had no longer the direction of public affairs, though it has still an existence as an honorary body, limited in numbers, only liable to be convened on special occasions, and only in theory an assembly of state advisers.[3] The system which has grown up in England since 1688, and which has obtained its most perfect realization during the past half century, now entrusts the practical discharge of the functions of government to a cabinet council, which is technically a committee of

---

Gen. Rowan; 1857, Sir W. Eyre; 1860, Lieut.-Gen. Williams; 1865, Lieut.-Gen. Michel; 1874, Major-Gen. O'Grady Haly; 1878, 1881-2, and 1882-3, Sir P. L. McDougall. (See *Canada Gazette*, Dec. 30, 1882.)

[1] B. N. A. Act, 1867, s. 11.

[2] Blackstone's Com. I., 229-234.

[3] Todd, Parl. Gov. in England, II., 52, 53.

the privy council.[1] This cabinet is the ruling part of the ministry or administration. The term "ministry" properly includes all the ministers, but of these only a select number—usually about twelve, but liable to variation from time to time even in the same administration—constitute the inner council of the Crown and incur the higher responsibilities whilst they exercise the higher powers of government. The rest of the ministry, although closely connected with their brethren in the cabinet, occupy a secondary and subordinate position.[2] In Canada, however, there is as yet no such distinction; for the term "ministry" or "cabinet" has been indifferently applied to those members of the privy council who might be summoned by the governor-general to aid and advise him in the government of the dominion. But in the session of 1887 an act was passed with the view of initiating the English system of having political heads of departments, who will commence their official career by holding certain offices which will not necessarily give them a position in the

---

[1] Todd II., 144. The cabinet council or ministry who hold the principal offices of state, are first sworn in as privy councillors. May II., 79, Macaulay, c. 20.

[2] Taswell-Langmead, Cons. Hist., p. 679. And not only is the existence of the cabinet council unknown to the law, but the very names of the individuals who may comprise the same at any given period are never officially communicated to the public. The *London Gazette* announces that the Queen has been pleased to appoint certain privy councillors to fill certain high offices of state, but the fact of their having been called to seats in the cabinet council is not formally promulgated, Todd II., 144.

cabinet.[1] The principles that prevail in the formation of a cabinet in England obtain in the case of an administration in Canada. Its members must have places in either house of parliament, but the majority should, and necessarily do, sit in the commons.

In the old province of Canada, the cabinet was always known officially as the executive council.[2] In 1865, this body comprised in all twelve members, six from each province: two attorneys-general, two solicitors-general, a receiver-general (also minister of militia), minister of finance, commissioner of crown lands, minister of agriculture and statistics, commissioner of public works, president of council, provincial secretary, and post-master-general.[3] In all the provinces of the dominion, the official body advising the lieutenant-governor is still authoritatively recognized as the executive council.[4]

In 1867, a new ministry of thirteen members was formed under the legal title of the privy council of Canada, in which it was found expedient to consider the claims of the several provinces of the dominion to representation in the first cabinet. Accordingly, Ontario had

[1] Remarks of Sir J. A. Macdonald on the Department of Trade and Commerce, Com. Hans. [1871], 862, 863. See *infra*, p. 74. Up to the present time (April 1888), no steps have been taken to give effect to the law on the statute book.

[2] Can. Cons. Stat., pp. 168, 169.

[3] Confed. Debates, 1865, p. vii. Sir E. P. Taché was the premier of the Taché-Macdonald ministry, and held two offices, receiver-general and minister of militia.

[4] B. N. A. Act, 1867, s.s. 63, 64; 45 Vict., c. 2, Quebec Stat.; c. 13, Ont. Rev. Stat.; Man. Cons. Stat., c. 6; 33 Vict., c. 3, s. 7, Can. Stat.; British Colum. Cons. Stat., c. 4, s.s. 2, 3; P. E. Island, Dom. Stat., 1873, p. xii.

five representatives in the privy council; Quebec, four, one of them a representative of the English section of the population; Nova Scotia, two; New Brunswick two. The departments were reorganized, and new ones established, to meet the changed conditions of things. The privy council was composed of the following ministers:[1] minister of justice and attorney-general,[2] minister of militia,[3] minister of customs,[4] minister of finance,[5] minister of public works,[6] minister of inland revenue,[7] minister of marine and fisheries,[8] postmaster-general,[9] minister of agriculture,[10] secretary of state of Canada,[11] receiver-general,[12] secretary of state for the provinces, president of the privy council.[13] In 1873, on a change of govern-

[1] Annual Register, 1878, pp. 9-10; *Canada Gazette*. Their salaries and designation are given in 31 Vict., c. 33, schedule. Salaries of ministers were subsequently increased by 31 Vict., c. 31, s. 2.

[2] Functions of department set forth in 31 Vict., c. 39.

[3] 31 Vict., c. 40.

[4] 31 Vict., c. 43.

[5] 31 Vict., c. 5; 32-33 Vict., c. 4, and other acts relating to expenditures and revenues.

[6] 31 Vict., c. 12. See *infra*, p. 73.

[7] 31 Vict., c. 49.

[8] 31 Vict., c. 57. In 1877, the management of certain piers, harbours, and breakwaters, was transferred from the department of public works to that of marine and fisheries. 40 Vict., c. 17.

[9] 31 Vict., c. 10; 38 Vict., c. 7.

[10] 31 Vict., c. 53.

[11] 31 Vict., c. 42.

[12] The department of receiver-general was not provided for by special act, but his duties are defined and referred to in various acts. See 31 Vict., c. 5, etc.

[13] Neither of those offices was provided for by special act.

ment, the number of ministers was increased to fourteen, two of them without portfolios,[1] but by subsequent rearrangement the number was reduced to thirteen as before, and P. E. Island, now a part of the confederation, was represented by one member in the cabinet.[2] On two occasions since 1878, the speaker of the Senate received a seat in the council, though without portfolio,[3] and the number of members of government was consequently increased again to fourteen. Since 1867, several changes have taken place in the organization of the departments. In 1873, the office of secretary of state for the provinces was abolished, and a department of the interior organized, with the control and management of Indian affairs, dominion lands, geological survey, and some other matters previously entrusted to the secretary of state for Canada. The geological survey of Canada forms a branch, and is under the charge of a director who must necessarily be a man of high scientific attainments.[4] The minister of the interior or the head of any other department appointed for this purpose by the governor in council, shall be the superintendent-general of

---

[1] Hon. E. Blake and Hon. R. W. Scott, Annual Register, 1878, p. 30.

[2] *Ib.* 30-31. P. E. Island has at present no representative in the cabinet; nor have Manitoba and British Columbia. The number of ministers in the cabinet is now 15 (in 1888), of whom two are without portfolios.

[3] Hon. Mr. Wilmot, in 1878; Hon. Mr. (now Sir David) McPherson, in 1880, on appointment of former to lieutenant-governorship of New Brunswick. See *Canada Gazette*, Nov. 9, 1878; *Ib.*, Feb. 12, 1880.

[4] Rev. Stat. of Can., c. c. 22, 23.

Indian affairs.[1] The department of secretary of state for Canada remains in existence, but its functions are confined to state correspondence, the preservation of all state records, and papers not specially transferred to other departments, the registration of all instruments of summons, proclamations, commissions, letters patent, writs, and other documents issued under the great seal and requiring to be registered.[2] A department of public printing and stationery was organized in 1886, and is under the management for the time being of the secretary of state.[3] In 1879, the office of receiver-general was abolished, and the duties assigned to the finance minister.[4] At the same time the department of public works was divided into two separate departments, presided over by two ministers—one designated minister of railways and canals; the other, minister of public works. These changes were rendered necessary in the department of the interior and that of public works; in the first place, by the transfer of the great North-West Terri-

---

[1] Rev. Stat. of Can. c. 43. The Premier, Sir J. A. Macdonald, while president of the council, held the office for some years. Parl. Companion for 1885.

[2] 31 Vict., c. 42; Rev. Stat. of Can., c. 26.

[3] 49 Vict., c. 22; Rev. Stat. of Can., c. 27.

[4] 42 Vict., c. 7; Rev. Stat. of Can., c. 28. Can. Hans. (1879), 1241. In the session of 1878, when the Mackenzie administration was at the head of affairs, a bill passed the Commons to abolish the receiver-generalship, and to subdivide the department of justice, so that there would be an attorney-general with a seat in the cabinet, presiding conjointly with the minister of justice over the Dominion law department. Can. Hans. (1878), 1204, 1584, 1811. It was, however, postponed in the Senate. Sen. Deb. (1878), 681–695.

tory to the Dominion, with its immense area of land and numerous tribes of Indians; and in the second place, by the very large additional amount of responsibility thrown on the other department by the construction of the Canada Pacific Railway, which had been at that time undertaken by the government. In 1884, the department of marine and fisheries was divided into a department of marine, and a department of fisheries, presided over by one minister and two deputies.[1]

In the session of 1887 a new scheme of organization was provided for several departments. In the first place, there shall be a department of trade and commerce, presided over by a minister. Then the departments of customs and inland revenue respectively are to be placed under the control and supervision of the minister in question or of the minister of finance, as the governor-in-council from time to time directs.[2] The governor-in-council may appoint also a controller of customs and a controller of inland revenue, each of whom shall, under the general instructions of the minister first mentioned, be the parliamentary head of these departments.[3] It is also provided that the governor-in-council may appoint an officer who shall be called the solicitor-general of Canada, and who shall assist the minister of justice in the counsel work of the department of justice. He may hold a seat in either house of parliament, provided he is elected while he holds such office and is not otherwise disqualified.[4]

[1] 47 Vict., c. 19; Rev. Stat. of Can., c. 25.

[2] 50-51 Vict. c. 10.

[3] 50-51 Vict., c. 11.

[4] Ib., c. 14. These several statutes have not been enforced up to the time of the appearance of this work.

## CHAPTER VIII.

### CONSTITUTION OF PARLIAMENT.

The Constitution of 1867 provides that there shall be "one Parliament for Canada, consisting of the Queen, an Upper House, styled the Senate, and the House of Commons."[1] We have already seen that the sovereign is represented by a governor-general who, in person or by deputy, opens and prorogues parliament.[2] He also assents to all bills in her Majesty's name,[3] and may at any time dissolve parliament,[4] a prerogative of the Crown exercised with great caution under the advice of the privy council. In the times before the concession of responsible government, when contests between the executive and the assemblies were chronic, the governors dulled the edge of this important instrument by its too

---

[1] B.N.A. Act, 1867, s. 17.

[2] See chap. vi. Bourinot's Parliamentary Practice and Procedure.

[3] Chapter on bills, *Ibid.*

[4] Governor-General's letters-patent, 1878, s. 5; B. N. A. Act, 1867, s. 50.

frequent use.[1] Under the present system of constitutional government, such a condition of things cannot possibly occur. The responsibility of deciding whether in any particular case a dissolution should be granted, must, under our constitution, "rest absolutely with the representative of the sovereign."[2] In coming to a conclusion, he is guided by considerations of public interest, which will enable him always to judge of the value of the advice given him by his constitutional advisers.[3] Occasions, however, can very rarely arise when he should feel himself bound, for powerful public or constitutional reasons, to refuse the advice of his council; but there can be no doubt that it is the right and duty of the Crown, under any circumstances, to control the

---

[1] From 1808 to 1810, the Quebec assembly was dissolved no less than three times by Sir James Craig. See his remarkable speech on one occasion, in which he soundly rated the assembly before dissolving it. Christie I., 283.

[2] Sir T. E. May, New South Wales Leg. Ass. V. and P., 1877-78, vol. i., p. 451; Todd, Parl. Gov. in the Colonies, 561.

[3] "The responsibility, which is a grave one, of deciding whether in any particular case it is right and expedient, having regard to the claims of the respective parties in parliament, and to the general interests of the colony, that a dissolution should be granted, must, under the constitution, rest with the governor. In discharging this responsibility, he will, of course, pay the greatest attention to any representations that may be made to him by those who, at the time, are his constitutional advisers; but, if he should feel himself bound to take the responsibility of not following his ministers' recommendation, there can, I apprehend, be no doubt that both law and practice empower him to do so." Sir Michael Hicks-Beach, Sec. of S. for Colonies; New Zealand Parl. P., 1878; App. A. 2. p. 14; New Zealand *Gazette*, 1878. pp. 911-14.

exercise of one of the most valued prerogatives of the sovereign. The relations between the representative of the Crown and his advisers are now so thoroughly understood, that a constitutional difficulty can hardly arise which cannot be immediately solved. If the Crown should feel compelled at any time to resort to the extreme exercise of its undoubted prerogative right of refusing the advice of its constitutional advisory council of ministers, they must either submit or immediately resign and give place to others who will be prepared to accept the full responsibility of the sovereign's action, which must be based on the broadest grounds of the public welfare.[1]

In the constitution of the Senate adequate security has been given to each of the provinces for the protection of its peculiar local interests, "a protection which it was believed might not be found in a house where the representation was based upon numbers only."[2] Consequently, the dominion was divided into three sections, representing distinct interests,—Ontario, Quebec and the maritime provinces of Nova Scotia and New Brunswick—to each of which was given an equal representation of twenty-four members. Provision was also made for keeping the representation for the maritime provinces at the same number, after the entrance of Prince Edward Island.[3] An exception however, was made in

---

[1] See mem. of Lieut.-Governor Robitaille, Oct. 30, 1879, in a Quebec constitutional crisis, in which he refused a dissolution to Mr. Joly, who thereupon resigned. Todd, 565. See also Ib. 573.

[2] Sir A. Campbell, Confed. Deb., p. 21.

[3] See *infra*, p. 79.

the case of Newfoundland, "which has sectional claims and interests of its own, and will, therefore, have a separate representation in the Senate."[1] Special regard has also been had to the peculiar situation of the province of Quebec, where the electoral divisions that existed previous to 1867 are maintained, and a senator must consequently have his real property qualification or be resident in the district for which he is appointed,—a provision that was not considered necessary for the other provinces.[2]

When Parliament met for the first time in 1867, the Senate consisted of 72 members, called senators—24 for Ontario, 24 for Quebec, and 24 for Nova Scotia and New Brunswick, these two maritime provinces being considered one division.[3] Subsequently, the provinces of Manitoba and British Columbia were admitted into the confederation, and the number of senators has been increased to 78 in all—Manitoba having at present three members [4] and

[1] Sir J. A. Macdonald, Confed. Deb. 35.

[2] Hon. G. Brown said in the debate on Confederation (p. 89): "Our Lower Canada friends felt that they had French Canadian and British interests to be protected, and they conceived that the existing system of electoral divisions would give protection to these separate interests." The principal object of this provision was to give a representation to the English-speaking population of Lower Canada, in the Eastern Townships especially, which have now two representatives in the Senate.

[3] B. N. A. Act, 1867, ss. 21 and 22.

[4] Under Dom Stat. 33 Vict. c. 3, s. 3, (Rev. Stat. of Can. c. 47,) Manitoba is to have two members until it shall have a population of 50,000, and then it shall have three; and four, when the population has reached 75,000 souls. The census of 1881 gave Manitoba a population of 65,954 and consequently another member was added immediately to the Senate.

British Columbia three.[1] Prince Edward Island has also entered the union since 1867 and has a representation of four members, but as this province is comprised in the maritime division of the Senate its admission has not increased the number of senators in the aggregate.[2] Provision was made in 1887 for the addition of two senators to represent the North-West Territories.[3] The senators, who are nominated by the Crown, must each be of the full age of 30 years, natural-born or naturalized subjects, resident in the province for which they are appointed, and must have real and personal property worth $4,000 over and above all debts and liabilities. In the case of Quebec a senator must have his real property qualification in the electoral division for which he is appointed, or be resident therein.[4] Every senator must take the oath of allegiance and make a declaration of his property qualification before taking his seat.[5]

The Queen may, on the recommendation of the governor-general, direct that three or six members be added to the Senate, representing equally the three

---

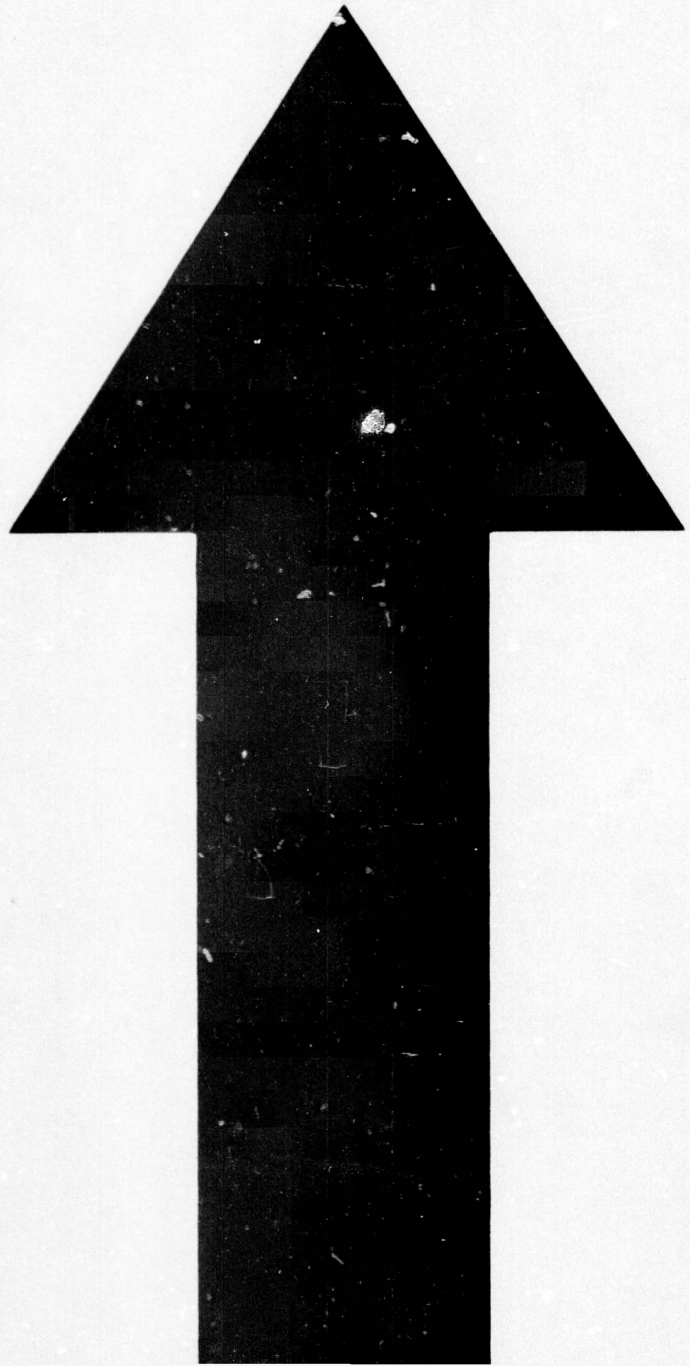
[1] Can. Com. J. (1871) 195. Dom. Stat. for 1872, Order in Council, lxxxviii.

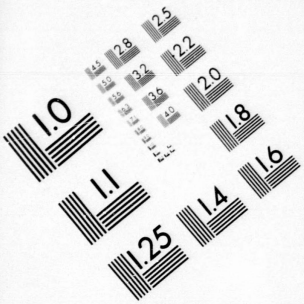
[2] British N. A. Act, 1867, s. 147. This section provides that after the admission of P. E. Island, "the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those provinces shall not be increased at any time beyond ten, except under the provisions of this act for the appointment of three or six additional senators under the direction of the Queen."

[3] 50-51 Vict., c. 3.

[4] B. N. A. Act, 1867, s. 23. See app. to this work.

[5] *Ib.*, s. 128.




1.0
1.1
1.25
1.4
1.6
1.8
2.0
2.2
2.5
2.8
3.2
3.6
4.0
4.5
5.0
5.6
6.3
7.1
8.0
9.0
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
28
29
32
36
40
45
50
56
63
71
80
90
100
110
125
140
160
180
200
220
250
280
320
360
400
450
500
560
630
710
800
900
1000
1100
1250
1400
1600
1800
2000
2200
2500
2800
3200
3600
4000
4500
5000
5600
6300
7100
8000
9000
10000
11000
12500
14000
16000
18000
20000
22000
25000
28000
32000
36000
40000
45000
50000
56000
63000
71000
80000
90000
100000
110000
125000
140000
160000
180000
200000
220000
250000
280000
320000
360000
400000
450000
500000
560000
630000
710000
800000
900000
1000000
1100000
1250000
1400000
1600000
1800000
2000000
2200000
2500000
2800000
3200000
3600000
4000000
4500000
5000000
5600000
6300000
7100000
8000000
9000000
10000000
11000000
12500000
14000000
16000000
18000000
20000000
22000000
25000000
28000000
32000000
36000000
40000000
45000000
50000000
56000000
63000000
71000000
80000000
90000000
100000000
110000000
125000000
140000000
160000000
180000000
200000000
220000000
250000000
280000000
320000000
360000000
400000000
450000000
500000000
560000000
630000000
710000000
800000000
900000000
1000000000
1100000000
1250000000
1400000000
1600000000
1800000000
2000000000
2200000000
2500000000
2800000000
3200000000
3600000000
4000000000
4500000000
5000000000
5600000000
6300000000
7100000000
8000000000
9000000000
10000000000
11000000000
12500000000
14000000000
16000000000
18000000000
20000000000
22000000000
25000000000
28000000000
32000000000
36000000000
40000000000
45000000000
50000000000
56000000000
63000000000
71000000000
80000000000
90000000000
100000000000
110000000000
125000000000
140000000000
160000000000
180000000000
200000000000
220000000000
250000000000
280000000000
320000000000
360000000000
400000000000
450000000000
500000000000
560000000000
630000000000
710000000000
800000000000
900000000000
1000000000000
1100000000000
1250000000000
1400000000000
1600000000000
1800000000000
2000000000000
2200000000000
2500000000000
2800000000000
3200000000000
3600000000000
4000000000000
4500000000000
5000000000000
5600000000000
6300000000000
7100000000000
8000000000000
9000000000000
10000000000000
11000000000000
12500000000000
14000000000000
16000000000000
18000000000000
20000000000000
22000000000000
25000000000000
28000000000000
32000000000000
36000000000000
40000000000000
45000000000000
50000000000000
56000000000000
63000000000000
71000000000000
80000000000000
90000000000000
100000000000000
110000000000000
125000000000000
140000000000000
160000000000000
180000000000000
200000000000000
220000000000000
250000000000000
280000000000000
320000000000000
360000000000000
400000000000000
450000000000000
500000000000000
560000000000000
630000000000000
710000000000000
800000000000000
900000000000000
1000000000000000
1100000000000000
1250000000000000
1400000000000000
1600000000000000
1800000000000000
2000000000000000
2200000000000000
2500000000000000
2800000000000000
3200000000000000
3600000000000000
4000000000000000
4500000000000000
5000000000000000
5600000000000000
6300000000000000
7100000000000000
8000000000000000
9000000000000000
10000000000000000
11000000000000000
12500000000000000
14000000000000000
16000000000000000
18000000000000000
20000000000000000
22000000000000000
25000000000000000
28000000000000000
32000000000000000
36000000000000000
40000000000000000
45000000000000000
50000000000000000
56000000000000000
63000000000000000
71000000000000000
80000000000000000
90000000000000000
100000000000000000
110000000000000000
125000000000000000
140000000000000000
160000000000000000
180000000000000000
200000000000000000
220000000000000000
250000000000000000
280000000000000000
320000000000000000
360000000000000000
400000000000000000
450000000000000000
500000000000000000
560000000000000000
630000000000000000
710000000000000000
800000000000000000
900000000000000000
1000000000000000000
1100000000000000000
1250000000000000000
1400000000000000000
1600000000000000000
1800000000000000000
2000000000000000000
2200000000000000000
2500000000000000000
2800000000000000000
3200000000000000000
3600000000000000000
4000000000000000000
4500000000000000000
5000000000000000000
5600000000000000000
6300000000000000000
7100000000000000000
8000000000000000000
9000000000000000000
10000000000000000000
11000000000000000000
12500000000000000000
14000000000000000000
16000000000000000000
18000000000000000000
20000000000000000000
22000000000000000000
25000000000000000000
28000000000000000000
32000000000000000000
36000000000000000000
40000000000000000000
45000000000000000000
50000000000000000000
56000000000000000000
63000000000000000000
71000000000000000000
80000000000000000000
90000000000000000000
100000000000000000000
110000000000000000000
125000000000000000000
140000000000000000000
160000000000000000000
180000000000000000000
200000000000000000000
220000000000000000000
250000000000000000000
280000000000000000000
320000000000000000000
360000000000000000000
400000000000000000000
450000000000000000000
500000000000000000000
560000000000000000000
630000000000000000000
710000000000000000000
800000000000000000000
900000000000000000000
1000000000000000000000
1100000000000000000000
1250000000000000000000
1400000000000000000000
1600000000000000000000
1800000000000000000000
2000000000000000000000
2200000000000000000000
2500000000000000000000
2800000000000000000000
3200000000000000000000
3600000000000000000000
4000000000000000000000
4500000000000000000000
5000000000000000000000
5600000000000000000000
6300000000000000000000
7100000000000000000000
8000000000000000000000
9000000000000000000000
10000000000000000000000
11000000000000000000000
12500000000000000000000
14000000000000000000000
16000000000000000000000
18000000000000000000000
20000000000000000000000
22000000000000000000000
25000000000000000000000
28000000000000000000000
32000000000000000000000
36000000000000000000000
40000000000000000000000
45000000000000000000000
50000000000000000000000
56000000000000000000000
63000000000000000000000
71000000000000000000000
80000000000000000000000
90000000000000000000000
100000000000000000000000
110000000000000000000000
125000000000000000000000
140000000000000000000000
160000000000000000000000
180000000000000000000000
200000000000000000000000
220000000000000000000000
250000000000000000000000
280000000000000000000000
320000000000000000000000
360000000000000000000000
400000000000000000000000
450000000000000000000000
500000000000000000000000
560000000000000000000000
630000000000000000000000
710000000000000000000000
800000000000000000000000
900000000000000000000000
1000000000000000000000000
1100000000000000000000000
1250000000000000000000000
1400000000000000000000000
1600000000000000000000000
1800000000000000000000000
2000000000000000000000000
2200000000000000000000000
2500000000000000000000000
2800000000000000000000000
3200000000000000000000000
3600000000000000000000000
4000000000000000000000000
4500000000000000000000000
5000000000000000000000000
5600000000000000000000000
6300000000000000000000000
7100000000000000000000000
8000000000000000000000000
9000000000000000000000000
10000000000000000000000000
11000000000000000000000000
12500000000000000000000000
14000000000000000000000000
16000000000000000000000000
18000000000000000000000000
20000000000000000000000000
22000000000000000000000000
25000000000000000000000000
28000000000000000000000000
32000000000000000000000000
36000000000000000000000000
40000000000000000000000000
45000000000000000000000000
50000000000000000000000000
56000000000000000000000000
63000000000000000000000000
71000000000000000000000000
80000000000000000000000000
90000000000000000000000000
100000000000000000000000000
110000000000000000000000000
125000000000000000000000000
140000000000000000000000000
160000000000000000000000000
180000000000000000000000000
200000000000000000000000000
220000000000000000000000000
250000000000000000000000000
280000000000000000000000000
320000000000000000000000000
360000000000000000000000000
400000000000000000000000000
450000000000000000000000000
500000000000000000000000000
560000000000000000000000000
630000000000000000000000000
710000000000000000000000000
800000000000000000000000000
900000000000000000000000000
1000000000000000000000000000
1100000000000000000000000000
1250000000000000000000000000
1400000000000000000000000000
1600000000000000000000000000
1800000000000000000000000000
2000000000000000000000000000
2200000000000000000000000000
2500000000000000000000000000
2800000000000000000000000000
3200000000000000000000000000
3600000000000000000000000000
4000000000000000000000000000
4500000000000000000000000000
5000000000000000000000000000
5600000000000000000000000000
6300000000000000000000000000
7100000000000000000000000000
8000000000000000000000000000
9000000000000000000000000000
10000000000000000000000000000
11000000000000000000000000000
12500000000000000000000000000
14000000000000000000000000000
16000000000000000000000000000
18000000000000000000000000000
20000000000000000000000000000
22000000000000000000000000000
25000000000000000000000000000
28000000000000000000000000000
32000000000000000000000000000
36000000000000000000000000000
40000000000000000000000000000
45000000000000000000000000000
50000000000000000000000000000
56000000000000000000000000000
63000000000000000000000000000
71000000000000000000000000000
80000000000000000000000000000
90000000000000000000000000000
100000000000000000000000000000
110000000000000000000000000000
125000000000000000000000000000
140000000000000000000000000000
160000000000000000000000000000
180000000000000000000000000000
200000000000000000000000000000
220000000000000000000000000000
250000000000000000000000000000
280000000000000000000000000000
320000000000000000000000000000
360000000000000000000000000000
400000000000000000000000000000
450000000000000000000000000000
500000000000000000000000000000
560000000000000000000000000000
630000000000000000000000000000
710000000000000000000000000000
800000000000000000000000000000
900000000000000000000000000000
1000000000000000000000000000000
1100000000000000000000000000000
1250000000000000000000000000000
1400000000000000000000000000000
1600000000000000000000000000000
1800000000000000000000000000000
2000000000000000000000000000000
2200000000000000000000000000000
2500000000000000000000000000000
2800000000000000000000000000000
3200000000000000000000000000000
3600000000000000000000000000000
4000000000000000000000000000000
4500000000000000000000000000000
5000000000000000000000000000000
5600000000000000000000000000000
6300000000000000000000000000000
7100000000000000000000000000000
8000000000000000000000000000000
9000000000000000000000000000000
10000000000000000000000000000000
11000000000000000000000000000000
12500000000000000000000000000000
14000000000000000000000000000000
16000000000000000000000000000000
18000000000000000000000000000000
20000000000000000000000000000000
22000000000000000000000000000000
25000000000000000000000000000000
28000000000000000000000000000000
32000000000000000000000000000000
36000000000000000000000000000000
40000000000000000000000000000000
45000000000000000000000000000000
50000000000000000000000000000000
56000000000000000000000000000000
63000000000000000000000000000000
71000000000000000000000000000000
80000000000000000000000000000000
90000000000000000000000000000000
100000000000000000000000000000000
110000000000000000000000000000000
125000000000000000000000000000000
140000000000000000000000000000000
160000000000000000000000000000000
180000000000000000000000000000000
200000000000000000000000000000000
220000000000000000000000000000000
250000000000000000000000000000000
280000000000000000000000000000000
320000000000000000000000000000000
360000000000000000000000000000000
400000000000000000000000000000000
450000000000000000000000000000000
500000000000000000000000000000000
560000000000000000000000000000000
630000000000000000000000000000000
710000000000000000000000000000000
800000000000000000000000000000000
900000000000000000000000000000000
1000000000000000000000000000000000
1100000000000000000000000000000000
1250000000000000000000000000000000
1400000000000000000000000000000000
1600000000000000000000000000000000
1800000000000000000000000000000000
2000000000000000000000000000000000
2200000000000000000000000000000000
2500000000000000000000000000000000
2800000000000000000000000000000000
3200000000000000000000000000000000
3600000000000000000000000000000000
4000000000000000000000000000000000
4500000000000000000000000000000000
5000000000000000000000000000000000
5600000000000000000000000000000000
6300000000000000000000000000000000
7100000000000000000000000000000000
8000000000000000000000000000000000
9000000000000000000000000000000000
10000000000000000000000000000000000
11000000000000000000000000000000000
12500000000000000000000000000000000
14000000000000000000000000000000000
16000000000000000000000000000000000
18000000000000000000000000000000000
20000000000000000000000000000000000
22000000000000000000000000000000000
25000000000000000000000000000000000
28000000000000000000000000000000000
32000000000000000000000000000000000
36000000000000000000000000000000000
40000000000000000000000000000000000
45000000000000000000000000000000000
50000000000000000000000000000000000
56000000000000000000000000000000000
63000000000000000000000000000000000
71000000000000000000000000000000000
80000000000000000000000000000000000
90000000000000000000000000000000000
100000000000000000000000000000000000
110000000000000000000000000000000000
125000000000000000000000000000000000
140000000000000000000000000000000000
160000000000000000000000000000000000
180000000000000000000000000000000000
200000000000000000000000000000000000
220000000000000000000000000000000000
250000000000000000000000000000000000
280000000000000000000000000000000000
320000000000000000000000000000000000
360000000000000000000000000000000000
400000000000000000000000000000000000
450000000000000000000000000000000000
500000000000000000000000000000000000
560000000000000000000000000000000000
630000000000000000000000000000000000
710000000000000000000000000000000000
800000000000000000000000000000000000
900000000000000000000000000000000000
1000000000000000000000000000000000000
1100000000000000000000000000000000000
1250000000000000000000000000000000000
1400000000000000000000000000000000000
1600000000000000000000000000000000000
1800000000000000000000000000000000000
2000000000000000000000000000000000000
2200000000000000000000000000000000000
2500000000000000000000000000000000000
2800000000000000000000000000000000000
3200000000000000000000000000000000000
3600000000000000000000000000000000000
4000000000000000000000000000000000000
4500000000000000000000000000000000000
5000000000000000000000000000000000000
5600000000000000000000000000000000000
6300000000000000000000000000000000000
7100000000000000000000000000000000000
8000000000000000000000000000000000000
9000000000000000000000000000000000000
10000000000000000000000000000000000000
11000000000000000000000000000000000000
12500000000000000000000000000000000000
14000000000000000000000000000000000000
16000000000000000000000000000000000000
18000000000000000000000000000000000000
20000000000000000000000000000000000000
22000000000000000000000000000000000000
25000000000000000000000000000000000000
28000000000000000000000000000000000000
32000000000000000000000000000000000000
36000000000000000000000000000000000000
40000000000000000000000000000000000000
45000000000000000000000000000000000000
50000000000000000000000000000000000000
56000000000000000000000000000000000000
63000000000000000000000000000000000000
71000000000000000000000000000000000000
80000000000000000000000000000000000000
90000000000000000000000000000000000000
100000000000000000000000000000000000000
110000000000000000000000000000000000000
125000000000000000000000000000000000000
140000000000000000000000000000000000000
160000000000000000000000000000000000000
180000000000000000000000000000000000000
200000000000000000000000000000000000000
220000000000000000000000000000000000000
250000000000000000000000000000000000000
280000000000000000000000000000000000000
320000000000000000000000000000000000000
360000000000000000000000000000000000000
400000000000000000000000000000000000000
450000000000000000000000000000000000000
500000000000000000000000000000000000000
560000000000000000000000000000000000000
630000000000000000000000000000000000000
710000000000000000000000000000000000000
800000000000000000000000000000000000000
900000000000000000000000000000000000000
1000000000000000000000000000000000000000
1100000000000000000000000000000000000000
1250000000000000000000000000000000000000
1400000000000000000000000000000000000000
1600000000000000000000000000000000000000
1800000000000000000000000000000000000000
2000000000000000000000000000000000000000
2200000000000000000000000000000000000000
2500000000000000000000000000000000000000
2800000000000000000000000000000000000000
3200000000000000000000000000000000000000
3600000000000000000000000000000000000000
4000000000000000000000000000000000000000
4500000000000000000000000000000000000000
5000000000000000000000000000000000000000
5600000000000000000000000000000000000000
6300000000000000000000000000000000000000
7100000000000000000000000000000000000000
8000000000000000000000000000000000000000
9000000000000000000000000000000000000000
10000000000000000000000000000000000000000
11000000000000000000000000000000000000000
12500000000000000000000000000000000000000
14000000000000000000000000000000000000000
16000000000000000000000000000000000000000
18000000000000000000000000000000000000000
20000000000000000000000000000000000000000
22000000000000000000000000000000000000000
25000000000000000000000000000000000000000
28000000000000000000000000000000000000000
32000000000000000000000000000000000000000
36000000000000000000000000000000000000000
40000000000000000000000000000000000000000
45000000000000000000000000000000000000000
50000000000000000000000000000000000000000
56000000000000000000000000000000000000000
63000000000000000000000000000000000000000
71000000000000000000000000000000000000000
80000000000000000000000000000000000000000
90000000000000000000000000000000000000000
100000000000000000000000000000000000000000
110000000000000000000000000000000000000000
125000000000000000000000000000000000000000
140000000000000000000000000000000000000000
160000000000000000000000000000000000000000
180000000000000000000000000000000000000000
200000000000000000000000000000000000000000
220000000000000000000000000000000000000000
250000000000000000000000000000000000000000
280000000000000000000000000000000000000000
320000000000000000000000000000000000000000
360000000000000000000000000000000000000000
400000000000000000000000000000000000000000
450000000000000000000000000000000000000000
500000000000000000000000000000000000000000
560000000000000000000000000000000000000000
630000000000000000000000000000000000000000
710000000000000000000000000000000000000000
800000000000000000000000000000000000000000
900000000000000000000000000000000000000000
1000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000
1250000000000000000000000000000000000000000
1400000000000000000000000000000000000000000
1600000000000000000000000000000000000000000
1800000000000000000000000000000000000000000
2000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000
2500000000000000000000000000000000000000000
2800000000000000000000000000000000000000000
3200000000000000000000000000000000000000000
3600000000000000000000000000000000000000000
4000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000
5000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000
6300000000000000000000000000000000000000000
7100000000000000000000000000000000000000000
8000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000
14000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000000000
45000000000000000000000000000000000000000000000000000000000000
50000000000000000000000000000000000000000000000000000000000000
56000000000000000000000000000000000000000000000000000000000000
63000000000000000000000000000000000000000000000000000000000000
71000000000000000000000000000000000000000000000000000000000000
80000000000000000000000000000000000000000000000000000000000000
90000000000000000000000000000000000000000000000000000000000000
100000000000000000000000000000000000000000000000000000000000000
110000000000000000000000000000000000000000000000000000000000000
125000000000000000000000000000000000000000000000000000000000000
140000000000000000000000000000000000000000000000000000000000000
160000000000000000000000000000000000000000000000000000000000000
180000000000000000000000000000000000000000000000000000000000000
200000000000000000000000000000000000000000000000000000000000000
220000000000000000000000000000000000000000000000000000000000000
250000000000000000000000000000000000000000000000000000000000000
280000000000000000000000000000000000000000000000000000000000000
320000000000000000000000000000000000000000000000000000000000000
360000000000000000000000000000000000000000000000000000000000000
400000000000000000000000000000000000000000000000000000000000000
450000000000000000000000000000000000000000000000000000000000000
500000000000000000000000000000000000000000000000000000000000000
560000000000000000000000000000000000000000000000000000000000000
630000000000000000000000000000000000000000000000000000000000000
710000000000000000000000000000000000000000000000000000000000000
800000000000000000000000000000000000000000000000000000000000000
900000000000000000000000000000000000000000000000000000000000000
1000000000000000000000000000000000000000000000000000000000000000
1100000000000000000000000000000000000000000000000000000000000000
1250000000000000000000000000000000000000000000000000000000000000
1400000000000000000000000000000000000000000000000000000000000000
1600000000000000000000000000000000000000000000000000000000000000
1800000000000000000000000000000000000000000000000000000000000000
2000000000000000000000000000000000000000000000000000000000000000
2200000000000000000000000000000000000000000000000000000000000000
2500000000000000000000000000000000000000000000000000000000000000
2800000000000000000000000000000000000000000000000000000000000000
3200000000000000000000000000000000000000000000000000000000000000
3600000000000000000000000000000000000000000000000000000000000000
4000000000000000000000000000000000000000000000000000000000000000
4500000000000000000000000000000000000000000000000000000000000000
5000000000000000000000000000000000000000000000000000000000000000
5600000000000000000000000000000000000000000000000000000000000000
6300000000000000000000000000000000000000000000000000000000000000
7100000000000000000000000000000000000000000000000000000000000000
8000000000000000000000000000000000000000000000000000000000000000
9000000000000000000000000000000000000000000000000000000000000000
10000000000000000000000000000000000000000000000000000000000000000
11000000000000000000000000000000000000000000000000000000000000000
12500000000000000000000000000000000000000000000000000000000000000
14000000000000000000000000000000000000000000000000000000000000000
16000000000000000000000000000000000000000000000000000000000000000
18000000000000000000000000000000000000000000000000000000000000000
20000000000000000000000000000000000000000000000000000000000000000
22000000000000000000000000000000000000000000000000000000000000000
25000000000000000000000000000000000000000000000000000000000000000
28000000000000000000000000000000000000000000000000000000000000000
32000000000000000000000000000000000000000000000000000000000000000
36000000000000000000000000000000000000000000000000000000000000000
40000000000000000000000000000000000000000000000000000000000000000
45000000000000000000000

divisions of Canada. In case of any such addition being made, the governor-general shall not summon any new member "except on a further like direction by the Queen on the like recommendation until each of the three divisions of Canada are represented by 24 members and no more."[1] The number of senators is fixed by the 28th section of the British North America Act, 1867, at 78, but on reference to the 147th section, it will be seen that it is provided that "in case of the admission of Newfoundland the normal number of senators shall be 76, and their maximum number shall be 82." Senators hold their seats for life, subject to the provisions of this act, but they may, at any time, resign by writing under their hand, addressed to the governor-general.[2] The place of senator shall become vacant, if he is absent for two consecutive sessions, if he becomes a bankrupt, or insolvent, or applies for the benefit of any law relating

---

[1] B. N. A. Act, ss. 26-27. See Sen. Deb. (1877) 84-94; Com. Deb. (1877) 371, for discussion on a case in which the Queen refused to appoint additional senators under section 29. Also Todd's Parl. Gov. in the Colonies, p. 164. The Earl of Kimberley, in his despatch on the subject, stated that her Majesty could not be advised to take the responsibility of interfering with the constitution of the Senate, except upon an occasion when it had been made apparent that a difference had arisen between the two houses of so serious and permanent a character that the government could not be carried on without her intervention, and when it could be shown that the limited creation of senators allowed by the act would apply an adequate remedy." The Senate, on the receipt of this despatch, passed resolutions approving of the course pursued by her Majesty's government. Jour. p.p. 130-4.

[2] Ss. 29 and 30.

to insolvent debtors or becomes a public defaulter; if he becomes a citizen or subject of any foreign power; if he is attainted of treason or convicted of any infamous crime; if he ceases to be qualified in respect of property or residence; provided that he shall not be considered disqualified in respect to residence on account of his residing at the seat of government, while holding an office in the administration. When a vacancy happens in the Senate, by resignation, death or otherwise, the governor-general shall, by summons to a fit and proper person, fill the vacancy. If any question should at any time arise respecting the qualification of a senator or a vacancy in the Senate, the same must be heard and determined by that house. [1]

In arranging the representation of the House of Commons, the question arose in the Quebec conference as to the best mode of preventing the difficulty in the future of too large a number of members. It was to be expected that in the course of a few decades the population would largely expand, not only in the old provinces which first composed the dominion, but in the new provinces which would be formed sooner or later out of the vast North-West. Unless some definite principle was adopted to keep the representation within a certain limit the House of Commons might eventually become a too cumbrous, unwieldy body. It was decided "to accept the representation of Lower Canada as a fixed standard—as a pivot on which the whole would turn—since that province was the best suited for the purpose

[1] B. N. A. Act, ss. 31, 32, 33. A peer who has been adjudged a bankrupt cannot sit and vote in the House of Lords, 34 and 35 Vict., c. 50, Imp. Stat.; 104 Lords' J., 138, 206, 321, 322, 342, 429.

on account of the comparatively permanent character of its population, and from its having neither the largest nor the least number of inhabitants."[1] Hence the danger of an inconvenient increase, when the representation is reviewed after each decennial census, has been practically reduced to a minimum.

The question of the duration of parliament also obtained much consideration when the Quebec resolutions were under deliberation; and it was finally decided to follow the example of New Zealand and give the Canadian parliament a constitutional existence of five years[2] "from the day of the return of the writs for choosing the house," subject, of course, to be sooner dissolved by the governor-general, acting under the advice of the privy council. In this connection it is interesting to note that in 1867, the writs for the dominion elections were issued on the 7th of August, and made returnable on the 24th of September, except those for Gaspé, and Chicoutimi, and Saguenay, which were to be returned on the 24th of October.[3] The first parliament actually assembled in the month of November, 1867, and lasted until the 8th of July, 1872, when it was formally dissolved, having completed its constitutional limit of five years, less a few weeks. from the return of all the writs. In 1872, the writs were made returnable on the 3rd of September, except those for Gaspé, Chicoutimi and Saguenay, Manitoba and British Columbia, which were to be returned on the 12th of October,[4] but parliament

[1] Sir J. A. Macdonald, Confed. Deb., 1865, p. 38.
[2] Sir J. A. Macdonald, Confed. Deb., 1865, p. 39.
[3] Jour. [1867-8.] vii-x.
[4] Jour. [1873.] vi-xi.

did not actually assemble until the 5th of March, 1873. The second parliament continued in existence only until the 2nd of January, 1874, when it was dissolved, the writs being generally made returnable on the 21st of February, with the exception of those for the districts and provinces just named, which had to be returned on the 12th of March.[1] The third parliament assembled on the 26th of March and lasted until the 17th of August, 1878, when it was dissolved,[2] having sat in five sessions of an average duration of nearly ten weeks, and its constitutional existence having been about seven months less than five years from the date of the return of all the writs in 1874. In 1878 the writs generally were returnable on the 21st of November, but parliament did not actually assemble until the 13th of February, 1879. Only four sessions were held of the fourth parliament, which was dissolved in the month of May, 1882, having been less than four years in existence since the dissolution of 1878. The fifth parliament assembled on the 8th of February, 1883, and lasted until the 15th of January, 1887, when it was dissolved after a constitutional existence of about four years and five months from the date of the return of the writs in 1882.[3]

In 1867 the house consisted of 181 members in all, who were distributed as follows :[4]

| | | |
|---|---|---|
| Ontario | 82 | members. |
| Quebec | 65 | " |
| Nova Scotia | 19 | " |
| New Brunswick | 15 | " |

[1] Jour. [1874] Proclamations v-ix. A separate proclamation had to be issued for Algoma, writ also returnable on the 12th of March.

[2] Ibid [1879] vii-x.

[3] Jour. [1883], vi.; Ib. [1887], ix.

[4] B. N. A. Act, 1867, s. 37.

But the British North America Act, 1867, provides[1] for additional representation under certain conditions. Quebec shall have the fixed number of 65 members. Each of the other provinces shall be assigned such a number of members as will bear the same proportion to the number of its population (ascertained at each decennial census) as the number 65 bears to the number of the population of Quebec. Only a fractional part exceeding one-half of the whole number requisite to entitle the province to a member shall be regarded in computing the members for a province—such fractional part being considered equivalent to the whole number. In case of readjustment after a decennial census the number of members for a province shall not be reduced "unless the proportion which the number of the population of the province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of members for the province is ascertained at the then latest census to be diminished by one-twentieth part or upwards." Such readjustment, however, "shall not take effect until the termination of the then existing parliament." It is also provided that the number of members may be from time to time increased provided that the proportionate representation prescribed in the act is not thereby disturbed.[2]

In accordance with section 51, the representation of the people in the House of Commons was rearranged in 1872, after the taking of the decennial census of 1871. Ontario received 6 additional members; Nova Scotia, 2;

---

[3] B. N. A. Act, s. 51.

[4] *Ib.* s. 52.

New Brunswick, 1; Quebec remained the same.[1] On the admission of Manitoba,[2] she received 4 members; British Columbia, 6[3]; Prince Edward Island, 6.[4] Consequently until 1882 the total number of members in the House of Commons was 206. In the session of 1882 the representation was again readjusted,[5] and the province of Ontario received 4 additional members, and the province of Manitoba one. In 1886 provision was made for the representation of the North-West Territories in the House of Commons.[6]

In the session of 1885 Parliament, after a remarkably prolonged debate in the House of Commons, passed an act providing a uniform franchise for the dominion.[7] Previous to that act all persons qualified to vote for members of the legislative assemblies of the several

---

[1] 35 Vict., c. 13, s. 1, Dom. Stat.

[2] See *Ib.* s. 1; 33 Vict., c. 3, s. 4, Dom. Stat.

[3] Can. Com. J. [1871], 195; Dom. Stat. 1872, Order in Council lxxxviii.

[4] Can. Com. J. [1873], 402; also, Order in Coun., Dom. Stat. 1873, xxiii.

[5] 45 Vict., c. 3. The readjustment of the Ontario constituencies was opposed in the Commons. See Hansard [1882], 1356 *et seq.* A great number of amendments were proposed at various stages, Journals, pp. 410-412. By this legislation the old boroughs of Niagara and Cornwall were attached to the electoral districts of Lincoln and Stormont respectively, s. 2, sub-ss. 1 and 19. See Rev. Stat. of Can., c. 6.

[6] 49 Vict., c. 24; Rev. Stat. of Can., c. 7. Members of both Houses receive $1,000 for a session of over 30 days; $10 a day, under 30 days; and mileage, 10c. a mile coming and going. Rev. Stat. of Can., c. 11, ss. 25–31.

[7] Rev. Stat. of Can., c. 5.

provinces of Canada voted for members of the House of Commons. The franchise now established for the dominion is extremely wide and liberal in its provisions. Every male person registered in accordance with the statute, of the full age of twenty-one years, a British subject by birth or naturalization, and not disqualified by any law of the dominion, can vote on qualifications, of which a tabular analysis is given on page 87.

The representation under the statutes as given on pages 84, 85, is now distributed as follows:—

| | | |
|---|---|---|
| Ontario | 92 | members. |
| Quebec | 65 | " |
| Nova Scotia | 21 | " |
| New Brunswick | 16 | " |
| Manitoba | 5 | " |
| British Columbia | 6 | " |
| Prince Edward Island | 6 | " |
| North-West Territories | 4 | " |
| Total number | 215 | members.[1] |

[1] This is a large representation for a population of 4,324,810 as compared with the 225 members who represent over 50,000,000 in Congress. The census of 1881 gave Ontario 1,923,218 souls; Quebec 1,359,027; Nova Scotia, 440,572; New Brunswick, 321,223; Manitoba, 65,954; British Columbia (including Indians), 49,459; Prince Edward Island, 108,891; N. W. T., 56,446.

FRANCHISE UNDER THE DOMINION ACT OF 1885.

| TITLE OF VOTERS.* | OCCUPATION OF PREMISES, OR RESIDENCE IN THE ELECTORAL DISTRICT. | VALUE. |
|---|---|---|
| *Real Property Franchise.* | | |
| (1) *Owner*— | | |
| (*a*) in his own right.... | Ownership prior to or at the date of the revision of the voters' lists..... | Cities, $300. Towns, $200. Other places, $150. |
| (*b*) in right of wife..... | | |
| (*c*) his wife owner..... | | |
| (2) *Occupant*— | | |
| (*a*) in his own right..... | | |
| (*b*) in right of wife..... | | |
| (*c*) his wife occupant..... | | |
| (3) *Farmer's Son*— | 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. |
| (*a*) Father owner..... | | |
| (*b*) Mother owner..... | | |
| (4) *Owner's Son*— | | |
| (*a*) Father owner..... | | |
| (*b*) Mother owner..... | | |
| (5) *Tenant*— | | $2 monthly, or $6 quarterly, or $12 half-yearly, or $20 yearly. |
| (6) *Tenant-Farmer's Son*— | | |
| (*a*) Father tenant..... | | |
| (*b*) Mother tenant..... | | |
| (7) *Fisherman* (owner).... | Prior to or at the date of the revision of the voters' lists..... | $150, land, boats, fishing tackle, &c. |
| (8) *Indian*..... (except in Manitoba, British Columbia, Keewatin or N.W.T.) | | $150 of improvement. |
| *Income Franchise.* | | |
| (9) *Income*..... | Prior to or at the date of the revision of the voters' lists and one year's residence in Canada. | $300 a year. |
| (10) *Annuitant*..... | Residence for one year prior to the revision of the voters' lists. | $100 a year. |

* This table is taken from the Manual on the Franchise Act by Mr. Thomas Hodgins, Q.C., as it gives in a very small compass the main features of the law regulating the dominion franchise.

The Canadian Statutes regulating the trial of controverted elections, and providing for the prevention of corrupt practices at elections, have closely followed the English law on the subject, and in some respects are even more rigid. The first effort to refer contested elections to the judicial tribunals was made by the statute of 1873; but more ample and satisfactory provision was made in the act of 1874, which is now, with a few subsequent amendments, the law on the subject.[1] The law providing for the independence of parliament[2] and the prevention of corruption at elections[3] is very strict.

The provisions respecting the election of speaker, quorum, privileges, elections, money votes, royal assent and reserved bills, oath of allegiance, use of the French language, will be found in the British North America Act, 1867, given in the appendix to this work. Parliament has full control of all dominion revenues and duties, which form one consolidated revenue fund, to be appropriated for the public service in the manner, and subject to the charges provided in the Act of Union.[4] The first charge thereon is the cost incident to the collection and management of the fund itself; the second charge is the annual interest on the public debts of the several provinces; the third charge is the salary of the governor-general, fixed at ten thousand pounds sterling. A bill

[1] Rev. Stat. of Can., c. 9. See Bourinot's Parliamentary Practice, pp. 117-121.

[2] Rev. Stat. of Can., c. 10.

[3] *Ib.*, c. 11.

[4] Ss. 102-126. Rev. Stat. of Can., c. 29, respecting the consolidated revenue fund, collection and management of the revenue and auditing of public accounts.

was passed in the first session, reducing this salary to six thousand five hundred pounds, but it was reserved, and subsequently disallowed on the ground "that a reduction in the salary of the governor, would place the office, as far as salary is a standard of recognition, in the third class among colonial governments."[1]

[1] Dom. Sess. P., 1869, No. 73.

## CHAPTER IX.

### Constitution of the Provincial Governments and Legislatures—Organization of the North-West Territories.

Under the Act of 1867, the dominion government assumed that control over the respective provinces which was previously exercised by the imperial government.[1] In each province there is a lieutenant-governor, appointed by the governor-general in council, and holding office for five years, but subject to removal at any time by the governor-general for "cause assigned," which must be "communicated to him in writing within one month after the order of his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter, if the parliament is then sitting, and if not, then within one week after

---

[1] "The general government assumes towards the local governments precisely the same position that the imperial government holds now with respect to each of the colonies." Sir J. A. Macdonald, Conf. Deb., 1865, p. 42. Also Todd, Parl. Govt. in the Colonies, 415.

the commencement of the next session of parliament."[1] Every lieutenant-governor, on his appointment, takes the same oaths of allegiance and office as are taken by the governor-general.[2] In all the provinces he has the assistance of an executive council to aid and advise him in administering public affairs, and who, like the privy council of Canada, are responsible to the people through their representatives in the legislature. In case of the absence, illness, or other inability of the lieutenant-

---

[1] B. N. A. Act, 1867, ss. 58-59. In the memorable case of Mr. Letellier de St. Just, removed from the lieutenant-governorship of Quebec in 1879, it has been decided that the governor-general acts on the advice of his cabinet in considering the very delicate question of the removal of so important an officer. The colonial secretary, in a despatch of 5th July, 1879, lays it down distinctly "But it must be remembered that other powers, vested in a similar way by the statute in the governor-general, were clearly intended to be, and are in practice exercised by and with the advice of his ministers, and though the position of a governor-general would entitle his views on such a subject as that now under consideration to peculiar weight, yet her Majesty's government do not find anything in the circumstances which would justify him in departing in this instance from the general rule, and declining to follow the decided and sustained opinion of his ministers, who are responsible for the peace and good government of the whole dominion to the parliament to which the cause must be communicated." Can. Sess. P., 1880, No. 18, p. 8. For full particulars of this much vexed question see Sen. and Com. Hans., 1878 and 1879; Can. Sess. P., 1878, No. 68; *Ib.*, 1879, No. 19; *Ib.*, 1880, No. 18. For communication to parliament in accordance with law, Can. Com. Jour. (1880) 24; Sen. J. (1880), 22-23.

[2] Sec. 61, B. N. A. Act, 1867. See form of oaths in Can. Sess. P., 1884, No. 77.

governor, the governor-general in council may appoint an administrator to execute his office and functions.[1]

In the exercise of his functions, the lieutenant-governor of a province "should, of course, maintain that impartiality towards political parties, which is essential to the proper performance of the duties of his office, and for any action he may take he is, under the fifty-ninth section of the act, directly responsible to the governor-general."[2] The only safe principle that he can adopt for his general guidance is that pointed out to him by the experience of the working of parliamentary institutions: to give his confidence to his constitutional advisers while they enjoy the support of the majority of the legislature.

A question has been raised, how far a lieutenant-governor can now be considered to represent the Crown.[3] It is beyond dispute, however, that he is fully authorized to exercise all the powers lawfully belonging to the sovereign in respect of assembling or proroguing, and of dissolving the legislative assemblies in the provinces.[4] A high judicial authority has expressed the opinion that "whilst it cannot for a moment be contended that the lieutenant-governors under confederation represent the Crown as the lieutenant-governors did before confedera-

---

[1] B. N. A. Act, ss. 63, 65, 66, 67.

[2] Despatch of the colonial secretary, 1879; Can. Sess. P. 1880, No. 18, p. 8.

[3] "They are officers of the dominion government—they are not her Majesty's representatives." Taschereau, J., in Lenoir *vs.* Ritchie. Can. Sup. Court R., vol. iii, p. 623. See also *Ib.*, vol. v, Mercer *vs.* Att.-Gen. of O.

[4] Todd, pp. 392-93.

tion, yet it must be conceded that these high officials, since confederation, do represent the Crown, though doubtless in a modified manner. They represent the Queen as lieutenant-governors did before confederation, in the performance of all executive or administrative acts now left to be performed by lieutenant-governors in the name of the Queen."[1]

The forty-first resolution of the Quebec conference declared that "the local government and legislature of each province shall be constructed in such manner as the existing legislature of each such province shall provide." Accordingly, in the last session of the old legislature of Canada, an address was passed to the sovereign praying her "to cause a measure to be submitted to the imperial parliament to provide for the local government and legislature of Lower and Upper Canada respectively."[2] In accordance with this address the constitutions of Quebec and Ontario were formally incorporated in the British North America Act of 1867. The legislature of Ontario consists of only the lieutenant-governor and one house, named the legislative assembly, composed in the first instance of eighty-two members, elected for the same electoral districts which returned members to the House of Commons.[3] After the census of 1871, there was a rearrangement of constituencies, and the number of representatives was increased to eighty-eight in all.[4] In 1885

[1] Ritchie, C. J., Mercer *vs.* Att.-Gen. of O., Can. Sup. Court R., vol. v, pp. 637, 643.

[2] Leg. Ass. J. (1866), 362.

[3] Leg. Ass. J. (1866) 363, resolution 12. B. N. A. Act, 1867, ss. 69, 70, 1st sch.

[4] Chap. 8, Rev. Stat. of 1877, (38 Vict., c. 2, s. 1,) in which the electoral divisions are set forth.

the representation was again enlarged to ninety members, elected under a very liberal franchise.[1]

The legislature of Quebec consists of a lieutenant-governor, a legislative council, and a legislative assembly. The legislative council comprises twenty-four members, appointed for life by the lieutenant-governor in the Queen's name, and representing the same electoral districts from which senators are chosen.[2] The qualifications of the legislative councillors of Quebec are the same as those of the senators from the province.[3] The legislative assembly is composed of sixty-five members, elected for the same electoral districts represented by the members of the House of Commons for the province.[4] It is provided in the act that while it is always perfectly competent for the legislature of Quebec to alter these districts, it can only change the limits of certain constituencies, especially mentioned, with the concurrence of the majority of the members representing all those electoral divisions.[5] The legislative assembly in each province is summoned by the lieutenant-governor in the

---

[1] 48 Vict., c. 2., Manhood suffrage qualified by residence.

[2] Leg. Ass. J. (1866) 363; B. N. A. Act, 1867, s. 71, 72 and s. 22, subs. 3. Cons. Stat. of Canada, c. 1, Sch. A.

[3] B. N. A. Act, ss. 73 and 23.

[4] Ss. 80 and 40; Doutre, p. 85.

[5] These districts are Pontiac, Ottawa, Argenteuil, Huntingdon, Missisquoi, Brome, Shefford, Stanstead, Compton, Wolfe and Richmond, Megantic, town of Sherbrooke. Second Sched. B. N. A. Act, 1867. In these districts there is a large English-speaking and Protestant population, and it was considered expedient to insert this proviso securing its rights; but the provision was opposed in the legislature, in 1866, as unnecessary. Turcotte, II., 590.

Queen's name. It has a constitutional existence of four years in Ontario,[1] and of five years in Quebec,[2] subject to being dissolved at any time by the same authority that calls them together. A session must be held once at least in every year, "so that twelve months shall not intervene between the last sitting of the legislature in each province in one session and its first sitting in the next session."[3] The provisions in the act respecting election and duties of speaker, quorum, and mode of voting, in the House of Commons, also apply to the legislative assemblies of the provinces in question.[4] By

[1] The Ont. Stat., 42 Vict., (1879), c. 4, s. 3, provides that every legislature of Ontario shall continue for four years from the 55th day after the date of the writs for the election and no longer; that in case a meeting of the legislature is necessary before the election for Algoma has taken place, the member elected for that district at the previous election shall represent the same until the new election therefor has been held and the return made in due form; that in such case the duration of the new assembly shall be for four years from the day for which the assembly shall be summoned to meet for the discharge of business and no longer, subject to being sooner dissolved by the lieutenant-governor. This provision was made to meet a constitutional question that had arisen as to the exact duration of the legislature—whether it could not last for four years from the date of the return for Algoma, which is much later than for the rest of the province. See *Canadian Monthly*, April, 1879, and Parl. Deb. of Ontario, 1879, as the curious controversy that arose on this constitutional point. In 1885 this act was amended (Ont. Rev. Stat. c. 11,) by dividing Algoma into two electoral districts.

[2] Extended from four to five years, in 1881, by the legislature of Quebec, in accordance with subs. 1, s. 92 of B. N. A. Act; 44-45 Vict., c. 7.

[3] Sec. 86.

[4] Sec. 87.

an act passed in 1882, the speaker of the legislative council of Quebec remains in office during the legislature to which he has been nominated by the lieutenant-governor, and may not be a member of the executive council of the province.[1]

The Act of 1867 provides that the constitution of the executive authority as well as of the legislatures of the provinces of Nova Scotia and New Brunswick shall continue as it existed at the time of the union until altered under the authority of that act.[2] These two colonies had, for very many years, enjoyed the advantages of representative institutions as liberal in all respects as those of the larger provinces of Canada. Under the French regime, and for some time after their conquest by the English, these provinces were comprised in the large, ill-defined territory known as Acadia.[3] From 1713 to 1758 the provincial government consisted of a

---

[1] Quebec Stat. 45 Vic., c. 3.

[2] B.N.A. Act, ss. 64, 88. The power of amendment so conferred, has not been exercised in Nova Scotia—Gov. Archibald. Can. 1883, No. 70, p. 11.

[3] Nova Scotia was formally ceded to England by the Treaty of Utrecht, 11 April, 1713; but Cape Breton still remained a possession of France until the conquest of Canada, and the subsequent Treaty of Paris, which gave to Great Britain all the French possessions in British North America except the islands of St. Pierre, Miquelon and Langley on the coast of Newfoundland, reserved for carrying on the fisheries. The Island of Cape Breton was under the government of Nova Scotia from 1766 to 1784, when it was given a separate government, consisting of a lieutenant-governor and council. This constitution remained in force until the re-annexation of the island to Nova Scotia in 1820. Can. Sess. P., 1883, No. 70, p. 10.

governor or lieutenant-governor and a council supposed to possess both legislative and executive powers. The constitution of Nova Scotia has always been considered "as derived from the terms of the royal commissions to the governors and lieutenant-governors, and from the instructions accompanying the same, moulded from time to time by despatches from secretaries of state, conveying the will of the sovereign, and by acts of the local legislature, assented to by the Crown: the whole to some extent interpreted by uniform usage and custom in the colony."[1] A legislative assembly met for the first time at Halifax[2] on the 2nd of October, 1758, and consisted of twenty-two members. It is interesting to note in this connection that the assembly promptly asserted the privileges of free speech, when a member's remarks had been called into question, by declaring that "what he had said was as a member of the assembly, and that he was only accountable to them for what he had said."[3] In the same session a person was committed to the custody of one of the messengers of the house for having assaulted a member on his way from the assembly.[4]

In 1838 the executive authority was separated from the legislative council, which became a distinct legislative branch only.[5] In 1840, a practical recognition was

[1] Governor Archibald, in an interesting memorandum on the early constitution of Nova Scotia, in answer to an address of parliament. Can. Sess. P. 1883, No. 70, pp. 7-11.

[2] Annapolis (Port Royal under the French régime) was the seat of government until 1749, when Halifax was founded. Murdoch's Hist., II. c. 11.

[3] Murdoch, II. 353.

[4] *Ib.* 354.

[5] Can. Sess. P. 1883, No. 70, pp. 8, 39.

given for the first time to the principle of responsible government, in the formation of the executive council, but in reality the system was not fully adopted until 1848.[1] In 1867, before the Act of Union came into force, the legislature of Nova Scotia passed an act limiting the number of members in the assembly to thirty-eight,[2] and at the same time an address was proposed to limit the number of legislative councillors to eighteen.[3] The number now is twenty-one.

In 1784 the province of New Brunswick, which had received large accessions of loyalists from the United States, was formally created, and a government established, consisting of a council of twelve members, having both executive and legislative functions, and of an assembly of twenty-six members;[4] but in 1832 it was deemed expedient to follow the example of Nova Scotia and have the executive authority quite distinct from the legisla-

---

[1] Howe's Speeches and Letters vol. I, pp. 553, 562-4; Todd, 60; Eng. Com. P. 1847-8, vol. 42, pp. 51-88.

[2] Nova S. Stat., 30 Vict., c. 2; Rev. Stat. (5th series) c. 3. For vacating of seats, Ib. c. 3. Duration of and representation in general assembly, c. 3. Executive and legislative disabilities, c. 3.

[3] Jour. Ass. (1867) 28. Efforts have been made in the Nova Scotia assembly to abolish the legislative council as in Ontario, but so far fruitlessly on account of the opposition in the latter body. An. Reg. (1879) 179-80. See Rev. Stat. (4th ser.) c. 2.

[4] The first governor was Colonel T. Carleton, brother of Lord Dorchester. The government was frequently administered by presidents of the executive council, and by military chiefs. See copy of the commission of governor, giving him power to appoint a council, create courts, and call an assembly, etc. Can. Sess. P. 1883, No. 70, p. 47.

tive council. In 1848 the principles of responsible government were formally carried out in accordance with the colonial policy adopted by the British government with respect to the British American provinces generally.[1] In the Act of Union it was provided that the house of assembly of the province, elected in 1866, should, "unless sooner dissolved, continue for the period for which it was elected."[2] The legislature now consists of a lieutenant-governor, a legislative council of eighteen members,[3] and an assembly of forty-one members elected every four years.[4]

The island of Prince Edward, formerly known as St. John,[5] formed part of the province of Nova Scotia until 1769, when it was created a separate province with a lieutenant-governor, a combined executive and legislative council, and eventually a legislative assembly of eighteen members.[6] The government of the province was always largely influenced by the proprietors of the lands of the island, distributed by the lords of trade and plantations in the year 1767. Some of the lieutenant-governors were in constant antagonism to the assembly, and during one administration the island was practically

---

[1] Todd, Parl. Govt. in the Colonies, 60.

[2] Sec. 88.

[3] New B. Cons. Stat. 1877, c. 3, s. 1.

[4] *Ib.* c. 4, s. 79.

[5] It was finally ceded to Great Britain by the Treaty of Paris, 1763. The name was changed in 1798 in honour of Edward, Duke of Kent.

[6] Captain Walter Paterson, one of the original land owners of the colony, was the first lieutenant-governor. See copy of his commission, Can. Sess. P. 1883, No. 70, p. 2.

without parliamentary government for ten years.[1] Responsible government was not actually carried out until 1850–51, when the assembly obtained complete control, as in the other provinces, of the public revenues.[2] The land monopoly was for many years the question which kept the public mind in a state of constant ferment, and though many attempts were made, with the assistance of the British government, to adjust the conflicting claims of the proprietors and tenants,[3] it was not until the admission of the island into the confederation in 1873 that a practical solution was reached in the agreement of the dominion government to advance the funds necessary to purchase the claims of the proprietors.[4] It was provided, in the Act of 1873 admitting the island, that the constitution of the executive authority and of the legislature should continue as at the time of the union unless altered in accordance with the act of 1867, and that the assembly existing in 1873 should continue for the period for which it was elected.[5] The legislature now consists of a lieutenant-governor, an elective legisla-

---

[1] Campbell, 62. Mr. C. Douglas Smith was lieutenant-governor, and did not summon the legislature from 1814-1817. He promptly dissolved three successive legislatures which proved intractable.

[2] Col. Office List, 1883, p. 38.

[3] An imperial commission was appointed in 1860, but the report, though accepted by the assembly, was rejected by the imperial authorities as beyond the authority given the commissioners. Campbell, 162.

[4] Com. Jour. (1873) 401 ; Dom. Stat. of 1873, p. xi. A compulsory Land Purchase Act passed the provincial legislature in 1875. Todd, 352-4; Eng. Com. P., 1875, vol. liii. pp. 764, 766-768.

[5] Dom. Stat. 1873, p. xii.

tive council of thirteen members,[1] and an assembly of thirty members.[2]

The local constitution arranged for the province of Manitoba by the Canadian parliament in 1870 provided for a lieutenant-governor, an executive council of not less than five persons in the first instance, a legislative council of seven members, to be increased to twelve after four years, and a legislative assembly of twenty-four members elected to represent electoral districts set apart by the lieutenant-governor.[3] In 1876 Manitoba abolished the legislative council, and the legislature consequently now consists only of the lieutenant-governor and assembly.[4] The same provisions as in the other provinces exist with respect to the duration of the legislature and its meetings once a year. Either the French or English language may be used in the records and debates. The present assembly consists of 35 members.[5]

By an act of the imperial parliament, passed in 1858, British Columbia was created a distinct colonial government, in order to maintain order among the people attracted by the gold discoveries.[6] In 1859 Vancouver

---

[1] P. E. I. Rev. Stat. of 1862, c. 18. Several attempts have been made to abolish the legislative council. P. E. I. Jour. (1880), 278-9; Leg. Council debates (1882), 57-72.

[2] Col. Office List, 1883, p. 38.

[3] *Supra* p. 59; 33 Vic., c. 3. See Sess. P. 1871, No. 20, for measures taken to organize the provincial government.

[4] Man. Stat., 39 Vict., c. 28. Parl. Companion, 1878, p. 310; Sess. Pap. 1876, No. 36.

[5] Parl. Companion, 1887.

[6] The Hudson's Bay Company's trading license was revoked and a colony established in 1858, by 21 and 22 Vict. c. 99.

Island was granted a complete form of government.[1] In 1866 both colonies were united,[2] and in 1871, as previously shown, they became part of the dominion of Canada.[3] Previous to the union, the province of British Columbia was governed by a lieutenant-governor, and a legislative council composed of heads of departments and other public officers;[4] but it was expressly declared in the terms of union that "the government of the dominion will readily consent to the introduction of responsible government when desired by the inhabitants of British Columbia," and that it was the intention of the governor of that province, under the authority of the secretary of state for the colonies, "to amend the existing constitution of the legislature by providing that a majority of its members shall be elective."[5] Since its admission, British Columbia has a local constitution similar to that of some of the other provinces; a lieutenant-governor, an executive council, responsible to the legislature, and one house only, a legislative assembly of twenty-seven members.[6]

---

[1] Sir James Douglas, the local agent of the Hudson's Bay Company, which had trading privileges over the island and mainland until the establishment of colonies, became the first governor.

[2] Col. Office L., 1883, p. 37.

[3] *Supra* p. 60.

[4] A legislative council of 15 persons was first established in 1863, and was enlarged to 23 members on the union with Vancouver Island. In 1870 other constitutional changes took place, by which nine unofficial members were elected by the people. Col. O. List, 1883, p. 37.

[5] Can. Sess. P. 1867-8, No. 59; Stat. for 1872, p. lxxxix.; Col. Office List, 1883, p. 37.

[6] B. C. Con. Stat., c. 42; two members added by 48 Vict. c. 3.

Since the acquisition of the North-West the parliament of Canada has provided a simple machinery for the government of that vast territory, preparatory to the formation of new provinces therein. The first act passed in 1869 was only of a temporary character, and, as previously shown, it never practically came into operation;[1] but in the act of the following year, forming the new province of Manitoba, provision was also made for the government of that portion of Rupert's Land and the North-West Territory, not included within the limits of that province. In subsequent sessions other acts were passed, and in 1886 all the legislation relating to the North-West Territories was consolidated into one statute.[2] The territories are now governed by a lieutenant-governor, or administrator, appointed by the governor-general in council. The law provides for a council, composed of the judges of the supreme court in the territory and other persons, appointed in the first instance by the governor-general, with the advice of his ministry. The lieutenant-governor in council may make ordinances for the government of the North-West Territory, within certain limitations set forth in the act, and copies of such ordinances must be mailed to the secretary of state within thirty days after their passing; the governor in council may disallow such ordinances within one year after their receipt. The ordinances of the council, and all orders of the governor in council disallowing any of them, must always be laid formally before parliament as soon as it can be conveniently done.[3] Provision is also made for

[1] *Supra* p. 59; 32 and 33 Vict. c. 3.
[2] Rev. Stat. of Can. c. 50.
[3] Sess. P. 1879, No. 86.

the erection of electoral districts and the election of members of council, according as the territory increases in population; and a legislative assembly may be formed in place of a council, as soon as the elected members of any council amount in all to twenty-one. The assembly must be summoned at least once a year, and shall present all bills to the lieutenant-governor for his assent. The members are to hold their seats in the assembly for two years. Electoral districts have been already formed in the territories and elections for the council held in accordance with the act. The number of members in the council is now twenty, of whom six are nominated and the remainder elected. The lieutenant-governor presides over the council and has a vote.

Pending the settlement of the western boundary of Ontario, it was considered expedient in 1876 to create a separate territory out of the eastern part of the North-West.[1] This territory is known as the district of Keewatin,[2] and is under the jurisdiction of the lieutenant-governor of Manitoba, *ex-officio*, who may have the assistance, if necessary, of a council, of not less than five persons and not more than ten, to aid him in the administration of affairs, with such powers as may be conferred upon them by order of the governor in council.[3] This arrangement of a separate district is altogether of a provisional nature, and will come entirely to an end with the rapid development of the North-West Territories.[4]

---

[1] 39 Vict., c. 21; Rev. Stat. of Can., c. 53.

[2] Sometimes Keewaydin.

[3] No such orders now appear in the statutes of Canada.

[4] Can. Hans. (1876) 86, remarks of Mr. Mackenzie, then premier, in introducing bill.

The district of Keewatin has been materially altered by the extension of the limits of Manitoba, in accordance with acts passed since 1876,[1] and by the extension of the boundary of Ontario through the decision of the judicial committee of the privy council in 1884.[2]

Before passing from this historical review of the establishment of government in the North-West Territories, it is necessary to notice here the fact that it was found expedient to obtain certain legislation in 1871 from the imperial parliament in order to remove doubts that were raised in the session of 1869, as to the power of the Canadian legislature to pass the Manitoba Act, especially the provisions giving representation to the province in the Senate and House of Commons. It appears that the address passed in the first session of the parliament of Canada contained no provisions with respect to the future government of the country, whilst the general purview of the British North America Act, 1867, as respects representation in the Senate and House of Commons, seems to be confined to the three provinces of Canada, Nova Scotia and New Brunswick, originally forming the dominion. Whilst the admission of New-

---

[1] 40 Vict., c. 6, defined new boundaries of the province of Manitoba and Keewatin. By 44 Vict., c. 14, the boundaries of the province of Manitoba were extended. See Rev. Stat. of Can. c. 53. For debates as to boundary question, see Sen. Hans. (1880-1) 606 *et seq.*, Com. Hans. (1880-1) 2 vol. p. 1443 *et seq.* In accordance with a resolution passed in the session of 1882 four divisions were marked out in the North-West Territory for postal and other purposes, viz.; Alberta, Athabasca, Assiniboia, and Saskatchewan. Com. J. (1882) 509. *Canada Gazette*, Dec. 1882.

[2] See *infra.*, pp. 156.

foundland and Prince Edward Island is provided for, no reference is made to the future representation of Rupert's Land, and the North-West Territory, or British Columbia. Under these circumstances an act was passed through the imperial parliament substantially in accordance with a report submitted by the Canadian minister of justice to the privy council, and transmitted to the secretary of state for the colonies by the governor-general. This act gives the parliament of Canada power to establish new provinces in any territories of the dominion of Canada, not already included in any province, and to provide for the constitution and administration of such provinces. Authority is also given to the Canadian parliament to alter the limits of such provinces with the consent of their legislatures. The previous legislation of 1869 and 1870 respecting the province of Manitoba and the North-West, was sanctioned formally in the act.[1]

It is expressly provided in the British North America Act that the local legislature may amend from time to time the constitution of a province, except as regards the office of lieutenant-governor,[2] and the provinces of British Columbia and Manitoba have already availed themselves of the power thus conferred by abolishing

---

[1] Imp. Stat. 34 and 35 Vict., c. 28; see Can. Stat. for 1872, p. lii. For history of this question, Sess. P. 1871, No. 20; Com. Jour. (1871), 136, 145, 291. The Imp. Act 31 and 32 Vict., c. 92, enabled the legislature of New Zealand to withdraw part of a territory from a province and form it into a county.

[2] Sec. 92, sub-sec. 1, and as respects provinces coming in after 1867, see Can. Stat. 1870, c. 3, ss. 2. 10; 1872 p. lxxxviii., ss. 10 and 14; 1873, pp. xii-xiii, &c.

the legislative council.[1] The provisions in the act relating to the speaker, quorum, mode of voting, appropriation and tax bills, money votes, assent to bills, disallowance of acts and signification of pleasure on reserved bills—that is to say, the provisions affecting the parliament of Canada, extend to the legislatures of the several provinces. In accordance with these provisions any bill passed by a legislature of a province may now be disallowed by the dominion government within one year after its passage.[2] The lieutenant-governor may also reserve any bill for the "signification of the pleasure of his Excellency the Governor-General," and it cannot go into operation unless official intimation is received, within one year of its having been approved.[3]

---

[1] See *supra* p. 102, (British Columbia); p. 101, (Manitoba); also p. 96, *n.* as to duration of Quebec legislature extended to five years.

[2] Ss. 87, 90. Also Manitoba Act, 33 Vict. c. 3, ss. 2, 21; British Columbia, 1872, p. lxxxviii, s. 10; P. E. Island, p. xxii.

[3] See chapter respecting bills in Bourinot's Parl. Practice and Procedure.

## CHAPTER X.

### DISALLOWANCE OF PROVINCIAL ACTS.

The same powers of disallowance that belonged to the imperial government previously to 1867, with respect to acts passed by colonial legislatures, have been conferred by the British North America Act on the government of the dominion. It is now admitted beyond dispute that the power of confirming or disallowing provincial acts has been vested by law absolutely and exclusively in the governor-general in council.[1] In the first years of the confederation it became, therefore, necessary to settle the course to be pursued in consequence of the large responsibilities devolved on the general

---

[1] Can. Sess. P., 1877, No. 89, pp. 407, 432-34. In the Commons' papers will be found the arguments advanced by Mr. Blake, when minister of justice, to show that the Canadian ministry must be directly and exclusively responsible to the dominion parliament for the action taken by the governor in any and every such case, and that a governor who thinks it necessary that a provincial act should be disallowed, must find ministers who will take the responsibility of advising its disallowance. *Ib.* (1876) No. 116, pp. 79, 83. *Ib.* (1877) No. 89, pp. 449-458.

government. As it was considered of importance "that the course of local legislation should be interfered with as little as possible, and the power of disallowance exercised with great caution, and only in cases where the law and general interests of the dominion imperatively demanded it," the minister of justice in 1868 laid down certain principles of procedure, which have been generally followed up to the present time. On the receipt of the acts passed in any province, they are immediately referred to the minister of justice. He thereupon reports those acts which he considers free from objection of any kind, and if his report is approved by the governor in council, such approval is forthwith communicated to the provincial government. He also makes separate reports on those acts which he may consider:—

1. As being altogether illegal or unconstitutional.
2. As illegal or unconstitutional in part.
3. As, in cases of concurrent jurisdiction, clashing with the legislation of the general parliament.
4. As affecting the interests of the dominion generally.

It has also been the practice, in the case of measures only partially defective, not to disallow the act in the first instance; but, if the general interests permit such a course, to give the local government an opportunity of considering the objections to such legislation and of remedying the defects therein.[1]

Perhaps no power conferred upon the general government is regarded with greater jealousy and restlessness than this power of disallowing provincial enactments. So far, this power has been exercised in relatively few cases

[1] Report of Sir J. A. Macdonald, Can. Sess. P., 1870, No. 35, pp. 6-7.

out of the large number of acts passed since confederation by the legislatures of the provinces. Nearly 8,000 acts have been passed from 1867 to 1887, inclusive, but not more than 45 altogether have been disallowed. This fact goes to show that the power has been exercised, on the whole, with caution and deliberation. A review, however, of the very voluminous papers relating to this question proves that, whilst but few acts have been disallowed, the legislation has been considered partially objectionable in many cases by the law officers of the dominion; but, in such cases generally, every opportunity has been given to the local governments to remove the objections pointed out by the minister of justice.[1]

Considerable discussion has arisen, however, in and out of parliament with respect to certain cases of disallowance. The first of these cases was in connection with "An Act for protecting the public interests in rivers and streams" (Ontario Stat., 1881). It appears that one McLaren, a lumberman, constructed certain works on non-floatable streams, of which he claimed to be seized in fee-simple, for the purpose of carrying his logs to their destination. One Caldwell, carrying on the same business higher up than the former, claimed the right to use these streams under the first section of chapter 115, R. S. O., as follows: "All persons may, during the spring, summer and autumn freshets, float saw-logs, and other lumber, rafts and craft down all streams." McLaren obtained an injunction from the court of chancery, restraining Caldwell from making

[1] Can. Sess. P., 1882, No. 141, pp. 2-29; *Ib.* 1886, No. 81.

use of the improvements in question, on the ground that the words "all streams" only referred to those floatable in a state of nature, and that the streams in question were not navigable for saw-logs or other lumber without artificial improvements.[1] Subsequently, in 1881, the legislature of Ontario passed an act re-enacting the section cited above, and at the same time declaring that its provisions shall extend to all streams and all constructions and improvements thereon; and that all persons might make use of such improvements on paying a reasonable toll (to be fixed by the lieutenant-governor in council) to the person who has made these improvements on the streams. An appeal was made to the governor-general in council to disallow the act on the ground that it was unconstitutional, inasmuch as it deprived the petitioner of extensive and important private rights without providing adequate compensation, and as it embodied *ex post facto* legislation, contrary to all sound principles that should govern in such cases. The minister of justice advised, and the privy council concurred in the advice, that the act be disallowed for these reasons principally: "That the act seems to take away the use of the owner's property and give it to another,

---

[1] The supreme court of Canada, in November, 1882, affirmed the decree of the court of chancery, and reversed the decision of the court of appeal of Ontario to the effect that the R. S. O., c. 115, s. 1, re-enacting C. S. U. C., c. 48, s. 15, made all streams, whether artificially or naturally floatable, public waterways. Can. Law Times, 1882, pp. 90-91. *Ib.*, 1883, p. 346. In 1884 the privy council decided that the judgment of the supreme court should be reversed and that of the court of appeal restored. Leg. News, pp. 195, 203.

forcing the owner practically to become a toll-keeper against his will, if he wished to get any compensation for being thus deprived of his rights. That the power of the local legislatures to take away the rights of one man and vest them in another, as is done in the act, is exceedingly doubtful; that, assuming such a right does in strictness exist, it devolves upon the dominion government to see that such power is not exercised in flagrant violation of private rights and natural justice, especially when, as in this case, in addition to interfering with private rights in the way alluded to, the act over-rides a decision of a court of competent jurisdiction by declaring retrospectively that the law always was, and is, different from that laid down by the court." To this decision strong objection was taken by the government of Ontario, in an elaborate state-paper, in which it is emphatically urged that the governor-general in council should not assume to review any of the provisions of an act passed by the provincial legislature on a subject within its competency under the British North America act.[1] The legislature of Ontaria subsequently re-enacted the act of 1881, which was again disallowed by the government of the dominion.

The act of the Manitoba legislature, incorporating the Winnipeg South-Eastern Railway Company, was disallowed because it conflicted with "the settled policy of the dominion, as evidenced by a clause in the contract with the Canadian Pacific Railway," which was ratified by parliament in the session of 1880-81; which clause is to the effect that "for twenty years from the date hereof

[1] Can. Sess. P., 1882, No. 149a. Hans., pp. 876-926.

no line of railway shall be authorized by the dominion parliament to be constructed south of the Canadian Pacific Railway, from any point at or near the Canadian Pacific Railway, except such line as shall run south-west or to the westward of south-west, nor to within fifteen miles of latitude 49." The government of Manitoba contended at the time that the act was "strictly within the jurisdiction of the legislature of the province." [1]

These cases show the large power assumed by the dominion government under the law giving them the right of disallowing provincial enactments. The best

[1] Can. Sess. P., 1882, No. 166. The government of Canada has also disallowed the acts of Manitoba to incorporate the Manitoba Tramway Co., to incorporate the Emerson and North-Western RR. Co., and to encourage the building of railways in Manitoba, on the ground also, that they were "in conflict with the settled policy of the dominion government in regard to the direction and limits of railway construction in the territories of the dominion." To this policy the government of the dominion has strictly adhered for years. In 1886 they disallowed the charters granted to the Manitoba Central Railway Company, and to the Rock Lake, Souris Valley & Brandon R.R. Company, and in 1887 those to the Winnipeg and Southern Railway Company and the Red River Valley R. R, in addition to the Emerson & N. W. R.R. Co. and the Manitoba Central R.R., previously disallowed. Can. Sess. P., 1886, No. 81. Can. Gazette, 1887. In 1883 the acts passed by the legislature of British Columbia "to incorporate the Fraser River Railway Company," and "to incorporate the New Westminster Southern Railway Company," were disallowed for the same reasons. Can. Sess. P., 1886, No. 29. Much irritation has been felt in Manitoba on account of this policy, and at this time of writing negotiations are in progress between the dominion and the provincial government on the subject, and it is understood a solution of the difficulty has been reached and the monopoly practically removed.

authorities concur in the wisdom of interfering with provincial legislation only in cases where there is a clear invasion of dominion jurisdiction, or where the vital interests of Canada as a whole imperatively call for such interference. The powers and responsibilities of the general government in this matter have been well set forth by a judicial authority: "There is no doubt of the prerogative right of the Crown to veto any provincial act, and to apply it even to a law over which the provincial legislature has complete jurisdiction. But it is precisely on account of its extraordinary and exceptional character that the exercise of this prerogative will always be a delicate matter. It will always be very difficult for the federal government to substitute its opinion instead of that of the legislative assemblies, in regard to matters within their jurisdiction, without exposing itself to be reproached with threatening the independence of the provinces." The injurious consequences that may result in case a province re-enacts a law, are manifest: "probably grave complications would follow." And in any case, "under our system of government, the disallowing of statutes passed by a local legislature after due deliberation, asserting a right to exercise powers which they claim to possess under the British North America Act, will always be considered a harsh exercise of authority, unless in cases of great and manifest necessity, or where the act is so clearly beyond the powers of the local legislature that the propriety of interfering would at once be recognized."[1]

---

[1] Can. Sup. Court R., vol. 2, Richards C. J., p. 96; Fournier J., p. 131.

## CHAPTER XI.

### DISTRIBUTION OF LEGISLATIVE POWERS.

In the distribution of the legislative powers entrusted to the general parliament and the local legislatures respectively, the constitution makes such an enumeration as seems well adapted to secure the unity and stability of the dominion and at the same time give every necessary freedom to the several provinces in the management of their local and municipal affairs. In arranging this part of the constitution, its framers had before them the experience of eighty years' working of the federal system of the United States, and were able to judge in what essential and fundamental respects that system appeared to be defective.[1] The doctrine of state sovereignty had been pressed to extreme lengths in the United States, and had formed one of the most powerful arguments of the advocates of secession. This doctrine

[1] Sir J. A. Macdonald, Conf. Deb., 1865, p. 32: "I am strongly of opinion that we have in a great measure avoided in this system which we propose for the adoption of the people of Canada, the defects which time and events have shown to exist in the American constitution," &c.

had its origin in the fact that all powers, not expressly conferred upon the general government, are reserved in the constitution to the states.[1] Now, in the federal constitution of Canada the very reverse principle obtains, with the avowed object of strengthening the basis of the confederation, and preventing conflict as far as practicable between the provinces that compose the union.[2] This constitution emanates from the sovereign authority of the imperial parliament, which has acted in accordance with the wishes of the people of the several provinces, as expressed through the constitutional medium of their respective legislatures. This imperial charter, the emanation of the combined wisdom of the imperial parliament and the subordinate legislatures of the several provinces affected, confers upon the general government the exclusive legislative authority over all matters respecting the public debt, regulation of trade and commerce, postal service, navigation and shipping, Indians, census and statistics, and all other matters of national import and significance.[3] On the other hand the local

---

[1] The 10th art. of the Am. Cons. reads: "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This art. did not appear in the first constitution of 1787, but was agreed to with other amendments by the first congress in 1789, and subsequently ratified by the States. See Smith's Cons., Manual and Digest, 4th ed., published by order of Congress, 1877.

[2] Sir J. A. Macdonald, Conf. Deb., 1865, p. 33: "We have thus avoided that great source of weakness which has been the cause of the disruption of the United States. We have avoided all conflict of jurisdiction and authority," etc.

[3] B. N. A. Act, 1867, s. 91. See appendix to this work.

legislatures may exclusively make laws in relation to municipal institutions, management and sale of public lands belonging to the province, incorporation of companies with provincial objects, property and civil rights in the province, and "generally all matters of a merely local or private nature in the province."[1] The provincial legislatures have also exclusive powers of legislation in educational matters, subject only to the right of the dominion parliament to make remedial laws under certain circumstances.[2] The object of this provision is to secure, as far as practicable, by statute, to a religious minority of a province, the same rights, privileges and protection which it may have enjoyed at the time of the union.[3] The local legislatures may, however, legislate as to separate schools, provided that the legislation be not such as prejudicially affects the rights or privileges theretofore possessed by such schools, and they may pass laws interfering with unimportant matters such as the election of trustees, or the every-day detail of the working of such schools, as settled by statute prior to confederation.[4] The general parliament and local legislatures have also concurrent powers of legislation respecting

[1] B. N. A. Act, s. 92.

[2] Sec. 93.

[3] See New Brunswick School Law Controversy. Todd, Parl. Gov. in the Colonies, pp. 346-352, Can. Sess. P. 1877, No. 89. A reference to the correspondence on this vexed question clearly shows that both the imperial and dominion authorities concurred in the view that it is not proper for the federal authority to attempt to interfere with the details or accessories of a measure of the local legislature, the principles and objects of which are entirely within its competency.

[4] Board of School Trustees *vs.* Granger *et al.*, 25 Grant, Ch. 570.

agriculture and immigration, provided the provincial law is not repugnant to any Act of the parliament of Canada.[1] The powers of the provincial governments are distinctly specified in the Act of Union, whereas those of the general government cover the whole ground of legislation not so expressly reserved to the provincial authorities.[2] The dominion government is authorized in express terms "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";[3] and in addition to this specific provision it is enacted that "any matter coming within any of the classes of subjects enumerated in the section (that is, the 91st respecting the powers of the general parliament) shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects assigned exclusively to the legislatures of the provinces."

It must necessarily happen that, from time to time, in the operation of a written constitution like that of Can-

---

[1] B. N. A. Act, s. 95.

[2] "The government of the United States is one of enumerated powers, and the governments of the States possess all the general powers of legislation. Here (in Canada) we have the exact opposite. The powers of the provincial governments are enumerated, and the dominion government possesses the general powers of legislation." Ritchie C. J., Can. Sup. Court R., 13th April, 1880, vol. iii., p. 536.

[3] See *infra*, p. 136. Judgment of privy council *re* "Canada Temperance Act," showing the large powers given to the dominion government by this provision of the B. N. A. Act, 1867.

ada, doubts will arise as to the jurisdiction of the general government and local legislatures over such matters as are not very clearly defined in the sections enumerating the powers of the respective legislative authorities. No grave difficulty should arise in arriving sooner or later, as a rule, at a satisfactory solution by means of the decisions of the judicial committee of the privy council, and of the higher courts of the dominion. An act establishing a supreme court for Canada was passed in the session of 1875, in accordance with the 101st section of the British North America Act, 1867, which provides "for the constitution, maintenance and organization of a general court of appeal for Canada."[1] This court has 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 this court for an opinion. It shall also have 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.[2]

Many important cases of doubt as to the construction to be placed on the 91st and 92nd sections of the British North America Act, 1867, have already been referred to

---

[1] 38 Vict., c. 11. Lord Durham, in his report (p. 123), recommended the establishment of a "Supreme Court of Appeal for all the North American colonies." The provincial courts have equal power to declare any Canadian statute unconstitutional; the supreme court is the court of appeal for all the provinces of the dominion.

[2] Ss. 52, 53, 54. The legislature of Ontario in 1877 passed 40 Vict., c. 5, authorizing such references.

the privy council and to the supreme court of the dominion. Already in Canada, as in the United States, a large amount of constitutional learning and research is being brought every year to the consideration of the perplexing questions that must unavoidably arise in the interpretation of a written constitution. It will be probably useful to cite some of the more important decisions given by the high tribunals just mentioned, with the view of showing the conclusions they have formed with respect to the legislative powers of the dominion parliament.

## CHAPTER XII.

### DECISIONS OF THE PRIVY COUNCIL OF ENGLAND AND OF THE SUPREME COURT OF CANADA ON QUESTIONS OF LEGISLATIVE JURISDICTION.

In 1874, the dominion parliament passed an act imposing on the judges of the superior courts of the provinces the duty of trying controverted elections of members of the House of Commons.[1] The question was raised in the courts, whether the act contravenes that particular provision of the 92nd section of the B. N. A. Act, which exclusively assigns to the provincial legislatures the power of legislating for the administration of justice in the provinces, including the constitution, maintenance and organization of provincial courts of civil and criminal jurisdiction, and including procedure in civil (not in criminal) matters in those courts. The question came at last before the supreme court of Canada, which, constituted as a full court of four judges, unanimously held:

That whether the act established a dominion court or not, the dominion parliament had a perfect right to give

[1] "The Dominion Controverted Elections Act, 1874"; 37 Vict. c. 10.

to the superior courts of the respective provinces, and the judges thereof, the power, and impose upon them the duty, of trying controverted elections of members of the House of Commons, and did not, in utilizing existing judicial officers and established courts to discharge the duties assigned to them by that act, in any particular invade the rights of the local legislatures. That upon the abandonment by the House of Commons of the jurisdiction exercised over controverted elections, without express legislation thereon, the power of dealing therewith would fall, *ipso facto*, within the jurisdiction of the superior courts of the provinces by virtue of the inherent original jurisdiction of such courts over civil rights. That the dominion parliament has the right to interfere with civil rights, when necessary for the purpose of legislating generally and effectually in relation to matters confided to the parliament of Canada. That the exclusive power of legislation given to provincial legislatures by sub-s. 14 of s. 92 B. N. A. Act over procedure in civil matters, means procedure in civil matters within the powers of the provincial legislatures.[1]

Application was made to the privy council for leave to appeal from the foregoing judgment of the supreme court. Their lordships, in refusing such leave, expressed these opinions:

[1] Can. Sup. Court R., vol. iii. Valin *vs.* Langlois. This case came before the court on appeal from the judgment of Chief Justice Meredith, of the superior court of Quebec, declaring the act to be within the competency of the dominion parliament, 5 Q. L. R., No. 1. The Ontario court of common pleas in 1878 unanimously agreed that the act was binding on them. Ont. Com. P. R. vol. xxix., p. 261. But certain judges of Quebec held adverse opinions. Quebec L. R., vol. v., p. 191.

That there is no doubt about the power of the dominion parliament to impose new duties upon the existing provincial courts, or to give them new powers as to matters which do not come within the classes of subjects assigned exclusively to the legislatures of the provinces. That the result of the whole argument offered to their lordships had been to leave them under the impression that there was here no substantial question requiring to be determined, and that it would be much more likely to unsettle the minds of her Majesty's subjects in the dominion, and to disturb in an inconvenient manner the legislative and other proceedings there, if they were to grant the prayer of the petition and so throw a doubt on the validity of the decision of the court of appeal below, than if they were to advise her Majesty to refuse it.[1]

In 1876, the legislature of Ontario passed an act[2] intituled "An act to secure uniform conditions in policies of fire insurance." This statute was impeached on the ground mainly that the legislature of Ontario had no power to deal with the general law of insurance; that the power to pass such enactments was within the legislative authority of the dominion parliament, under s. 91, sub-s. 2, B. N. A. Act, "regulation of trade and commerce." The question having come before the supreme court of Canada, it held that the act in question was within the competency of the Ontario legislature and is applicable to insurance companies, whether foreign or incorporated by the dominion.[3]

[1] 5 App. Cas., 115.

[2] 39 Vict., c. 24; Ont. Rev. Stat., [1877] c. 162.

[3] Can. Sup. Court R., vol. iv., 215-349. The Citizens and the Queen Ins. Co's. *v.* Parsons; Western Insurance Co. *v.* Johnston. The judgment of the supreme court affirmed the judgments of

The question came finally before the privy council on appeal from the supreme court of Canada, and their lordships decided :

That construing the words "regulation of trade and commerce" by the various aids to their interpretation, they would include political arrangements in regard to trade and requiring the sanction of parliament, regulation of trade in matters of inter-provincial concern, and it may be that they would include general regulation of trade affecting the whole dominion. Their lordships, however, abstained from any attempt to define the limits of the authority of the dominion parliament in this direction. It was sufficient for the decision of the case under review to say that, in their view, its authority to legislate for the regulation of trade and commerce does not comprehend the power to regulate by legislation the contracts of a particular business or trade, such as the business of fire insurance, in a single province, and therefore that its legislative authority did not in the present case conflict or compete with the power over property and civil rights assigned to the legislature of Ontario by sub-s. 13 of s. 92. That the act in question, so far as relates to insurance or property within the province, may bind all fire insurance companies, whether incorporated by imperial, dominion, provincial, colonial, or foreign authority. That the act of the dominion parliament,[1] requiring insurance companies to obtain licenses from the minister of finance as a condition to their car-

---

the court of appeal for Ontario (4 App. Rep., Ont., 96, 103), which had affirmed the judgments of the queen's bench; 43 U. C., Q. B. 261, 271.

[1] 38 Vict., c. 20.

rying on business in the dominion, is a general law applicable to foreign and domestic corporations, and in no way interferes with the authority of the Ontario legislature to legislate in relation to the contracts which corporations may enter into in that province.[1]

Since the first session of the dominion parliament until the end of that of 1886, between thirty and forty statutes have been passed relating to insurance and insurance companies. The local legislatures have also during the same period granted acts of incorporation to companies that do business within the limits of a province. It is now authoritatively decided that the terms of paragraph eleven of section 92 (giving powers to provincial legislatures for provincial objects,) are considered sufficiently comprehensive to include insurance companies, whose object is to transact business within provincial limits. If a company desire to carry on operations outside of the province, it will come under the provisions of the general federal law, to which it must conform, and which contains special provisions for such purposes.[2] The dominion parliament may give power to contract for insurance against loss or damage by fire, but the form of the contract, and the rights of the parties thereunder, must depend upon the laws of the country or province in which the business is done.[3] Policies of insurance being mere contracts of indemnity against loss by fire, are, like any other personal contracts against parties, governed by local or provincial

[1] 45 L. T. N. S. 721; Cartwright, 265. The Citizens and Queen Insurance Cos. *v.* Parsons.

[2] Fournier, J., Sup. Court R. vol. iv., p. 277.

[3] Harrison C. J., 43 U. C., Q. B. 261; Doutre, 267.

laws. The provincial legislature has the power to regulate the legal incidents of contracts to be enforced within its courts, and to prescribe the terms upon which corporations, either foreign or domestic, shall be permitted to transact business within the limits of the province—the power being given to local legislatures by the constitution to legislate upon civil rights and property.[1]

The privy council, in their judgment, confirming that of the Canadian courts, made special reference to the fact that dominion legislation has distinctly recognized the right of the provincial legislatures to incorporate insurance companies for carrying on business within the province itself. The statute passed in 1875 enacts among other things:

"But nothing herein contained shall prevent any insurance company incorporated by or under any act of the legislature of the late province of Canada, or of any province of the dominion of Canada, from carrying on any business of insurance within the limits of the late province of Canada, or of such province only, according to the powers granted to such insurance company within such limits as aforesaid, without such license as hereinafter mentioned."

Section 28 of the act of 1877,[2] consolidating certain acts of the dominion parliament respecting insurance, also sets forth:

"This act shall not apply to any company within the exclusive legislative control of any one of the provinces of Canada, unless such company so desires; and it shall be lawful for any such company to avail itself of the provisions of this act; and if it do so avail itself, such company shall then have the power of transacting its business of insurance throughout Canada."

[1] 4 Ont. App. 109.

[2] 40 Vict., c. 42.

In the opinion of the privy council, this provision contains a distinct declaration by the dominion parliament that each of the provinces had exclusive legislative control over the insurance companies incorporated by it; and therefore is an acknowledgment that such control was not deemed to be an infringement of the power of the dominion parliament as to "the regulation of trade and commerce." The privy council add that "the declarations of the dominion parliament are not, of course, conclusive upon the construction of the British North America Act; but when the proper construction of the language used in that act to define the distribution of legislative powers is doubtful, the interpretation put upon it by the dominion parliament in its actual legislation may properly be considered."

In this connection it is necessary to refer to the fact that certain legislation in the province of Quebec affecting insurance companies has been declared beyond the competency of the local legislature. The act in question (39 Vict., chap. 7) imposed a tax upon the policies of such insurance companies as were doing business within the province. The statute enacts: That every assurer carrying on any business of assurance, other than that of marine assurance exclusively, shall be bound to take out a license in each year, and that the price of such license shall consist in the payment to the Crown for the use of the province at the time of the issue of any policy, or making or delivery of each premium, receipt, or renewal, of certain percentages on the amount received as premium on renewal of assurance, such payments to be made by means of adhesive stamps to be affixed on the policy of assurance, receipts or renewals.

For each contravention of the act a penalty of fifty dollars is imposed.

The question of the constitutionality of the act came before the judicial committee of the privy council, who decided: That the act was not authorized by sub-sections two, and nine of section ninety-two of the B. N. A. Act with respect to direct taxation and licenses for raising a revenue for provincial, local or municipal purposes. That a license act by which a licensee is compelled neither to take out nor pay for a license, but which merely provides that the price of a license shall consist of an adhesive stamp, to be paid in respect of each transaction, not by the licensee, but by the person who deals with him, is virtually a stamp act, and not a license act. That the imposition of a stamp duty on policies, renewals and receipts, with provisions for avoiding the policy, renewal or receipt in a court of law, if the stamp is not affixed, is not warranted by the terms of sub-section two of section ninety-two, which authorizes the imposition of direct taxation within a province in order to raise a revenue for provincial purposes.[1]

In pursuance of authority given by the imperial act (16 Vict., c. 21,) the province of Canada passed an act (18 Vict., c. 82,) in consequence of which, in 1855, an arrangement was made with the government for the erection of a temporalities fund of the Presbyterian

[1] 3 App. Cas. 1090; Cartwright, 117. On appeal from a judgment of the court of queen's bench of Quebec, affirming a judgment of the superior court of Lower Canada that the act is *ultra vires*. 16 L. C. J., 198; 21 *Ib.* 77; 22 *Ib.* 307. See *infra*, p. 155 for a later decision upon a Quebec Statute imposing taxes on commercial corporations.

Church of Canada in connection with the Church of Scotland;[1] and an act of incorporation for the management thereof was obtained (22 Vict., c. 66) of the province of Canada. In 1874 it was decided to unite the said church with three other churches. Subsequently in the provinces of Ontario and Quebec, the legislatures passed two acts (38 Vict., c. 75, Ont. Stat. and 38 Vict., c. 62, Quebec Stat.), to give effect to this union. At the same time the Quebec legislature passed an act (38 Vict., c. 64), to amend the act of the late province of Canada (22 Vict., c. 66), with a view to the union of the four churches, and to provide for the administration of the temporalities' fund. The union was subsequently carried out in accordance with the views of the large majority of the church in question: but a small minority protested against the union, and tested the validity of the Quebec Act, 38 Vict., c. 64. The matter was finally carried up to the privy council, which decided: That the Act (22 Vict., c. 66) of the province of Canada, which created a corporation having its corporate existence and rights in the provinces of Ontario and Quebec, afterwards created by the B. N. A. Act, could not, after the coming into force of that act, be repealed or modified by the legislature of either of these provinces, or by the conjoint operation of both provincial legislatures, but only by the parliament of the dominion. That the Quebec Act of 1875 (48 Vict., c. 64), which assumed to repeal and amend the act of the late province of Canada,

[1] This church was entitled to share in the proceeds of the clergy reserves funds by virtue of certain imperial statutes. See *supra*, p. 41.

was invalid, inasmuch as its professed object and the effect of its provisions was to destroy, in the first place, a corporation which had been created by the legislature of Canada before the union of 1867, and to substitute a new corporation; and, in the second place, to alter materially the class of persons interested in the corporate funds, and not merely to impose conditions upon the transaction of business by the corporation within the province.[1]

The result of this judgment was the passage of an act by the parliament of Canada in 1882, to amend the act of the late province of Canada (22 Vict., c. 66), with respect to the "management of the temporalities' fund of the Presbyterian Church of Canada, in connection with the Church of Scotland," and the acts amending the same.[2]

In 1874, the legislature of Ontario passed an act intituled, "an act to amend and consolidate the law for the sale of fermented or spirituous liquors."[3] The provisions of this act required that no person should "sell by wholesale or retail any spirituous, fermented, or other manufactured liquors within the province of Ontario, without having first obtained a license under this act, authorising him to do so." The question was brought before the courts whether the legislature of Ontario had

---

[1] 7 App. Cas. 136: Cartwright, 351; Dobie *v.* the Temporalities Board. Appeal on special leave from a judgment of the court of queen's bench (3 L. N., 244), affirming a judgment of the superior court of the district of Montreal (3 L. N., 244); Doutre, 247-265.

[2] 45 Vict., c. 124. Also, cc. 123 and 125.

[3] 37 Vict., c. 32; Ont. Rev. Stat. (1877), c. 181, ss. 39, 40, 41.

the power to pass the statute, under which certain penalties were to be recovered, or to require brewers to take out any license whatever for selling fermented or malt liquors by wholesale. The matter came finally, on appeal, before the supreme court of Canada, which decided substantially as follows:

That it is not within the competency of a provincial legislature to require brewers to take out a license for the sale of fermented or malt liquors by wholesale; that the power to tax and regulate the trade of a brewer, being a matter of excise, the raising of money by "taxation," as well as for the restraint and "regulation of trade and commerce," is comprised within the class of subjects reserved by the ninety-first section of the British North America Act, to the exclusive legislative authority of the parliament of the dominion; and that such a license, imposed by a provincial statute, is a restraint and regulation of trade, and not an exercise of municipal or police power. That, under the 92nd section of the imperial Act, local legislatures are empowered to deal exclusively with such licenses only as are of a local or municipal description. That the taxing power of a provincial legislature is confined to direct taxation,[1] in order to raise a provincial revenue; and to the grant of licenses to shops, saloons, taverns, auctioneers, and "other licenses," for purely municipal and local objects, for the purpose likewise of raising a revenue for provincial, local, or municipal objects. That at the same time

[1] So affirmed by the judicial committee of the privy council, Attorney-General of Quebec *vs.* The Queen Insurance Co., Law Rep., 3 App., Cas. 1090.

this taxing power of the local government must not be exercised so as to encroach upon, or to conflict with, the taxation in aid of dominion revenue, which is authorized to be exclusively imposed by the federal parliament.[1]

By s. 2 of the Fisheries Act of 1868,[2] the minister of marine and fisheries "may, where the exclusive right of fishing does not already exist by law, issue, or authorize to be issued, fishery leases and licenses for fisheries and fishing wheresoever situated, or carried on, etc." In 1874, the minister executed a lease of fishery of a certain portion of a river in New Brunswick, which was some forty or fifty miles above the ebb and flow of the tide, though the stream for the greater part of that particular portion is navigable for canoes, small boats and timber. Certain persons in New Brunswick, however, claimed the exclusive right of fishing in this part of the river, on the ground that they had received conveyances thereof, and prevented the lessee of the dominion government from enjoying the fishery under his lease. The supreme court of Canada was at last called upon to decide whether an exclusive right of fishing existed in the parties who had received the conveyances. In other words, the court was practically asked to decide the question: Can the dominion parliament authorize the minister of marine and fisheries to issue licenses to parties to fish in rivers such as that described, where the provincial government has before or after confederation

---

[1] Can. Sup. Court R., vol. ii., 70-142, Severn *vs.* The Queen. On appeal from a judgment of the court of queen's bench for Ontario.

[2] 31 Vict., c. 60.

granted lands that are bounded on, or that extend across such rivers? The court decided: That the license granted by the minister of marine and fisheries was void, because the act in question only authorizes the granting of leases "where the exclusive right of fishing does not already exist by law," and in this case the exclusive right belonged to the owners of the land through which that portion of the river flows. That the legislation in regard to "inland and sea fisheries" contemplated by the B. N. A. Act is not with reference to property and civil rights—that is to say, not as to the ownership of the beds of rivers or of the fisheries, or the rights of individuals therein, but to subjects affecting the fisheries generally, tending to their regulation, protection and preservation, matters of a national and general concern; in other words, all such general laws as enure as well to the benefit of the owners of the fisheries as to the public at large. That the parliament of the dominion may properly exercise a general power for the protection and regulation of the fisheries, and may authorize the granting of licenses, where the property, and therefore the right of fishing thereupon, belong to the dominion, or where such rights do not already exist by law; but it may not interfere with existing exclusive rights of fishing, whether provincial or private. That consequently any lease granted by a dominion minister to fish in freshwater non-tidal rivers, which are not the property of the dominion, or in which the soil is not in the dominion, is illegal; that where the exclusive right to fish has been acquired as incident to a grant of land through which such river flows, the Canadian parliament has no power to grant a right to fish. That the

ungranted lands in a province being in the Crown for the benefit of the people, the exclusive right to fish follows as an incident, and is in the Crown as trustee for the benefit of the people of the province, and therefore a license by the minister of marine and fisheries would be illegal.[1]

---

[1] Can. Sup. Court R., vol. vi, pp. 52-143. The Queen *vs.* Robertson. On appeal from the exchequer court (Gwynne J.), which held *inter alia* that the exclusive right of fishing existed in the persons having the conveyances. The supreme court of New Brunswick had also decided adversely to the exclusive right of the lessee of the dominion government to fish under his lease. 2 Pug. and Bur., 580.

## CHAPTER XIII.

### JUDICIAL DECISIONS ON QUESTIONS OF JURISDICTION CONTINUED.—BOUNDARY AWARD.

In 1878, the parliament of the dominion passed an act cited as the "Canada Temperance Act, 1878." The preamble sets forth "that it is very desirable to promote temperance in the dominion, and that there should be uniform legislation in all the provinces regarding the traffic in intoxicating liquors." The act is divided into three parts, the first of which relates to "proceedings for bringing the second part of this act into force;" the second to "prohibition of traffic in intoxicating liquors;" and the third to "penalties and prosecutions for offences against the second part." The effect of the act when brought into force in any county or town within the dominion is, describing it generally, to prohibit the sale of intoxicating liquors, except in wholesale quantities, or for certain specified purposes, to regulate the traffic in the excepted cases, and to make sales of liquors, in violation of the prohibitions, and regulations contained in the act, criminal offences punishable by fine, and for the third or subsequent offence, by imprisonment. The

supreme court of New Brunswick in 1879 decided[1] that the Act was *ultra vires*, but the supreme court of Canada subsequently held that it was within the competency of the parliament of Canada, and *inter alia* that under the second sub-section of the 91st section of the B. N. A. Act, "regulation of trade and commerce," parliament alone has the power of regulating the traffic in intoxicating liquors in the dominion or any part of it.[2] The whole matter came finally before the privy council who do not dissent from this opinion, but base their decision on other grounds which render it unnecessary to discuss the question of trade and commerce. Their lordships considered fully the point whether the act falls within any of the three classes of subjects enumerated in section 92 and assigned exclusively to the provincial legislatures, viz.:

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

13. Property and civil rights in the province.

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

Their lordships decided that the act does not fall within any of these classes of subjects, for the following reasons:

The act is not a fiscal law—a law for raising revenue; on the contrary the effect of it may be to destroy or diminish revenue; and consequently could not have been passed by the provincial legislature by virtue of any

---

[1] 3 Pug. and Bur., 139.

[2] Can. Sup. Court R., vol. iii, pp. 505-574.

authority conferred upon it by sub-section 9. And supposing the effect of the act to be prejudicial to the revenue derived by the municipality from licenses, it does not follow that the dominion parliament might not pass it by virtue of its general authority "to make laws for the peace, order and good government of Canada." The act does not properly belong to the class of subjects, "property and civil rights." It has in its legal aspect an obvious and close similarity to laws which place restrictions on the sale or custody of poisonous drugs, or of dangerously explosive substances. The primary matter dealt with is the public order and safety. Upon the same considerations the act cannot be regarded as legislation in relation to civil rights. In however large a sense these words are used, it could not have been intended to prevent the parliament of Canada from declaring and enacting certain uses of property and certain acts in relation to property, to be criminal and wrongful. Laws designed for the promotion of public order, safety or morals, and which subject those who contravene them to criminal procedure and punishment, belong to the subject of public wrongs rather than to that of civil rights. They are of a nature which fall within the general authority of parliament, to make laws for the order and good government of Canada, and have direct relation to criminal law, which is one of the enumerated classes of subjects assigned exclusively to the parliament of Canada. Few, if any, laws could be made by the parliament for the peace, order and good government of Canada which did not in some incidental way affect property and civil rights; and it would not have been intended, when assuring to the provinces

exclusive legislative authority on the subject of property and civil rights, to exclude the parliament from the exercise of this general power whenever any such incidental interference would result from it. Their lordships cannot concur in the view that the act "which in effect authorizes the inhabitants of each town or parish to regulate the sale of liquor, and to direct for whom, for what purposes and under what conditions spirituous liquors may be sold therein, deals with matters of a merely local nature."[1] On the contrary, the declared object of parliament in passing the act is that there should be uniform legislation in all the provinces respecting the traffic in intoxicating liquors, with a view to promote temperance in the dominion. The act as soon as it was passed became a law for the whole dominion, and the enactments of the first part relating to the machinery for bringing the second part into force, took effect and might be put into motion at once and everywhere within it. The conditional application of certain parts of the act does not convert the act itself into legislation affecting a purely local matter. The legislation in question is clearly meant to apply a remedy to an evil which is assumed to exist throughout the dominion, and the local option, as it is called, no more localizes the subject and scope of the act than a provision in an act for the prevention of contagious diseases in cattle that a public officer should proclaim in what districts it should come into effect, would make the statute itself a mere local law for each of these districts. In statutes of this kind the legislation is general, and the

[1] Allen C. J., 3 Pug. and Bur., 139.

provision for the special application of it to particular places does not alter its character.[1]

The immediate effect of this important judgment on the Temperance Act was the passage by the parliament of Canada, in the session of 1883, of "an act respecting the sale of intoxicating liquors and the issue of licenses therefor." The preamble of the act sets forth as the grounds for legislation that "it is desirable to regulate the traffic in the sale of intoxicating liquors; that there should be a uniform law regulating the same throughout the dominion; that provision should be made for the better preservation of peace and order." The act provides for the issue of licenses to hotels, saloons, shops, vessels, and wholesale dealers, and exacts only such fees as are necessary to the execution of the act.[2]

Subsequent to the passage of this Act, the judicial committee of the privy council rendered a judgment which has a very important bearing on the question of jurisdiction in the matter of the regulation of liquor traffic in a province, and consequently on the constitutionality of the measure just mentioned. The fourth

---

[1] Judgment of the lords of the judicial committee of the privy council on the appeal of Charles Russell *vs.* The Queen, on the information of Woodward, from the supreme court of New Brunswick, delivered 23rd June, 1882. 7 App. Cas., 829.

[2] 46 Vict., c. 30; (see reference to subject in his Excellency's speech, Jour., p. 14.) But strong objections were taken in the House of Commons to the act on the ground (as set forth in a resolution) that "the parliament of Canada should not assume jurisdiction, as proposed by the said bill, until the question of jurisdiction has been settled by the court of last resort." Can. Com. J., May 22. See Can. Hans., May 16, 21 and 22.

and fifth sections of the Liquor License Act[1] of Ontario, which has come under the review of the privy council on the appeal of Hodge *v.* the Queen from the court of appeal of the province, authorizes the appointment of license commissioners to act in each municipality, and empowers them to pass resolutions for defining the conditions and qualifications requisite to obtain tavern or shop licenses for sale by retail of spirituous liquors within the municipality; for limiting the number of licenses; for declaring that a limited number of persons qualified to have tavern licenses may be exempted from having all the tavern accommodation required by law; for regulating licensed taverns and shops; for defining the duties and powers of license inspectors. These commissioners may also impose penalties for an infraction of their resolutions. The sale of intoxicating liquors is also prohibited in the act, under penalties, from Saturday evening, 7 o'clock, to Monday morning, 6 o'clock.

By virtue of this act, the license commissioners of Toronto passed certain resolutions for the regulation of taverns and shops in that city. Subsequently, Mr. Hodge, a proprietor of an hotel, who was duly licensed to sell liquor, and to keep a billiard saloon, was convicted and fined before the police magistrate of Toronto, for unlawfully permitting a billiard table to be used, and a game to be played thereon, during the time prohibited by the act, and by the resolution of the commissioners; that is, after 7 o'clock on Saturday night. The conviction was quashed by the court of queen's bench as illegal. Assuming the right of the legislature of Ontario to legislate

[1] R. S. O. [1877] c. 181.

on the subject, the court held that it could not devolve or delegate its powers to the discretion of a local board of commissioners. The case was then taken to the court of appeal for Ontario, which reversed the decision of the queen's bench and affirmed the conviction. The court decided substantially that the provincial legislature, and it alone, had the power to pass laws for the infliction of penalties or imprisonment for the enforcement of a law of a province in relation to a matter coming within a class of subjects with which alone the province had the right to deal;[1] and that the legislature had power to delegate its authority as it had done in the matter in question.

On the question at issue coming before the judicial committee of the privy council, their lordships were of opinion that the decision of the court of appeal of Ontario should be affirmed, and the appeal dismissed with costs. In their elaborate judgment, they state at the outset that they do not consider it necessary in the present case to lay down any general rule or rules for the construction of the British North America Act. They are impressed with the justice of an observation made by Chief Justice Hagarty in delivering the unanimous judgment of the court of queen's bench, "that in all these questions of *ultra vires*, it is the wisest course not to widen the discussion by considerations not necessarily involved in the decision of the point in controversy."[2] They then proceed to notice the argument of the appellants that the

[1] See sub-s. 15, s. 92, B. N. A. Act, 1867.

[2] Their lordships also referred to what they had previously recommended in determining such cases; see *infra*, p. 163.

legislature of Ontario had no power to pass any act to regulate the liquor traffic; that the whole power to pass such an act was conferred on the dominion parliament, and consequently taken from the provincial legislature by section 91 of the British North America Act; and that it did not come within any of the classes of subjects assigned exclusively to the provincial legislatures by section 92. The clause in section 91 which the Liquor License Act, 1877, was said to infringe was No. 2, "the regulation of trade and commerce;" and it was urged that the decision of their lordships in Russell *v.* the Queen was conclusive—"that the whole subject of the liquor traffic was given to the dominion parliament, and consequently taken away from the provincial legislatures." It appears, however, to their lordships that the decision mentioned "has not the effect supposed, and that, when properly considered, it should be taken rather as an authority in support of the judgment of the court of appeal." The sole question there was, "whether it was competent for the dominion parliament, under its general powers, to make laws for the peace, order, and good government of the dominion, to pass the Canada Temperance Act, 1878, which was intended to be applicable to the several provinces of the dominion, or to such parts of the provinces as should locally adopt it." They then proceed to quote portions of the previous judgment in Russell and the Queen to show that the matter of the act in question does not properly belong to the class of subjects, "property and civil rights," within the meaning of sub-section 13, but is rather one of those matters relating to public order and safety, which fall within the general authority of parliament to make laws for the order

and good government of Canada.[1] It, therefore, appears to their lordships that Russell *v.* the Queen, when properly understood, is not an authority in support of the appellant's contention, and their lordships do not intend to vary or depart from the reasons expressed for their judgment in that case. The principle which that case and the case of the Citizens' Insurance Company illustrate is, that subjects which in one aspect and for one purpose fall within section 93, may in another aspect and for another purpose fall within section 91."[2]

In considering the subject-matter and legislative character of sections four and five of the License Act of Ontario (as given in a previous page) their lordships point out that the act "is so far confined in its operations to municipalities in the province of Ontario, and is entirely local in its character and operation." The matters dealt with in the sections mentioned "seem to be of a purely local nature in the province, and to be similar to, though not identical in all respects with, the powers then belonging to municipal institutions under the previously existing laws passed by the local parliaments." Their lord-

[1] *Supra*, pp. 135–139.

[2] In the case of the corporation of Three Rivers and Sulte, the court of queen's bench of Quebec has given a decision, holding precisely in principle what the privy council has held in the Hodge case. See Mr. Justice Ramsay's judgment, 5 Legal News, 330. Also Poulin and the corporation of Quebec, 72 L.R., 387; 5 Legal News, 334; 6 *Ib.* 209, 214. In the first mentioned case the supreme court of Canada (Rep. vol. xi. p. 25,) sustained the decision of the court of queen's bench of Quebec, and declared the Quebec License Act (41 Vict., c. 33) *intra vires* of the legislature of that province. The case of Hodge v. the Queen was considered by the court to cover the constitutional ground.

ships consequently decide: "The powers intended to be conferred by the act in question, when properly understood, are to make regulations in the nature of police or municipal regulations of a merely local character for the good government of taverns, etc., licensed for the sale of liquors by retail, and such as are calculated to preserve, in the municipality, peace and public decency, and repress drunkenness and disorderly and riotous conduct. As such they cannot be said to interfere with the general regulation of trade and commerce which belongs to the dominion parliament, and do not conflict with the provisions of the Canada Temperance Act, which does not appear to have as yet been locally adopted. The subjects of legislation in the Ontario Act of 1877, sections 4 and 5, seem to come within the heads 8, 15, and 16 [1] of section 92 of the British North America Act, 1867. Their lordships are, therefore, of opinion that in relation to sections 4 and 5 of the act in question, the legislature of Ontario acted within the powers conferred upon it by the Imperial Act of 1867, and that in this respect there is no conflict with the powers of the dominion parliament."

We have cited, in the foregoing paragraph, the most material part of the decision; [2] but their lordships went further and considered the objection raised by the appellant — that the imperial parliament had conferred no

---

[1] 8. "Municipal institutions in the province." 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."

[2] For text of judgment, see Legal News, January 19, 1884.

authority on the local legislature to delegate its powers to the license commissioners or any other persons. In other words, that the power conferred by the imperial parliament on the local legislature should be exercised in full by that body, and by it alone. This objection, in their opinion, is founded on an entire misconception of the true character and position of the provincial legislatures, "which are in no sense delegates of, or acting under any mandate from, the imperial parliament." Their lordships say emphatically that when the British North America Act enacted that there should be a legislature for Ontario, and that its legislative assembly should have exclusive authority to make laws for the provinces and for provincial purposes in relation to the matters enumerated in section 92, "it conferred powers not in any sense to be exercised by delegation from, or as agents of the imperial parliament, but authority as plenary and as ample within the limits prescribed by section 92, as the imperial parliament, in the plenitude of its power, possessed and could bestow." Within these limits of subjects and area, "the local legislature is supreme, and has the same authority as the imperial parliament, or the parliament of Canada would have had under like circumstances to confide to a municipal institution or a body of its own creation, authority to make by-laws or resolutions as to subjects specified in the enactment, and with the view of carrying the enactment into operation and effect." In their opinion such an authority is ancillary to legislation, and without it an attempt to provide for varying details and machinery to carry them out might become oppressive, or absolutely fail. A legislature, in committing certain regulations to agents or dele-

gates like license commissioners, retains its powers intact, and can, whenever it pleases, destroy the agency it has created, and set up another, or take the matter directly into its own hands.

The result of this very important judgment was the passage by the dominion parliament of an act which referred the question of the constitutionality of the Liquor License Act of 1883 to the supreme court of Canada.[1] A special case containing the following questions was accordingly referred by the governor-general in council to the court:

'1 Are the following acts in whole or in part within the legislative authority of the parliament of Canada, namely:

(1) "The Liquor License Act, 1883.

(2) "An Act to amend 'The Liquor License Act, 1883?'

"2. If the court is of opinion that a part or parts only of said acts are within the legislative authority of the parliament of Canada, what part or parts of said acts are so within such legislative authority?"

The court[2] certified to the governor-general in council that, in their opinion, the acts referred to them "are, and each of them is, *ultra vires* of the legislative authority of the parliament of Canada, except in so far as the said Acts respectively purport to legislate respecting those licenses mentioned in section seven of the said

[1] 47 Vict., c. 32, s. 26.

[2] See 48-49 Vict., c. 74, the schedule of which contains order of reference to, and the judgment of, the supreme court. Mr. Justice Henry was of opinion that "the said acts are *ultra vires* in whole."

"The Liquor License Act, 1883," which are there denominated vessel licenses and wholesale licenses, and except also in so far as the acts respectively relate to the carrying into effect of the provisions of the Canada Temperance Act, 1878." The result of this decision was the suspension of the portions of the acts declared to be *ultra vires*. Subsequently the matter came before the judicial committee of the privy council, who maintained the right of the provincial legislatures to deal with the subject of licenses for the sale of liquors.[1]

Among the matters that have come before the supreme court of Canada and the judicial committee of the privy council is the question, whether the government of Canada or the government of a province is entitled to estates escheated to the Crown for want of heirs. The controversy on this question first arose in 1874, when the legislature of Ontario passed an act[2] to amend the law respecting escheats and forfeitures. This act was disallowed by the governor-general in council, on the report[3] of the minister of justice (Mr. Fournier, now one of the judges of the supreme court) on the following grounds:

1. "That escheat is a matter of prerogative which is not by the British North America Act vested in a provincial government or legislature.

2. That it is not one of the subjects coming within the enumeration of the subjects left exclusively to the provincial legislatures.

---

[1] 8 Legal News, 17, 26, 379, 409.

[2] 27 Vict., c. 8, Ont. Stat. of 1874.

[3] Can. Sess. P., 1882, No. 141.

3. That a provincial legislature, by its very statutable position, has no power to deal with prerogatives of the Crown.

4. That the lieutenant-governor has not under the statute, or by his commission, any power to deal with the prerogatives of the Crown; and not being empowered to assent in the Queen's name to any law of a provincial legislature, he cannot bind her Majesty's prerogative rights."

Subsequently in 1876, by a decision of the court of queen's bench, of the province of Quebec, upon an appeal from a lower court, the right of the province to the control of escheats and forfeitures, within the province, was affirmed. Whereupon it was agreed between the dominion and provincial governments that—until or unless there should be a judicial decision establishing a contrary principle—"lands and personal property in any province, escheated or forfeited by reason of intestacy, without lawful heirs or next of kin, or other parties entitled to succeed, are subjects appertaining to the province, and within its legislative competency," while, on the other hand, "lands and personal property forfeited to the Crown for treason, felony, or the like, are subjects appertaining to the dominion, and within its legislative competence."[1]

Accordingly the legislature of Ontario again passed an act,[2] which enables the attorney-general to take possession of escheated lands or cause an action of ejectment

---

[1] Can. Sess. P., 1877, No. 89, pp. 88-105.

[2] R. S. O. (1877), c. 94 (40 Vict., c. 3). The legislature of New Brunswick passed a law to the same effect in 1877, c. 9.

to be brought for the recovery thereof without any inquisition being first necessary. The lieutenant-governor may make grants of escheated or forfeited lands, or may release forfeited property, or waive the forfeiture. He may also make an assignment of personality to which the Crown has become entitled.

The question of the validity of this statute was brought before the courts in 1878, when the attorney-general of Ontario filed an information in the court of chancery for the purpose of obtaining possession of land in the city of Toronto, which was the property of one Andrew Mercer, who had died intestate and without leaving any heirs or next of kin, on the ground that it had escheated to the Crown for the benefit of the province. Andrew Mercer, a natural son of the deceased, demurred to this information for want of equity, and the court of chancery held that the Escheat Act of Ontario[3] was not *ultra vires*, but that the escheated property accrued to the benefit of Ontario. On appeal to the court of appeal for Ontario, that court held that the provincial governments are entitled, under the B. N. A. Act, to recover and appropriate escheats, and affirmed the order over-ruling the said demurrer, and dismissed the appeal with costs. Against this judgment the defendant, Andrew Mercer, appealed to the supreme court, and the parties agreed that the appeal should be limited to the broad question whether the government of Canada or of a province is entitled to estates escheated to the Crown. The dominion government, concurring in the view of the appellant's counsel, that the hereditary revenues of the Crown belong

[1] R. S. O. [1877,] c. 94.

to the dominion, intervened in order to have the question determined.

The supreme court held that the province of Ontario does not represent her Majesty in matters of escheat in that province, and therefore the attorney general could not appropriate the property escheated to the Crown in this case for the purposes of the province, and that the Escheat Act of Ontario was *ultra vires*.[1] That any revenue derived from escheats is by section 102 of the B. N. A. Act placed under the control of the parliament of Canada as part of the consolidated revenue fund of Canada, and no other part of the act exempts it from that disposition.[2]

The case was brought finally before the privy council,[3] who came to the conclusion that the escheat in question belongs to the province of Ontario. Their lordships base their decision mainly on their interpretation of section 109, which is the only clause in the B. N. A. Act by which any sources of revenue appear to be distinctly reserved to the provinces, viz.:

"All lands, mines, minerals, and royalties, belonging to the several provinces of Canada, Nova Scotia, and New Brunswick, at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several provinces of Ontario, Quebec, Nova Scotia, and New Brunswick, in which the same are situate or arise, subject to any trusts existing in res-

---

[1] 5 Can. Sup. Court R. 538. The chief justice and another judge of the court dissented from the opinion of the majority.

[2] Per Fournier, Taschereau, and Gwynne, JJ.

[3] The attorney-general of Ontario *v.* Mercer; July 18, 1883.

pect thereof, and to any interest other than that of the province in the same."

The real question, in their lordships' opinion, is as to the effect of the words "lands, mines, minerals, and royalties" taken together. They see no reason why the word "royalties" in the context should not have its primary and appropriate sense as to all the subjects with which it is here associated,—lands, as well as mines and minerals. Even as to mines and minerals, it here necessarily signifies rights belonging to the crown, *jura coronæ*. The general subject of the section is of a high political nature; it is the attribution of royal territorial rights, for the purposes of revenue and government, to the provinces in which they are situate or arise. In its primary and natural sense, "royalties" is merely the English translation or equivalent of *regalitates, jura regalia, jura regia*. It stands on the same footing as the right to escheats, to the land between high and low watermark, to treasure trove, and other analogous rights. Their lordships find nothing in the subject or the context, or in any other part of the act, to justify a restriction of its sense to the exclusion of royalties, such as escheats, in respect of lands. The larger interpretation (which they regard as in itself the more proper and natural) also seems to be that most consistent with the nature and general objects of this particular enactment, which certainly includes all other ordinary territorial revenues of the crown arising within the respective provinces.[1]

An important question came before the supreme court of Canada in 1887, on an appeal of the Ontario court of

[1] See 6 Legal News, 234, 244. Also Can. Sess. P., 1884, No. 117, for papers respecting escheated lands.

appeal, affirming a judgment of the chancery division, which restrained the St. Catharines Milling & Lumber Co. from cutting timber on lands south of Wabigoon Lake in Algoma, claimed to be public lands of the province.[1] Though the question at issue is not yet definitely decided, yet it is expedient to call attention to the main points involved, inasmuch as all the courts in Canada to which it has been referred have come to the same conclusion. The lands in question formed a portion of the territory declared, under the Boundary Award,[2] to be within the territorial limits of Ontario. In 1873 they were surrendered by the Indians to the government of Canada by the North-West Angle Treaty No. 3. In the answer of the defendants it was pleaded that the lands and timber thereon were, with other lands and timber in the district, until quite recently claimed by the Indians who inhabited that part of the dominion of Canada. That the claims of such Indians have always been acknowledged by the various governments of Canada, and that such claims are, as respects the lands in question, paramount to the claim of the Crown as represented by the government of Ontario. That the government of Canada have acquired the Indian title to these lands in consideration of a large expenditure of money for the benefit of these Indians, and have for that

[1] Sup. Court R., vol. 13, pp. 577-677. The St. Catharine's Milling & Lumber Co. (appellants), and the Queen, on the information of the attorney-general for the province of Ontario (respondent), on appeal from the court of appeal for Ontario. The matter has been appealed to the judicial committee of the privy council.

[2] See *infra*, pp. 156–158, for a brief account of this award.

reason and by virtue of the inherent right of the Crown as represented by the government of Canada, alone the right to grant licenses to cut timber on the tract in dispute. The majority of the court[1] decided that the boundary of the territory in the north-west angle being established, and the lands in question being found within the province of Ontario, they necessarily form part of the public domain of that section, and are public lands belonging to the same by virtue of sub-sec. 5 of sec. 92, and sec. 109 of the B. N. A. Act, as to lands, mines, minerals and royalties, and of sec. 117, by which the provinces are to retain all their property not otherwise disposed of by that act, subject to the right of the dominion to assume any lands or public property required for fortifications or for the defence of the country.[2] Only those lands specifically set apart and reserved for the use of the Indians are "lands reserved for Indians" within the meaning of sec. 91, item 24, of the B.N.A. Act. In the course of their opinions, the majority of the judges dwelt on certain points interesting to the historical as well as legal student. They laid it down that "on the discovery of the American continent, the principle was asserted or acknowledged by all European nations that discovery followed by active possession gave title to the soil to the government

[1] Ritchie C.J., Taschereau and Henry JJ.; Strong and Gwynne JJ., dissenting. The most elaborate opinion in the whole question is by Boyd C., in the Chancery division of the high court of justice for Ontario (10 O.R., 196). The opinions of Strong and Gwynne JJ., on the other side, merit a careful study.

[2] See app. A. to this work for full text of these sections.

by whose subjects, or by whose authority, it was made, not only against other European governments, but against the natives themselves. While the different nations of Europe respected the rights[1] of the natives as occupants, they all asserted the ultimate dominion and title to the soil to be in themselves."[2] That such was the case with the French Government in Canada, during its occupancy thereof, is an incontrovertible fact. The king was vested with the ownership of all the ungranted lands in the colony as part of the crown domain, and a royal grant conveyed the full estate and entitled the grantee to possession.[3] When by the treaty of 1763, France ceded to Great Britain all her rights of sovereignty, property and possession over Canada, it is unquestionable that the full title of the territory ceded become vested in the new sovereign, and that he thereafter owned it in allodium as part of the crown domain, in as full and ample a manner as the king of France had previously owned it. At no time had the sovereign of Great Britain ever divested himself of the ownership of the public lands to vest it in the Indians. For obvious political reasons and motives of humanity and benevolence, it has, no doubt, been the general policy of the crown, as it had been at the times of the French authorities, to respect the claims of the Indians. But this, though it unquestionably gives them a title to the favourable consideration of the government, does not give

[1] Judge Taschereau very properly thinks "claims" the proper word here.

[2] Sup. Court of Louisiana, cited by Taschereau J., s. 4, La. An. 141.

[3] Taschereau, J., 644.

them any title in law—any title that a court of justice can recognize as against the crown. The Indians must in the future, every one concedes it, be treated with the same consideration for their just claims and demands that they have received in the past, but it will not be because of any legal obligation to do so, but as a sacred political obligation in the execution of which the State must be free from judicial control.[1]

In 1882 the Quebec legislature passed a statute[2] "to impose certain direct taxes" on banks, insurance companies, and every incorporated company carrying on any labour, trade or business in the province. Payment was resisted of the taxes thereby imposed, and the queen's bench reversed a decision of the superior court that the Quebec legislature had no power to pass the statute, on the grounds that the tax is a direct one and that it is also a matter of a local or private nature in the province, and so falls within the jurisdiction of the provincial legislature. The case was carried before the judicial committee of the privy council, who affirmed the judgment of the queen's bench that the tax in question was direct taxation within class two of section ninety-two of the federation act. They also laid it down that a corporation doing business in the province is subject to taxation under section ninety-two, sub-section two, though all the shareholders are domiciled or resident out of the province.[3]

---

[1] Taschereau J., 648, 649. See also opinion of Henry J., 630.

[2] 45 Vict. (Q), c. 22.

[3] 10 Leg. News, 259-264.—Their lordships add: "There is nothing in the previous decisions on the question of direct taxation which is adverse to this view. In the case of the Queen

Reference has been made, in connection with the case just cited, to the dispute between the governments of Ontario and Canada as to the boundary of the province on the north and west. This question has given rise to a vast amount of legal and political literature since the acquisition of the North-West Territories, and it is necessary here to state briefly its present position. In 1878 three arbitrators were chosen on behalf of the Dominion and Ontario governments to come to a settlement of the question.[1] They arrived subsequently at a unanimous decision, but while the Ontario government accepted the the award as satisfactory, the Dominion government took no steps whatever in the matter. The subject remained in abeyance until 1884 when a case was arranged for reference to the judicial committee of the privy council, but before the case was argued, the do-

---

Insurance Company [3 App. Ca. 1090, *supra*, p. 127], the disputed tax was imposed under cover of a license to be taken out by insurers. But nothing was to be paid directly on the license, nor was any penalty imposed upon failure to take one. The price of the license was to be a percentage on the premiums received for insurances, each of which was to be stamped accordingly. Such a tax would fall within any definition of indirect taxation, and the form given to it was apparently with the view of bringing it under class nine of section ninety-two, which relates to licenses. In Reed's case (10 App. Ca. 141) the tax was a stamp duty on exhibits produced in courts of law, which in a great many, perhaps in most, instances would certainly not be paid by the person first chargeable with it."

[1] Ann. Reg. 1878, pp. 187-194. The arbitrator for Ontario was Chief Justice Harrison; for the Dominion, Sir Francis Hincks; Sir Edward Thornton, British Minister at Washington, was the third, chosen by the two conjointly.

minion government withdrew, so that it went before their lordships only as affects the boundary between Ontario and Manitoba. At an early stage of the proceedings, their lordships decided that the award was not binding, inasmuch as no legislation had taken place to give effect to the same, but they found at the same time that "so much of the boundary lines laid down by that award as relates to the territory now in dispute between Ontario and Manitoba to be substantially correct." Accordingly they find "the true boundary between the western part of the province of Ontario and the south-eastern part of the province of Manitoba to be so much of a line drawn to the Lake of the Woods, through the waters eastward of that lake and west of Long Lake, which divide British North America from the territory of the United States, and thence through the Lake of the Woods to the most northwestern point of that lake as runs northward from the United States boundary, and from the most northwestern point of the Lake of the Woods a line drawn due north, until it strikes the middle line of the course of the river discharging the waters of the lake called Lac Seul, or Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg; and their lordships find the true boundary between the same two provinces to the north of Ontario and to the south of Manitoba, proceeding eastward from the point at which the before-mentioned line strikes the middle line of the course of the river last aforesaid to be along the middle line of the course of the same river (whether called by the name of the English River or as to the part below the confluence by the name of the River Winnipeg) up

to Lac Seul, and thence along the middle line of Lac Seul to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves, until it reaches a line drawn due north from the confluence of the Rivers Mississippi and Ohio, which forms the boundary eastward of the province of Manitoba." Their lordships do not express an opinion "as to the sufficiency or otherwise of concurrent legislation of the provinces of Ontario and Manitoba, and of the dominion of Canada, but at the same time think it "desirable and most expedient that an imperial act of parliament should be passed to make this decision binding and effectual."[1] From the foregoing decision it will be seen that it only affects the question between Ontario and Manitoba, and leaves the rest of the boundary to be still finally determined. The Ontario government has taken all the measures necessary to establish their jurisdiction in the territory given to them by the decision in question. The whole matter, however, rests in *statu quo* so far as the Dominion government is concerned. As we have already seen, the question they subsequently raised with respect to the title to the Indian lands in the disputed territory, has been decided by the Canadian courts in favour of Ontario.[2]

[1] L. N. 1884, pp. 281-282. See remarks of Mr. Blake, Can. Hans. 1885, pp. 17, 18; and of Sir J. A. Macdonald, ibid, p. 23. Also, April 13, 1888.

[2] See *supra*, pp. 151–155.

## CHAPTER XIV.

### RULES OF CONSTRUCTION AND CONSTITUTIONAL PRINCIPLES DEDUCED FROM JUDICIAL DECISIONS.

The most important questions which have come before the privy council and the supreme court of Canada, have arisen upon the provisions of the British North America Act, relating to the distribution of legislative powers between the parliament of Canada and the legislatures of the provinces, and in the words of the privy council, "owing to the very general language in which some of these powers are described, the question is one of considerable difficulty." A learned judge of the supreme court observes that "in construing the act, no hard and fast canon or rule of construction can be laid down and adopted, by which all acts passed, as well by the parliament of Canada as by the local legislatures, upon all and every question that may arise, can be effectually tested as to their being or not being *intra vires* of the legislature passing them." The nearest approach to a rule of general application that has been attempted in the courts of Canada, with a view to reconcile the apparently conflicting legislative powers under the act, is

with respect to property and civil rights, over which exclusive legislative authority is given to the local legislatures: that, as there are many matters involving property and civil rights expressly reserved to the dominion parliament, the power of the local legislatures must, to a certain extent, be subject to the general and special legislative powers of the dominion. But while the legislative rights of the local legislatures are, in this sense, subordinate to the rights of the dominion parliament, these latter rights must be exercised, so far as may be, consistently with the rights of the local legislatures, and therefore the dominion parliament would only have the right to interfere with property and civil rights in so far as such interference may be necessary for the purpose of legislating generally and effectually in relation to matters confided to the parliament of Canada.[1] On this same point the privy council appears to take a similar view: It is therefore to be presumed, indeed, it is a necessary implication, that the imperial statute, in assigning to the dominion parliament the subjects of bankruptcy and insolvency, intended to confer on it legislative power to interfere with property, civil rights, and procedure, within the province, so far as a general law relating to those subjects might affect them.[2]

The judicial committee of the privy council have endeavoured to lay down certain principles which should guide those who are called upon to interpret the Union Act. The first step to be taken, with a view to test the

[1] Ritchie, C. J., in The Queen *v.* Robertson, Can. Sup. Court R., vol. vi, pp. 110-11. Also Valin *v.* Langlois, vol. iii, p. 15; The Citizens Insurance Co. *v.* Parsons, vol. iv, p. 242.

[2] Sir M. E. Smith in Cushing *v.* Dupuy, 5 App. Ca. 415.

validity of an act of a provincial legislature is to consider whether the subject-matter falls within any of the classes of subjects enumerated in section ninety-two, which states the legislative powers of the provincial legislatures. If it does not come within any of such classes, the provincial act is of no validity. If it does, these further questions may arise, viz., whether the subject of the act does not also fall within one of the enumerated classes of subjects in section ninety-one, which states the legislative powers of the dominion parliament, and whether the power of the provincial legislature is, or is not, thereby overborne.[1]

The same eminent authority has in another judgment[2] expressed the following opinion:

"That it must have been foreseen that some of the classes of subjects assigned to the provincial legislatures unavoidably ran into, and were embraced by, some of the enumerated classes of subjects in section ninety-one;

---

[1] Dobie *v.* The Temporalities Board of the Presbyterian Church in Canada, 7 App. Cas., 136; Cartwright, 367. In Steadman *v.* Robertson (2 Pug. and Bur., 580) one of the judges of the supreme court of New Brunswick expressed the opinion: "The B. N. A. Act is distributive merely in respect to powers of legislation, exercisable by the dominion parliament and by the local legislatures respectively, and the dominion parliament may not intrench upon property and civil rights which are under the guardianship and subject to the power of the local legislatures, except to the extent that may be required to enable parliament to 'work out' the legislation upon the particular subjects specially delegated to it."

[2] The Citizens & Queen Insurance Co., *v.* Parsons, Rep. 45, L. T. N. S. 721; Cartwright, 272, 273.

hence an endeavour appears to have been made to provide for cases of apparent conflict; and it would seem that with this object it was declared in the second branch of the ninety-first section, 'for greater certainty, but not so as to restrict the generality of the foregoing terms of this section,' that (notwithstanding anything in the act) the exclusive authority of the parliament of Canada should extend to all matters coming within the classes of subjects enumerated in that section. Notwithstanding this endeavour to give preeminence to the dominion parliament in cases of a conflict of powers, it is obvious that in some cases where this apparent conflict exists, the legislature could not have intended that the powers exclusively assigned to the provincial legislature should be absorbed in those given to the dominion parliament. Take as one instance the subject 'marriage and divorce,' contained in the enumeration of subjects in section ninety-one. It is evident that solemnization of marriage would come within this general description; yet 'solemnization of marriage in the province' is enumerated among the classes of subjects in section ninety-two, and no one can doubt, notwithstanding the general language of section ninety-one, that this subject is still within the exclusive authority of the legislatures of the provinces. So 'the raising of money by any mode or system of taxation' is enumerated among the classes of subjects in section ninety-one; but though the description is sufficiently large and general to include 'direct taxation within the province, in order to the raising of a revenue for provincial purposes,' assigned to the provincial legislatures by section ninety-two, it obviously could not have been intended that, in this instance also, the general power

should override the particular one. With regard to certain classes of subjects, therefore, generally described in section ninety-one, legislative power may reside as to some matters, falling within the general description of these subjects, in the legislatures of the provinces. In these cases, it is the duty of the courts, however difficult it may be, to ascertain in what degree, and to what extent, authority to deal with matters falling within these classes of subjects exists in each legislature, and to define, in the particular case before them, the limits of their respective powers. It could not have been the intention that a conflict should exist, and, in order to prevent such a result, the language of the two sections must be read together, and that of one interpreted and, where necessary, modified by that of the other. In this way it may, in most cases, be found possible to arrive at a reasonable and practical construction of the language of the sections, so as to reconcile the respective powers they contain, and give effect to all of them. In performing this difficult duty, it will be a wise course for those on whom it is thrown to decide each case which arises as best they can, without entering more largely upon an interpretation of the statute than is necessary for the decision of the particular question in hand."

In giving a digest of the most important judicial decisions on questions of legislative jurisdiction, the writer has not so far attempted any comment upon the many points that naturally suggest remarks, but has thought it the wisest course in a work of this character to allow the reader to study out each subject for himself and form his own conclusions in matters of doubt. In reviewing these decisions, however, certain constitutional prin-

ciples may be evolved for the guidance of those engaged in the working out of the federal system of the dominion, and to some of these the writer may not inappropriately refer.

The dominion parliament and provincial legislatures are sovereign bodies within their respective constitutional limits. While the dominion parliament has entrusted to it a jurisdiction over matters of national import, and possesses besides a general power to legislate on matters not specifically reserved to the local legislatures, the latter, nevertheless, have had conferred upon them powers as plenary and ample within the limits prescribed by the constitutional law, as are possessed by the general parliament.[1]

In interpreting the constitution, prescribing the limits of the respective legislative authorities in the dominion, every care should be taken to consider each case as it arises, and to determine the true nature and character of the legislation in the particular instance under discussion in order to ascertain the class of subjects to which it really belongs.[2]

In all cases, each legislative body should act within the sphere of its clearly defined powers; and the dominion Parliament should no more extend the limits of its jurisdiction by the generality of the application of its law, than a local legislature should extend its jurisdiction by localising the application of its own statute.[3]

---

[1] *Supra*, p. 145.

[2] *Ib.*, pp. 161-163.

[3] Legal News on Hodge *v.* the Queen, Jan. 26, 1884. "The federal parliament cannot extend its own jurisdiction by a territorial extension of its laws, and legislate on subjects constitu-

The parliament of Canada has a right to interfere with matters of property, civil rights and procedure in a province, when it is necessary for the purpose of legislating generally and effectually in relation to matters which fall properly within the jurisdiction of the general legislature.[1]

The federal parliament must have "a free and unfettered exercise of its powers" with respect to matters placed under its control, even though such exercise may interfere with some of the powers left under provincial control.[2] The exercise of the powers of the local legislatures, in those cases, must necessarily be subject to such regulations as the dominion may lawfully prescribe.[3]

But it is reasonable to assume that the right of the federal parliament to legislate in this particular is limited to such legislation as is absolutely necessary to give full effect to its lawful powers. It cannot be argued from the most strained interpretation of the constitution that the federal legislature should, in the exercise, for instance, of its general power to regulate trade and commerce, or to provide for the peace, order, or good government of Canada, obliterate the jurisdiction of the local legisla-

---

tionally provincial, by enacting them for the whole dominion, as a provincial legislature cannot extend its jurisdiction over matters constitutionally federal, by a territorial limitation of its laws, and legislate on matters left to the federal power, by enacting them for the province only, as, for instance, incorporate a bank for the province," Taschereau J., Can. Sup. Court R., iv, 310.

[1] *Supra*, pp. 126, 137, 160.

[2] Can. Sup. Court R., iv, 308, Taschereau J.

[3] *Ib.* 242, Ritchie C. J.

tures over matters of a purely provincial or municipal character, or assume full control over civil rights and property.[1]

Parliament may, for instance, give powers to a railway company to expropriate and hold lands, as a necessary incident to its right to create such companies;[2] but it cannot lawfully prescribe the terms and conditions on which the conveyance of real estate is to be made to a corporate body, but should leave all laws in each province to operate as to such conveyance.[3] Nor does its authority to legislate for the regulation of trade and commerce comprehend the power to regulate by legislation the contracts of a particular business or trade, as such contracts are matters of civil rights which fall within the jurisdiction of the provincial legislatures.[4]

Parliament itself has, on more than one occasion, recognized the necessity of giving full scope to the powers of the provincial legislatures. For instance, it has refused to embody in an act such clauses as would practically nullify the provisions of a local statute, wholly within the jurisdiction of the local sovereignty, which had, in the first instance, created the corporation.[5]

On the other hand, the local legislatures, whose powers are limited compared with those of the general parliament, must be careful to confine the exercise of these to the particular subjects expressly placed under their jurisdiction, and not to encroach upon subjects which,

---

[1] Can. Sup. Court, iv, 272, Fournier J.
[2] Can. Hans. [1882], 434 (Mr. Blake).
[3] Bourinot's Procedure, 598.
[4] *Supra*, p. 155.
[5] Bourinot's Procedure, 602-604.

being of national importance, are, for that very reason, placed under the exclusive control of parliament.[1]

No conflict of jurisdiction need arise because subjects which, in one aspect and for one purpose, fall within the powers of the dominion legislature, may, in another aspect and for another purpose, fall within the powers of the local legislatures.[2] The general authority, for instance, possessed by the dominion to make laws relating to public order and safety, or regulating trade and commerce, does not prevent the local legislatures from exercising its municipal powers with respect to the same subjects.

Laws designed for the promotion of public order, safety, or morals, belong to the subject of public wrongs rather than to that of civil rights. The primary matter dealt with by such legislation is the public order and safety—a matter clearly falling within the general authority of parliament to make laws for the order and good government of Canada.[3] Consequently a uniform law passed by the general legislature to promote temperance in the dominion, does not conflict with the power possessed by a local legislature to pass an act authorizing the making of such police or municipal regulations of a merely local character as are necessary for the good government of taverns and other places licensed to sell liquor by retail.[4]

Where a power is specially granted to one legislature, that power will not be nullified by the fact that, indi-

---

[1] Can. Sup. Court R., iv, 348, Gwynne J.
[2] *Supra*, p. 143.
[3] *Ib.* p. 137.
[4] *Ib.* pp. 142, 144.

rectly, it affects a special power granted to the other legislature. "This is incontestable," says a learned judge, "as to the power granted to parliament (section 91, last paragraph),[1] and probably is equally so as to the power granted to the local legislature. In other words, it is only in the case of absolute incompatibility that the special power granted to the local legislature gives way."[2] Such a principle seems absolutely necessary to the efficient operation of the federal constitution.

In the inception of the confederation it was believed by its authors that the care taken to define the respective powers of the several legislative bodies in the dominion would prevent any troublesome or dangerous conflict of authority arising between the central and local governments.[3] The experience of the past twenty years has proved that it is inevitable in the case of every written constitution, especially in the operation of a federal system, that there should arise, sooner or later, perplexing questions of doubt as to where power exists with respect to certain matters of legislation. It has been sometimes urged in parliament[4] that committees should be organised in both houses to lay down rules or prin-

[1] "And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the legislatures of the provinces."

[2] Meredith, C, J., cited by Ramsay J., 5 Leg. News, 333.

[3] See remarks of Sir John Macdonald in 1865, Conf. Deb. p. 32.

[4] The Senate rules provide for the reference of bills on which the question of jurisdiction has been raised, to the committee of standing orders and private bills. Bourinot's Parliamentary Practice and Procedure, 605-607.

ciples for legislation, in order to prevent, as far as possible, any conflict of jurisdiction. But it is questionable if political bodies can ever be the safest interpreters of constitutional law. It is in the courts that the solution must be sought for the difficulties that arise in the working of a federal constitution. As long as the courts of Canada continue to be respected as impartial, judicious interpreters of the law, and her statesmen are influenced by a desire to accord to each legislative authority in the dominion its legitimate share in legislation, dangerous complications can hardly arise to prevent the harmonious operation of a constitutional system, whose basis rests on the principle of giving due strength to the central government and at the same time every necessary freedom to the different provinces which compose the confederation.

## CHAPTER XV.

### Position of the Judiciary.

Before closing this review of the constitution of Canada, it is necessary to refer briefly to the position of the judiciary which occupies a peculiarly important status in a country possessing a written constitution which must necessarily require to be interpreted from time to time by accepted authorities[1].

The administration of justice in the provinces, including the constitution, maintenance, and organization of provincial courts, both of civil and criminal jurisdic-

---

[1] The supreme court of the United States is considered in the Federalist, and the history of the American constitution proves the truth of the words, "a bulwark of a limited constitution against legislative encroachments." The meaning of the word "limited" is explained by Alexander Hamilton: "By a limited constitution, I understand one which contains certain specified exceptions to legislative authority, such, for instance, as that it shall pass no bill of attainder, no *ex post facto* law, and the like limitations of this kind can be preserved in practice in no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void; without this, all the reservations of particular rights and privileges would amount to nothing." Federalist, lxxviii.

tion, and including procedure in civil matters in these courts, forms a class of subjects placed by the fundamental law[1] within the exclusive control of the provincial legislatures. In the province of Quebec the French law derived from the *Coutume de Paris*, has come down from the days of the French régime, and prevails in all civil matters and the civil laws of that territorial division, including those of procedure, have been duly codified as the "Civil Code of Lower Canada."[2]

In the other provinces, the sources of law are the common law of England, brought naturally into the country by the English settlers, and the statutory laws passed from time to time by the legislative authorities. The criminal law is generally uniform throughout the dominion, and is under the jurisdiction of the parliament of Canada, except so far as relates to the constitution of the courts.[3] The governor-general in council appoints the judges of the superior, district and county courts in each province, except those of the courts of probate in Nova Scotia and New Brunswick.[4] The judges in Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island continue to be selected from the Bar of

---

[1] B.N.A. Act, 1867, sub-s. 14, s. 92.

[2] See 29 Vic., c. 41, "An Act respecting the Civil Code of Lower Canada. (Third volume of Revised Statutes of Canada, 1887.) Also, Code de Procedure Civile, mis au courant de la legislation, par M. Lorrain, 1886.

[3] B.N.A. Act, 1867, sub-s. 27, s. 91.

[4] Ib. 96, justices of the peace, police and stipendiary magistrates are appointed in each province by the lieutenant-governor in council.

their respective provinces.[1]

The independence of the judiciary has been for very many years recognized in Canada, as one of the fundamental principles necessary to the conservation of public liberty. The judges are not dependent on the mere will of the executive in any essential respect, nor on the caprice of the people of a province for their nomination and retention in office, as in many of the states of the American republic. Their tenure is as assured in Canada as in England, and their salaries are not voted annually, but are charged permanently on the civil list. In case it is necessary to provide a salary, or increase of salary, for a judge, the proper course is for the government to proceed by bill.[2] The judges of the superior courts hold office during good behaviour, and can only be removed by the governor-general on address of the Senate and House of Commons.[3] In impeaching a judge for mis-

[1] "Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the courts in those provinces are made uniform, the judges of the courts of those provinces appointed by the governor-general shall be selected from the respective Bars of those provinces." Ib. s. 97. "The judges of the courts of Quebec shall be selected from the Bar of that province." Ib. s. 98.

[2] See 31 Vict., c. 31. (Rev. Stat. of Can., c. 138). B. N. A. Act, 1867, s. 100.

[3] B. N. A. Act, 1867, s. 99. This section does not apply to county court judges, whose removal for sufficient cause is provided for by 45 Vict., c. 12. It is, however, always competent for the house to address the governor-general for the removal of such judicial officers, and the procedure in parliament should be as in the case of the superior court judges. See case of W. McDermott, asst. barrister of Kerry. 150 E. Hans. (3), 1587, 1588; 90 Lords J., 221, 237, 239, 244, 251, 261. Also Mr. Kenrick's

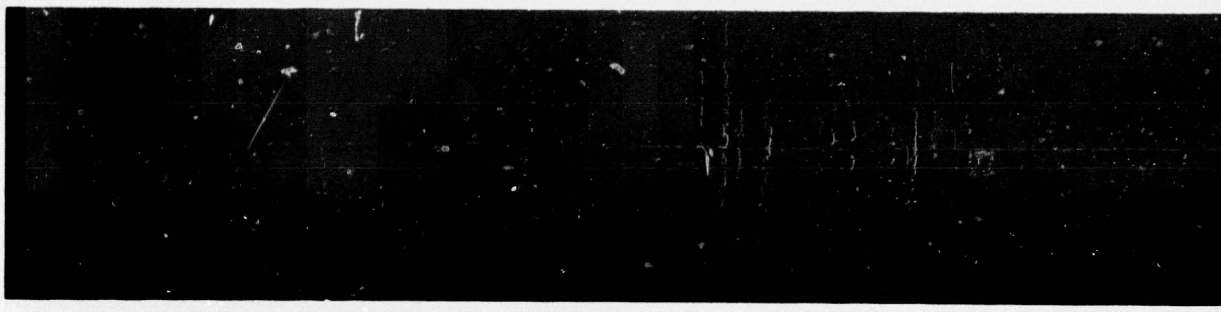
conduct in office, the House of Commons discharges one of the most delicate functions entrusted to it by law. In such a matter it cannot proceed with too great caution and deliberation. Whenever charges of a serious character have been brought against a judge, and responsible persons have declared themselves prepared to support such charges, it has been the practice to appoint a select committee, to whom all the papers can be referred for a thorough investigation. Since 1867 only two committees of this character have been formally appointed, but in neither case did the inquiry result in the removal of the judge whose character was impugned.[1] It is usual to have all the documents in the case printed in the first instance without delay, so that the House and the persons immediately interested may have due cognizance of the nature of the charges against the judge.[2] Witnesses should be examined on oath in all such cases.[3] All the weight of authority in Canada, as in England, goes to show that the House should only entertain charges which, if proved, would justify the removal of the judge from the bench. It will be for the House, and especially

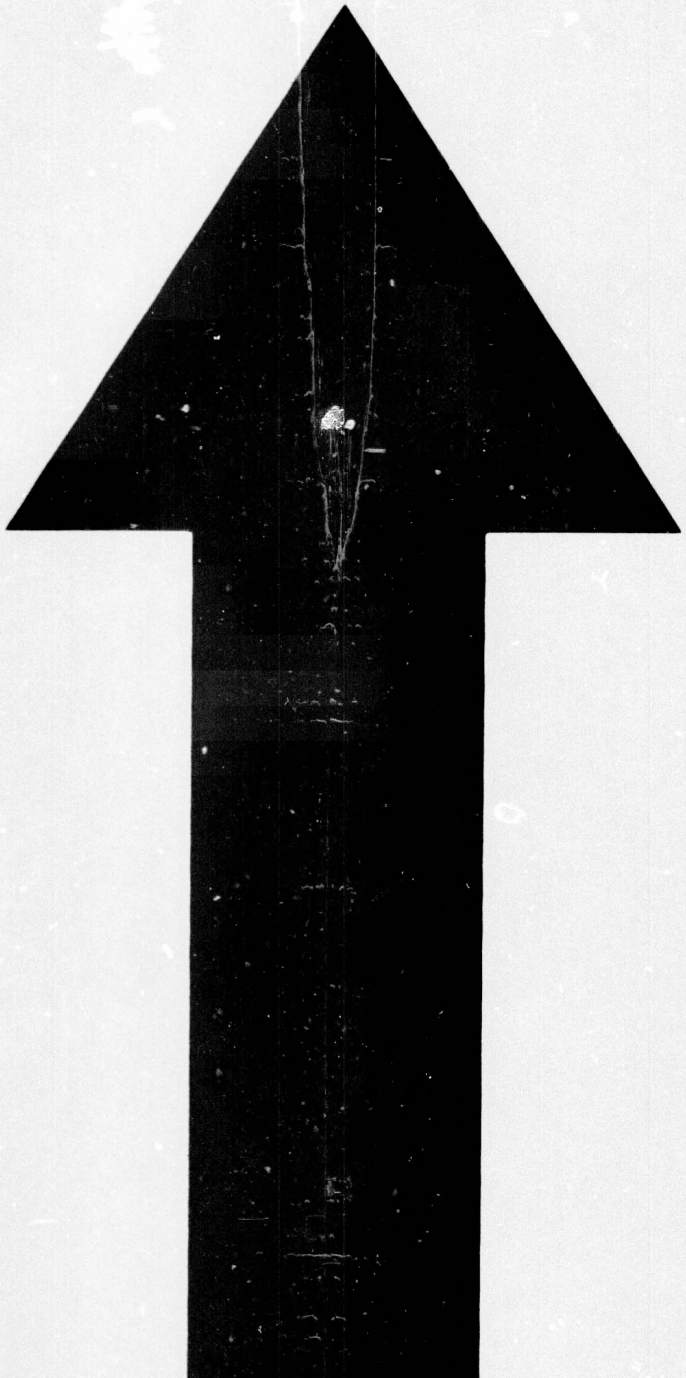
case, 13 Parl. Deb., N. S., 1138, 1425, 1433; 14 *Ib.*, 500, 502, 511, 670-678. Also remarks of Sir J. A. Macdonald and Mr. Blake, April 9, 1883, in the Bothwell case, Can. Hans.

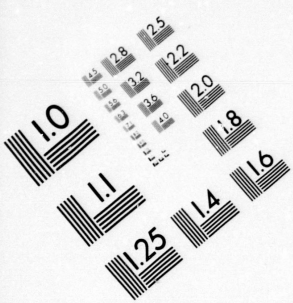
[1] Case of Judge Lafontaine, Can. Com. J. (1867-8), 297, 344, 398; *Ib.* (1869), 135, 247. Of Judge Loranger, *Ib.* (1877), 20, 25, 36, 132, 141, 258. A committee was asked for in 1882 in the case of Chief Justice Wood, of Manitoba, but never appointed.

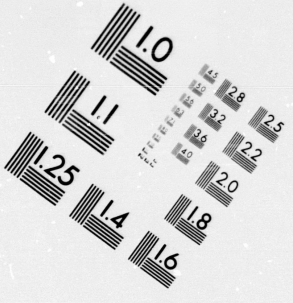
[2] Can. Com. J. (1867-8), 400; *Ib.* (1877), 25, 132; *Ib.* (1882), 192. Todd, Parl. Govt. in England, II. 743.

[3] Can. Com. J. (1877), 36. At the time of the previous case, select committees had no power to administer oaths to witnesses. See Bourinot's Procedure, chap. on select committees.

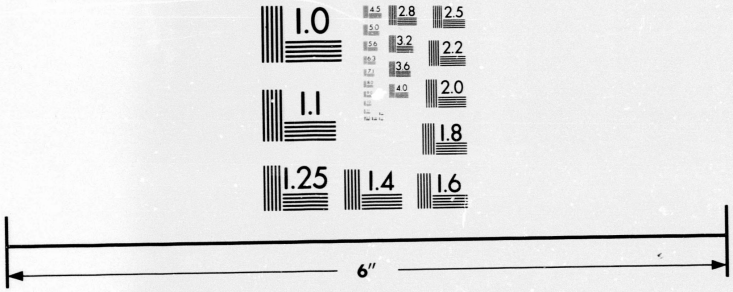


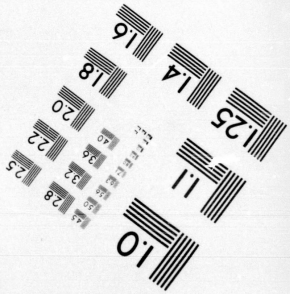


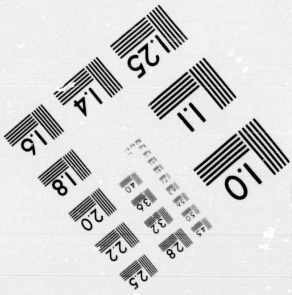



# IMAGE EVALUATION TEST TARGET (MT-3)




Photographic Sciences Corporation

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

for those responsible for the administration of justice, to consider whether the allegations are of such a nature, and supported by such authority, as demand an investigation at their hands.[1] The proper and most convenient course is for the persons who feel called upon to attack the character of a judge to proceed by petition in which all the allegations are specifically stated so that the judge may have full opportunity of answering the indictment thus presented against him.[2] But the action of Parliament may originate in other ways, if the public interests demand it, and there is no objection to a member's formulating charges on his own responsibility as a member of the legislature having a grave duty to discharge.[3] The constitutional usage of the parent state also requires that in any address asking for the removal of a judge "the acts of misconduct which have occasioned the adoption thereof ought to be recapitulated, in order to enable the sovereign to exercise a constitutional discretion in acting upon the advice of parliament. "In cases where this very proper rule has not been followed, the Crown has refused to give effect to the address," though passed by a colony enjoying responsible govern-

[1] See memorable cases of Baron Abinger and Sir Fitzroy Kelly, cited by Todd, II., pp. 739, 740. In 1883 the Canadian house refused a motion to inquire into the conduct of a judge in the discharge of his duties in connection with a matter *sub judice*. See remarks of Sir J. A. Macdonald in Bothwell election case, April 9, Can. Hans.

[2] Sir J. A. Macdonald, April 9, 1883, Can. H[illegible]., Bothwell case. Cases of Judge Fox and Judge Kenrick, cited in Todd, II., 731, 734.

[3] Case of Baron McLeland, 74 E. Com. J., 493; 11 Parl. Deb., 850-854.

ment, because "in dismissing a judge, in compliance with addresses from a local legislature and in conformity with law, the Queen is not performing a mere ministerial act, but adopting a grave responsibility, which her Majesty cannot be advised to incur without satisfactory evidence that the dismissal is proper." [1]

---

We have now briefly reviewed the most important phases in the development of the constitutional system of the dominion of Canada. We have seen how the autocratic, illiberal government of New France, so repressive of all individual energy and ambition, gave place, after the conquest, to representative institutions well calculated to stimulate human endeavour and develop national character. Step by step we have followed the progress of those free institutions which are now in thorough unison with the expansion of the provinces in wealth and population. At last we see all the provinces politically united in a confederation, on the whole carefully conceived and matured; enjoying responsible government in the completest sense, and carrying out at the same time, as far as possible, those British constitutional principles which give the best guarantee for the liberties of a people. With a federal system which combines at once central strength and local freedom of action; with a permanent executive independent of popular caprice and passion; with a judiciary on whose integrity there is no blemish, and in whose learning there is every confidence; with a civil service resting

---

[1] Todd II., 744, 763. Corresp. relative to Judge Boothby, Eng. Com. P., 1862, vol. xxxvii, pp. 180-184.

on the firm basis of freedom from politics and of security of tenure; with a people who respect the law and fully understand the workings of parliamentary institutions, the dominion of Canada need not fear comparison with any other country in those things which make a community truly happy and prosperous.[1]

---

[1] The words of the Marquis of Lorne, in reply to the farewell address of the parliament of Canada, 25th May, 1883, may be appropriately cited here as the impartial testimony of a governor-general after some years experience of the working of Canadian institutions:—

"A judicature above suspicion; self-governing communities entrusting to a strong central government all national interests; the toleration of all faiths, with favour to none; a franchise recognizing the rights of labour, by the exclusion only of the idler; the maintenance of a government not privileged to exist for any fixed term, but ever susceptible to the change of public opinion, and ever open, through a responsible ministry, to the scrutiny of the people;—these are the features of your rising power."

# APPENDIX.

A. British North America Act, 1867..... 179.

B. An Act respecting the establishment of Provinces in the Dominion of Canada (34-35 Vict., c. 28)..... 228.

C. An Act to remove certain doubts with respect to the powers of the Parliament of Canada under sectoin 18 of the B.N.A. Act, 1867 (38-39 Vict., c. 38)..... 231.

# APPENDIX A.

## *THE BRITISH NORTH AMERICA ACT*, 1867.

ANNO TRICESIMO ET TRICESIMO-PRIMO VICTORIÆ REGINÆ,
CAP. III.

*An Act for the Union of Canada, Nova Scotia and New Brunswick, and the Government thereof, and for Purposes connected therewith.*

[29th March, 1867.]

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:

And whereas on the Establishment of the Union by Authority of Parliament, it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the Nature of the Executive Government therein be declared:

And whereas it is expedient that Provision be made for the eventual Admission into the Union of other Parts of British North America:

Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

### I.—PRELIMINARY.

**Short Title.** 1. This Act may be cited as the British North America Act, 1867.

**Application of Provisions referring to the Queen.** 2. The Provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

### II.—UNION.

**Declaration of Union.** 3. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a Day therein appointed, not being more than Six Months after the passing of this Act, the Provinces of Canada, Nova Scotia and New Brunswick shall form and be One Dominion under the name of Canada; and on and after that Day those Three Provinces shall form and be One Dominion under that Name accordingly.

**Construction of subsequent Provisions of Act.** 4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the Day appointed for the Union taking effect in the Queen's Proclamation; and in the same Provisions, unless it is otherwise expressed or implied, the Name Canada shall be taken to mean Canada as constituted under this Act.

**Four Provinces.** 5. Canada shall be divided into Four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

Provinces of Ontario and Quebec.

6. The Parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada, shall be deemed to be severed, and shall form Two Separate Provinces. The Part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the Part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick.

7. The Provinces of Nova Scotia and New Brunswick shall have the same Limits as at the passing of this Act.

Decennial Census.

8. In the general Census of the Population of Canada which is hereby required to be taken in the Year One thousand eight hundred and seventy-one, and in every Tenth Year thereafter, the respective Populations of the Four Provinces shall be distinguished.

### III.—EXECUTIVE POWER.

Declaration of Executive Power in the Queen.

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of Provisions referring to the Governor-General.

10. The Provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the Time being of Canada, or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of Canada on behalf and in the Name of the Queen, by whatever title he is designated.

Constitution of Privy Council for Canada.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the Persons who are to be Members of that Council shall be from Time to Time chosen and summoned by the Governor-General and sworn in as Privy Councillors, and Members thereof may be from Time to Time removed by the Governor-General.

All Powers under Acts to be exercised by Governor General with advice of Privy Council, or alone.

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union, in relation to the Government of Canada, be vested in and exercisable by the Governor-General, with the Advice or with the Advice and Consent of or in conjunction with the Queen's Privy Council for Canada, or any Members thereof, or by the Governor-General individually, as the Case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

Application of Provisions referring to Governor General in Council.

13. The Provisions of this Act, referring to the Governor-General in Council shall be construed as referring to the Governor-General acting by and with the Advice of the Queen's Privy Council for Canada.

Power to Her Majesty to authorize Governor General to appoint Deputies.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor-General from Time to Time to appoint any Person or any Persons jointly or severally to be his Deputy or Deputies within any Part or Parts of Canada, and in that Capacity to exercise during the Pleasure of the Governor-General such of the Powers, Authorities and Functions of the Governor-General as the Governor-General deems it necessary or expedient to assign to him or them, subject to any Limitations

or Directions expressed or given by the Queen; but the Appointment of such a Deputy or Deputies, shall not affect the Exercise by the Governor-General himself of any Power, Authority, or Function.

Command of Armed Forces to continue to be vested in the Queen.

15. The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of Government of Canada.

16. Until the Queen otherwise directs, the Seat of Government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER.

Constitution of Parliament of Canada.

17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Privileges, &c., of Houses.

18. The Privileges, Immunities, and Powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from Time to Time defined by Act of the Parliament of Canada, but so that the same shall never exceed those at the passing of this Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.

First Session of the Parliament of Canada.

19. The Parliament of Canada shall be called together not later than Six months after the Union.

Yearly Session of the Parliament of Canada.

20. There shall be a Session of the Parliament of Canada once at least in every Year, so that Twelve months shall not intervene between the last sitting of the Parliament in one Session and its first Sitting in the next Session.

*The Senate.*

Number of Senators.

21. The Senate shall, subject to the Provisions of this Act, consist of Seventy-two Members, who shall be styled Senators.

Representation of Provinces in Senate.

22. In relation to the Constitution of the Senate, Canada shall be deemed to consist of Three Divisions:—

(1.) Ontario;

(2.) Quebec;

(3.) The Maritime Provinces, Nova Scotia and New Brunswick; which Three Divisions shall (subject to the Provisions of this Act) be equally represented in the Senate as follows: Ontario by Twenty-four Senators; Quebec by Twenty-four Senators; and the Maritime Provinces by Twenty-four Senators, Twelve thereof representing Nova Scotia and Twelve thereof representing New Brunswick.

In the case of Quebec, each of the Twenty-four Senators representing that Province shall be appointed for one of the Twenty-four Electoral Divisions of Lower Canada specified in Schedule A, to Chapter One of Consolidated Statutes of Canada.

Qualifications of Senator.

23. The Qualifications of a Senator shall be as follows:—

(1.) He shall be of the full Age of Thirty years.

(2.) He shall be either a Natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union.

(3.) He shall be legally or equitably seized as of Freehold for his own Use and Benefit of Lands or Tenements held in free and Common Soccage, or seized or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture, within the Province for which he is appointed, of the value of Four Thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages and Incumbrances due or payable out of, or charged on or affecting the same;

(4.) His Real and Personal Property shall be together worth four Thousand Dollars over and above his Debts and Liabilities;

(5.) He shall be resident in the Province for which he is appointed;

(6.) In the Case of Quebec, he shall have his Real Property qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

Summons of Senator.

24. The Governor-General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon qualified persons to the Senate; and, subject to the Provisions of this Act, every person so summoned shall become and be a Member of the Senate and a Senator.

Summons of First Body of Senators.

25. Such persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their Names shall be inserted in the Queen's Proclamation of Union.

Addition of Senators in certain cases.

26. If at any Time, on the Recommendation of the Governor-General, the Queen thinks fit to direct that Three or Six Members be added to the Senate, the Governor-General may, by Summons to Three or Six Qualified Persons (as the case may be), representing equally the Three Divisions of Canada, add to the Senate accordingly.

Reduction of Senate to normal number.

27. In case of such Addition being at any Time made, the Governor-General shall not summon any Person to the Senate, except on a further like Direction by the Queen on the like Recommendation, until each of the Three Divisions of Canada is represented by Twenty-four Senators, and no more.

Maximum number of Senators.

28. The Number of Senators shall not at any time exceed Seventy-eight.

Tenure of place in Senate.

29. A Senator shall, subject to the Provisions of this Act, hold his place in the Senate for life.

Resignation of place in Senate.

30. A Senator may, by writing under his hand, addressed to the Governor-General, resign his place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senators.

31. The Place of a Senator shall become vacant in any of the following cases:—

(1.) If for Two Consecutive Sessions of the Parliament he fails to give his Attendance in the Senate;

(2.) If he takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience or Adherence to a Foreign Power, or does an Act whereby he becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen of a Foreign Power;

(3.) If he is adjudged Bankrupt or Insolvent, or applies for the benefit of any Law relating to Insolvent debtors, or becomes a public defaulter;

(4.) If he is attainted of Treason, or convicted of Felony or of any infamous Crime;

(5.) If he ceases to be qualified in respect of Property or of Residence; provided that a Senator shall not be deemed to have ceased to be qualified in respect of Residence by reason only of his residing at the Seat of Government of Canada while holding an Office under that Government requiring his Presence there.

Summons on vacancy in Senate.

32. When a Vacancy happens in the Senate, by Resignation, Death or otherwise, the Governor-General shall, by Summons to a fit and qualified Person, fill the Vacancy.

Questions as to qualifications and vacancies in Senate.

33. If any Question arises respecting the Qualification of a Senator or a Vacancy in the Senate, the same shall be heard and determined by the Senate.

Appointment of Speaker of Senate.

34. The Governor-General may from Time to Time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

Quorum of Senate.

35. Until the Parliament of Canada otherwise provides, the Presence of at least Fifteen Senators, including the Speaker, shall be necessary to constitute a Meeting of the Senate for the exercise of its Powers.

Voting in Senate.

36. Questions arising in the Senate shall be decided by a majority of Voices, and the Speaker shall in all Cases have a Vote, and when the voices are equal the Decision shall be deemed to be in the Negative.

*The House of Commons.*

Constitution of House of Commons in Canada.

37. The House of Commons shall, subject to the Provisions of this Act, consist of One hundred and eighty-one Members, of whom Eighty-two shall be elected for Ontario, Sixty-five for Quebec, Nineteen for Nova Scotia, and Fifteen for New Brunswick.

Summoning of House of Commons.

38. The Governor-General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons.

Senators not to sit in House of Commons.

39. A Senator shall not be capable of being elected, or of sitting or voting as a Member of the House of Commons.

Electoral Districts of the four Provinces.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia and New Brunswick shall, for the Purposes of the Election of Members to serve in the House of Commons, be divided into Electoral Districts as follows:—

I.—*Ontario.*

Ontario shall be divided into the Counties, Ridings of Counties, Cities, Parts of Cities, and Towns enumerated in the First Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return One Member.

II.—*Quebec.*

Quebec shall be divided into Sixty-five Electoral Districts, composed of the Sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under Chapter Two of the Consolidated Statutes of Canada, Chapter Seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the Twenty-third year of the Queen, Chapter One, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the Purposes of this Act an Electoral District entitled to return One Member.

III.—*Nova Scotia.*

Each of the Eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return Two Members, and each of the other Counties One Member.

IV.—*New Brunswick.*

Each of the Fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District. The City of St. John shall also be a separate Electoral District. Each of those Fifteen Electoral Districts shall be entitled to return One Member.

Continuance of existing Election Laws until Parliament of Canada otherwise provides.

41. Until the Parliament of Canada otherwise provides, all Laws in force in the several Provinces at the Union relative to the following Matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the House of Assembly or Legislative Assembly in the several Provinces, the Voters at Elections of such Members, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which Elections may be continued, the Trial of Contro-

verted Elections and Proceedings, incident thereto, the vacating of Seats of Members, and the Execution of new Writs, in case of Seats vacated otherwise than by Dissolution,—shall respectively apply to Elections of Members to serve in the House of Commons for the same several Provinces.

Proviso as to Algoma.

Provided that, until the Parliament of Canada otherwise provides, at any Election for a Member of the House of Commons for the District of Algoma, in addition to Persons qualified by the Law of the Province of Canada to vote, every male British Subject, aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Writs for first Election.

42. For the First Election of Members to serve in the House of Commons, the Governor-General shall cause Writs to be issued by such Person, in such Form and addressed to such Returning Officers as he thinks fit.

The Person issuing Writs under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the issuing of Writs for the Election of Members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia or New Brunswick; and the Returning Officers to whom Writs are directed under this Section shall have the like Powers as are possessed at the Union by the Officers charged with the returning of Writs for the Election of Members to serve in the same respective House of Assembly or Legislative Assembly.

As to Casual Vacancies.

43. In case a vacancy in the Representation in the House of Commons of any Electoral District happens before the Meeting of the Parliament, or after the Meeting of the Parliament before Provision is made by the Parliament in this Behalf, the Provisions of the last foregoing Section of this Act shall extend and apply to the issuing and returning of a Writ in respect of such vacant District.

As to Election of Speaker of House of Commons.

44. The House of Commons, on its first assembling after a general Election, shall proceed with all practicable speed to elect One of its Members to be Speaker.

As to filling up Vacancy in Office of Speaker.

45. In case of a Vacancy happening in the Office of Speaker, by Death, Resignation or otherwise, the House of Commons shall, with all practicable Speed, proceed to elect another of its Members to be Speaker.

Speaker to preside.

46. The Speaker shall preside at all meetings of the House of Commons.

Provision in case of absence of Speaker.

47. Until the Parliament of Canada otherwise provides, in case of the Absence, for any Reason, of the Speaker from the Chair of the House of Commons for a period of Forty-eight Consecutive Hours, the House may elect another of its Members to act as Speaker, and the Member so elected shall, during the Continuance of such Absence of the Speaker, have and execute all the Powers, Privileges and Duties of Speaker.

Quorum of House of Commons.

48. The Presence of at least Twenty Members of the House of Commons shall be necessary to constitute a Meeting of the House for the Exercise of its Powers; and for that Purpose the Speaker shall be reckoned as a Member.

Voting in House of Commons.

49. Questions arising in the House of Commons shall be 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.

Duration of House of Commons.

50. Every House of Commons shall continue for Five Years from the day of the Return of the Writs for choosing the House (subject to be sooner dissolved by the Governor-General), and no longer.

Decennial Readjustment of Representation.

51. On the completion of the Census in the Year one thousand eight hundred and seventy-one, and of each subsequent decennial Census, the Representation of the Four Provinces shall be readjusted by such Authority,

in such a manner, and from such time as the Parliament of Canada from Time to Time provides, subject and according to the following Rules:—

(1.) Quebec shall have the fixed Number of Sixty-five Members;

(2.) There shall be assigned to each of the other Provinces such a number of Members as will bear the same Proportion to the Number of its Population (ascertained at such Census) as the Number Sixty-five bears to the Number of the Population of Quebec, (so ascertained);

(3.) In the Computation of the Number of Members for a Province, a fractional Part not exceeding One-half of the whole number requisite for entitling the Province to a Member shall be disregarded; but a fractional Part exceeding One-half of that number shall be equivalent to the whole number;

(4.) On any such Readjustment the Number of Members for a Province shall not be reduced unless the Proportion which the number of the Population of the Province bore to the Number of the aggregate population of Canada at the then last preceding Readjustment of the Number of Members for the Province is ascertained at the then latest Census to be diminished by One-twentieth Part or upwards;

(5.) Such Readjustment shall not take effect until the Termination of the then existing Parliament.

Increase of number of House of Commons.

52. The Number of Members of the House of Commons may be from Time to Time increased by the Parliament of Canada, provided the proportionate Representation of the Province prescribed by this Act is not thereby disturbed.

*Money Votes; Royal Assent.*

Appropriation and Tax Bills.

53. Bills for appropriating any part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

**Recommendation of money votes.**

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose, that has not been first recommended to that House by Message of the Governor General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

**Royal Assent to Bills, &c.**

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor-General for the Queen's Assent, he shall declare, according to his discretion, but subject to the Provisions of this Act and to Her Majesty's Instructions, either that he assents thereto in the Queen's Name, or that he withholds the Queen's Assent, or that he reserves the Bill for the Signification of the Queen's Pleasure.

**Disallowance by Order in Council of Act assented to by Governor General.**

56. Where the Governor-General assents to a Bill in the Queen's Name, he shall by the first convenient Opportunity send an authentic Copy of the Act to One of Her Majesty's Principal Secretaries of State, and if the Queen in Council within Two Years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a certificate of the Secretary of State of the Day on which the Act was received by him) being signified by the Governor-General, by speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the Day of such Signification.

**Signification of Queen's pleasure on Bill reserved.**

57. A Bill reserved for the Signification of the Queen's Pleasure shall not have any Force unless and until within Two Years from the day on which it was presented to the Governor-General for the Queen's Assent, the Governor-General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the assent of the Queen in Council.

An Entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a

Duplicate thereof duly attested shall be delivered to the proper officer to be kept among the Records of Canada.

### V.—PROVINCIAL CONSTITUTIONS.

*Executive Power.*

Appointment of Lieutenant Governors of Provinces.

58. For each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor-General in Council by Instrument under the Great Seal of Canada.

Tenure of office of Lieutenant Governor.

59. A Lieutenant-Governor shall hold Office during the Pleasure of the Governor-General; but any Lieutenant-Governor appointed after the Commencement of the First Session of the Parliament of Canada shall not be removable within Five Years from his Appointment, except for cause assigned, which shall be communicated to him in Writing within One Month after the Order for his Removal is made, and shall be communicated by Message to the Senate and to the House of Commons within One Week thereafter if the Parliament is then sitting, and if not then, within One Week after the Commencement of the next Session of the Parliament.

Salaries of Lieutenant Governors.

60. The Salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

Oaths, &c., of Lieuten't Governor.

61. Every Lieutenant-Governor shall, before assuming the Duties of his office, make and subscribe before the Governor-General or some Person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor-General.

Applicati'n of provisions referring to Lieutenant Governor.

62. The Provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the Time being of each Province or other the Chief Executive Officer or Administrator for the Time being carrying on the Government of the Province, by whatever Title he is designated.

Appointment of Executive Officers for Ontario and Quebec.

63. The Executive Council of Ontario and Quebec shall be composed of such Persons as the Lieutenant-Governor from Time to Time thinks fit, and in the first instance of the following Officers, namely, the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec, the Speaker of the Legislative Council and the Solicitor-General.

Executive Government of Nova Scotia and New Brunswick.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union, until altered under the Authority of this Act.

Powers to be exercised by Lieutenant Governor of Ontario or Quebec with advice or alone.

65. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisible by the respective Governors or Lieutenant-Governors of those Provinces, with the Advice, or with the Advice and Consent, of the respective Executive Councils thereof, or in conjunction with those Councils or with any Number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the Advice, or with the Advice and Consent of, or in conjunction with the respective Executive Councils or any Members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless, (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and

Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec.

Application of provisions referring to Lieutenant Governor in Council.

66. The Provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the Advice of the Executive Council thereof.

Administration in absence, &c., of Lieutenant Governor.

67. The Governor-General in Council may from Time to Time appoint an Administrator to execute the Office and Functions of Lieutenant-Governor during his Absence, Illness, or other Inability.

Seats of Provincial Government.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

*Legislative Power.*

1.—*Ontario.*

Legislature for Ontario.

69. There shall be a Legislature for Ontario, consisting of the Lieutenant-Governor and of One House, styled the Legislative Assembly of Ontario.

Electoral Districts.

70. The Legislative Assembly of Ontario shall be composed of Eighty-two Members, to be elected to represent the Eighty-two Electoral Districts set forth in the First Schedule to this Act.

2.—*Quebec.*

Legislature for Quebec.

71. There shall be a Legislature for Quebec, consisting of the Lieutenant-Governor and Two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

72. The Legislative Council of Quebec shall be composed of twenty-four Members, to be appointed by the

**Constitution of Legislative Council.** Lieutenant-Governor in the Queen's Name by Instrument under the Great Seal of Quebec, one being appointed to represent each of the Twenty-four Electoral Divisions of Lower Canada in this Act referred to, and each holding Office for the Term of his life, unless the Legislature of Quebec otherwise provides under the Provisions of this Act.

**Qualification of Legislative Councillors.** 73. The Qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

**Resignation, Disqualification, &c.** 74. The Place of a Legislative Councillor of Quebec shall become vacant in the Cases, *mutatis mutandis*, in which the Place of Senator becomes vacant.

**Vacancies.** 75. When a vacancy happens in the Legislative Council of Quebec by Resignation, Death, or otherwise, the Lieutenant-Governor, in the Queen's Name, by Instrument under the Great Seal of Quebec, shall appoint a fit and qualified Person to fill the Vacancy.

**Questions as to Vacancies, &c.** 76. If any Question arises respecting the Qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

**Speaker of Legislative Council.** 77. The Lieutenant-Governor may, from Time to Time, by Instrument under the Great Seal of Quebec, appoint a Member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his Stead.

**Quorum of Legislative Council.** 78. Until the Legislature of Quebec otherwise provides, the Presence of at least Ten Members of the Legislative Council, including the Speaker, shall be necessary to constitute a Meeting for the Exercise of its Powers.

**Voting in Legislative Council.** 79. Questions arising in the Legislative Council of Quebec shall be decided by a Majority of Voices, and the Speaker shall in all cases have a Vote, and when the

Voices are equal, the Decision shall be deemed to be in the negative.

Constitution of Legislative Assembly of Quebec.

80. The Legislative Assembly of Quebec shall be composed of Sixty-five Members, to be elected to represent the Sixty-five Electoral Divisions or Districts of Lower Canada in this Act referred to, subject to Alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant-Governor of Quebec for Assent any Bill for altering the Limits of any of the Electoral Divisions or Districts mentioned in the Second Schedule to this Act, unless the Second and Third Readings of such Bill have been passed in the Legislative Assembly with the Concurrence of the Majority of the Members representing all those Electoral Divisions or Districts, and the Assent shall not be given to such Bill unless an Address has been presented by the Legislative Assembly to the Lieutenant-Governor, stating that it has been so passed.

### 3.—*Ontario and Quebec.*

First Session of Legislatures.

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than Six Months after the Union.

Summoning of Legislative Assemblies.

82. The Lieutenant-Governor of Ontario and of Quebec shall, from time to time, in the Queen's Name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

Restriction of election of holders of offices.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a Person accepting or holding in Ontario or in Quebec, any Office, Commission or Employment, permanent or temporary, at the nomination of the Lieutenant-Governor, to which an annual Salary, or any Fee, Allowance, Emolument or profit of any kind or Amount whatever from the Province is attached, shall not be eli-

gible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any Person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec, Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

Continuance of existing election laws.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following matters or any of them, namely,—the Qualifications and Disqualifications of Persons to be elected or to sit or vote as Members of the Assembly of Canada, the Qualifications or Disqualifications of Voters, the Oaths to be taken by Voters, the Returning Officers, their Powers and Duties, the Proceedings at Elections, the Periods during which such Elections may be continued, and the trial of Controverted Elections and the Proceedings incident thereto, the vacating of the Seats of Members, and the issuing and execution of new Writs in case of Seats vacated otherwise than by Dissolution, shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that until the Legislature of Ontario otherwise provides, at any Election for a member of the Legislative Assembly of Ontario for the District of Algoma, in addition to persons qualified by the Law of the Province of Canada to vote, every male British Subject aged Twenty-one Years or upwards, being a Householder, shall have a Vote.

Duration of Legislative Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for Four

Years from the Day of the Return of the Writs for choosing the same (subject, nevertheless, to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.

Yearly Session of Legislature.

86. There shall be a Session of the Legislature of Ontario and of that of Quebec, once at least in every Year, so that Twelve Months shall not intervene between the last Sitting of the Legislature in each Province in one Session and its first sitting in the next Session.

Speaker, quorum, &c.

87. The following Provisions of this Act respecting the House of Commons of Canada, shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the Provisions relating to the Election of a Speaker originally and on Vacancies, the Duties of the Speaker, the Absence of the Speaker, the Quorum, and to the Mode of Voting, as if those Provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

### 4.—*Nova Scotia and New Brunswick.*

Constitutions of Legislatures of Nova Scotia and New Brunswick.

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the Provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

### 5.—*Ontario, Quebec and Nova Scotia.*

First elections.

89. Each of the Lieutenant-Governors of Ontario, Quebec, and Nova Scotia, shall cause Writs to be issued for the first Election of Members of the Legislative Assembly thereof in such Form and by such Person as he thinks fit, and at such Time addressed to such Returning Officer as

the Governor-General directs, and so that the first Election of Member of Assembly for any Electoral District or any Subdivision thereof shall be held at the same Time and at the same Places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.

### 6.—*The Four Provinces.*

Application to Legislatures of provisions respecting money votes, &c.

90. The following Provisions of this Act respecting the Parliament of Canada, namely,—the Provisions relating to Appropriation and Tax Bills, the Recommendation of Money Votes, the Assent to Bills, the Disallowance of Acts and the Signification of Pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those Provisions were here re-enacted and made applicable in Terms to the respective Provinces and the Legislatures thereof, with the Substitution of the Lieutenant-Governor of the Province for the Governor-General, of the Governor-General for the Queen, and for a Secretary of State, of One Year for Two Years, and of the Province for Canada.

## VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

### *Powers of the Parliament.*

Legislative Authority of Parliament of Canada.

91. It shall be lawful for the Queen, 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; and for greater certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) 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. The 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, Lighthouses 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 the 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.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

*Exclusive Powers of Provincial Legislatures.*

Subjects of exclusive Provincial Legislation.

92. In each Province the Legislature 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 Province 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. Solemnization of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those 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 an yof the Classes of subjects enumerated in this Section.

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

*Education.*

Legislation respecting education.

93. In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:—

(1.) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union;

(2.) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects, shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec;

(3.) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor-General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education;

(4.) In case any such Provincial Law as from Time to Time seems to the Governor-General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor-General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that behalf, then and in every such case, and as

far only as the circumstances of each case require, the Parliament of Canada may make remedial Laws for the due Execution of the Provisions of this Section, and of any Decision of the Governor-General in Council under this Section.

*Uniformity of Laws in Ontario, Nova Scotia and New Brunswick.*

Legislation for uniformity of laws in three Provinces.

94. Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia and New Brunswick, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that behalf, the Power of the Parliament of Canada to make Laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity, shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

*Agriculture and Immigration.*

Concurrent powers of legislation respecting agriculture, &c.

95. In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province, relative to Agriculture or to Immigration, shall have effect in and for the Province, as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—JUDICATURE.

Appointment of Judges.

96. The Governor-General shall appoint the Judges of the Superior, District and County Courts in each Province,

except those of the Courts of Probate in Nova Scotia and New Brunswick.

Selection of Judges in Ontario, &c.

97. Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor-General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Quebec.

98. The Judges of the Courts of Quebec, shall be selected from the Bar of that Province.

Tenure of office of Judges of Superior Courts.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on Address of the Senate and House of Commons.

Salaries, &c., of Judges.

100. The Salaries, Allowances and Pensions of the Judges of the Superior, District and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick) and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by Salary, shall be fixed and provided by the Parliament of Canada.

General Court of Appeal, &c.

101. The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time, provide for the Constitution, Maintenance and Organization of a General Court of Appeal for Canada, and for the Establishment of any additional Courts for the better Administration of the Laws of Canada.

VIII.—REVENUES; DEBTS; ASSETS; TAXATION.

Creation of Consolidated Revenue Fund.

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick before and at the Union, had and have power of Appropriation, except such Portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special Powers conferred on them by this Act, shall form One

Consolidated Revenue Fund, to be appropriated for the Public Service of Canada in the Manner and subject to the Charges in this Act provided.

Expenses of collection, &c.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the Costs, Charges and Expenses incident to the Collection, Management, and Receipt thereof, and the same shall form the First Charge thereon, subject to be reviewed and audited in such Manner as shall be ordered by the Governor-General in Council until the Parliament otherwise provides.

Interest of Provincial public debts.

104. The annual Interest of the Public Debts of the several Provinces of Canada, Nova Scotia, and New Brunswick at the Union shall form the Second Charge on the Consolidated Revenue Fund of Canada.

Salary of Governor General.

105. Unless altered by the Parliament of Canada, the Salary of the Governor-General shall be Ten Thousand Pounds Sterling Money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the Third Charge thereon.

Appropriation from time to time.

106. Subject to the several Payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the Public Service.

Transfer of stocks, &c.

107. All Stocks, Cash, Bankers' Balances, and Securities for Money belonging to each Province at the Time of the Union, except as in this Act mentioned, shall be the Property of Canada, and shall be taken in Reduction of the amount of the respective Debts of the Provinces at the Union.

Transfer of property in Schedule.

108. The Public Works and Property of each Province enumerated in the Third Schedule to this Act shall be the Property of Canada.

Property in lands, mines, &c.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia and

New Brunswick at the Union, and all sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any Trust existing in respect thereof, and to any Interest other than that of the Province in the same.

**Assets connected with Provincial debts.**

110. All Assets connected with such Portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

**Canada to be liable for Provincial debts.**

111. Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

**Debts of Ontario and Quebec.**

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the Debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand Dollars, and shall be charged with Interest at the Rate of Five per centum per annum thereon.

**Assets of Ontario and Quebec.**

113. The Assets enumerated in the Fourth Schedule to this Act, belonging at the Union to the Province of Canada, shall be the Property of Ontario and Quebec conjointly.

**Debt of Nova Scotia.**

114. Nova Scotia shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Eight million Dollars, and shall be charged with Interest at the rate of Five per centum per Annum thereon.

**Debt of New Brunswick.**

115. New Brunswick shall be liable to Canada for the Amount (if any) by which its Public Debt exceeds at the Union Seven million Dollars, and shall be charged with Interest at the rate of Five per centum per Annum thereon.

**Payment of interest to Nova Scotia and New Brunswick.**

116. In case the Public Debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million Dollars respectively, they shall re-

spectively receive, by half-yearly Payments in advance from the Government of Canada, Interest at Five per centum per Annum on the Difference between the actual Amounts of their respective Debts and such stipulated Amounts.

Provincial public property.

117. The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Right of Canada to assume any Lands or Public Property required for Fortifications or for the Defence of the country.

Grants to Provinces.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures:

| | DOLLARS. |
|---|---|
| Ontario - - - - - - - - - - | Eighty thousand. |
| Quebec - - - - - - - - - - | Seventy thousand. |
| Nova Scotia - - - - - - - - | Sixty thousand. |
| New Brunswick - - - - - - - | Fifty thousand. |
| | Two hundred and Sixty thousand; |

and an annual Grant in aid of each Province shall be made, equal to Eighty cents per Head, of the Population as ascertained by the Census of One Thousand eight hundred and Sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent Decennial Census until the Population of each of those two Provinces amounts to Four hundred thousand Souls, at which Rate such Grant shall thereafter remain. Such Grant shall be in full Settlement of all future Demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such Grants, as against any Province, all Sums chargeable as Interest on the Public Debt of that Province in excess of the several amounts stipulated in this Act.

Further grant to New Brunswick.

119. New Brunswick shall receive, by half-yearly Payments in advance from Canada, for the Period of Ten Years from the Union, an additional Allowance of Sixty-

three thousand Dollars per Annum; but as long as the Public Debt of that Province remains under Seven million Dollars, a deduction equal to the Interest at Five per centum per Annum on such Deficiency shall be made from that Allowance of Sixty-three thousand Dollars.

Form of payments.

120. All Payments to be made under this Act, or in discharge of Liabilities created under any Act of the Provinces of Canada, Nova Scotia and New Brunswick, respectively, and assumed by Canada, shall until the Parliament of Canada otherwise directs, be made in such Form and Manner as may from Time to Time be ordered by the Governor-General in Council.

Canadian manufactures, &c.

121. All Articles of the Growth, Produce or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance of customs and excise laws.

122. The Customs and Excise Laws of each Province shall, subject to the Provisions of this Act, continue in force until altered by the Parliament of Canada.

Exportation and importation as between two Provinces.

123. Where Customs Duties are, at the Union, leviable on any Goods, Wares or Merchandises in any Two Provinces, those Goods, Wares and Merchandises may, from and after the Union, be imported from one of those Provinces into the other of them, on Proof of Payment of the Customs Duty leviable thereon in the Province of Exportation, and on payment of such further amount (if any) of Customs Duty as is leviable thereon in the Province of Importation.

Lumber dues in New Brunswick.

124. Nothing in this Act shall affect the Right of New Brunswick to levy the Lumber Dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the Amount of such Dues; but the Lumber of any of the Provinces other than New Brunswick shall not be subject to such Dues.

Exemption of public lands, &c.

125. No Lands or Property belonging to Canada or any Province shall be liable to Taxation.

Provincial consolidated revenue fund.

126. Such Portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the Union, Power of Appropriation, as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the Special Powers conferred upon them by this Act, shall in each Province form One Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

## IX.—MISCELLANEOUS PROVISIONS.

### *General.*

As to Legislative Councillors of Provinces becoming Senators.

127. If any Person, being, at the passing of this Act, a Member of the Legislative Council of Canada, Nova Scotia or New Brunswick, to whom a Place in the Senate is offered, does not within Thirty Days thereafter, by Writing under his Hand, addressed to the Governor-General of the Province of Canada or to the Lieutenant-Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any Person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a Place in the Senate, shall thereby vacate his seat in such Legislative Council.

Oath of allegiance, &c.

128. Every Member of the Senate or House of Commons of Canada shall, before taking his Seat therein, take and subscribe before the Governor-General or some Person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall, before taking his Seat therein, take and subscribe before the Lieutenant-Governor of the Province, or some Person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the

Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor-General, or some Person authorized by him, the Declaration of Qualification contained in the same Schedule.

Continuance of existing laws, courts, officers, &c.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all Legal Commissions, Powers and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue, in Ontario, Quebec, Nova Scotia, and New Brunswick, respectively, as if the Union had not been made; subject nevertheless, (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland), to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the Authority of the Parliament or of that Legislature under this Act.

Transfer of officers to Canada.

130. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having Duties to discharge in relation to Matters other than those coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces, shall be Officers of Canada, and shall continue to discharge the Duties of their respective Offices under the same Liabilities, Responsibilities and Penalties, as if the Union had not been made.

Appointment of new officers.

131. Until the Parliament of Canada otherwise provides, the Governor-General in Council may from Time to Time appoint such Officers as the Governor-General in Council deems necessary or proper for the effectual Execution of this Act.

Treaty obligations.

132. The Parliament and Government of Canada shall have all Powers necessary or proper for performing the Obligations of Canada or of any Province thereof, as Part

of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

Use of English and French languages.

133. Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

*Ontario and Quebec.*

Appointment of executive officers for Ontario and Quebec.

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province, the following officers, to hold office during Pleasure, that is to say,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands and the Commissioner of Agriculture and Public Works, and, in the case of Quebec, the Solicitor-General, and may, by Order of the Lieutenant-Governor in Council from Time to Time prescribe the Duties of those Officers and of the several Departments ever which they shall preside, or to which they shall belong, and of the Officers and Clerks thereof, and may also appoint other and additional Officers to hold Office during Pleasure, and may from Time to Time prescribe the Duties of those Officers, and of the several Departments over which they shall preside or to which they shall belong, and of the Officers and Clerks thereof.

Powers, duties, &c., of executive officers.

135. Until the Legislature of Ontario or Quebec otherwise provides, all Rights, Powers, Duties, Functions, Responsibilities, or Authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor-General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works and Minister of Agriculture and Receiver-General, by any Law, Statute or Ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant-Governor for the Discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the Duties and Functions of the Office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of Canada as well as those of the Commissioner of Public Works.

Great Seals.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively, shall be the same or of the same Design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

Construction of temporary Acts.

137 The words "and from thence to the End of the then next ensuing Session of the Legislature," or words to the same effect used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada, if the subject-matter of the Act is within the powers of the same as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively, if the subject-matter of the Act is within the powers of the same as defined by this Act.

As to errors in names.

138. From and after the Union, the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any Deed, Writ, Process, Pleading, Document, Matter or Thing, shall not invalidate the same.

As to issue of Proclamations before Union, to commence after Union.

139. Any Proclamation under the Great Seal of the Province of Canada, issued before the Union, to take effect at a time which is subsequent to the Union, whether relating to that Province or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the Union had not been made.

As to issue of Proclamations after Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada, to be issued under the Great Seal of the Province of Canada, whether relating to that Province or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant-Governor of Ontario or of Quebec, as its subject-matter requires, under the Great Seal thereof; and from and after the issue of such Proclamation, the same and the several matters and things therein proclaimed, shall be and continue of the like force and effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.

Arbitration respecting debts, &c.

142. The Division and Adjustment of the Debts, Credits, Liabilities, Properties and Assets of Upper Canada and Lower Canada shall be referred to the arbitrament of Three Arbitrators, One chosen by the Government of Ontario, One by the Government of Quebec, and One by the Government of Canada; and the Selection of the Arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the Arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or Quebec.

Division of records.

143. The Governor-General in Council may from Time to Time, order that such and so many of the Records, Books, and Documents of the Province of Canada as he

thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as Evidence.

Constitution of townships in Quebec.

144. The Lieutenant-Governor of Quebec may from Time to Time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute Townships in those Parts of the Province of Quebec in which Townships are not then already constituted, and fix the Metes and Bounds thereof.

X.—INTERCOLONIAL RAILWAY.

Duty of Government and Parliament of Canada to make Railway herein described.

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a Declaration that the Construction of the Intercolonial Railway is essential to the Consolidation of the Union of British North America, and to the Assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that Provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that Agreement, it shall be the Duty of the Government and Parliament of Canada to provide for the Commencement, within Six Months after the Union, of a Railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the Construction thereof without Intermission, and the Completion thereof with all practicable Speed.

XI.—ADMISSION OF OTHER COLONIES.

Powers to admit Newfoundland, &c., into the Union.

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honorable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince

Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

As to Representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the Admission of Newfoundland and Prince Edward Island or either of them, each shall be entitled to a Representation, in the Senate of Canada, of Four Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland, the Normal number of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island, when admitted, shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act, for the Appointment of Three or Six additional Senators under the Direction of the Queen.

# SCHEDULES.

## *THE FIRST SCHEDULE.*

ELECTORAL DISTRICTS OF ONTARIO.

### A.

*Existing Electoral Divisions.*

COUNTIES

1. Prescott.
2. Glengarry.
3. Stormont.
4. Dundas.
5. Russell.
6. Carleton.
7. Prince Edward.
8. Halton.
9. Essex.

RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan.)
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.

27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES AND TOWNS.

35. West Toronto.
36. East Toronto.
37. Hamilton.
38. Ottawa.
39. Kingston.
40. London.
41. Town of Brockville, with the Township of Elizabethtown thereto attached.
42. Town of Niagara, with the Township of Niagara thereto attached.
43. Town of Cornwall, with the Township of Cornwall thereto attached.

B.

NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of Algoma.

The County of BRUCE, divided into two Ridings, to be called respectively the North and South Ridings :—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amabel, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.
46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of HURON, divided into Two Ridings to be called respectively the North and South Ridings:—

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett (including the Village of Clinton), and McKillop.

48. The South Riding to consist of the Town of Goderich, and the townships of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into Three Ridings, to be called respectively the North, West, and East Ridings:—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide and Lobo.

50. The West Riding to consist of the Townships of Delaware, Caradoc, Metcalfe, Mosa and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen and Brooke, and the Town of Sarnia.

52. The County of KENT to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh and Harwich, and the Town of Chatham.

53. The County of BOTHWELL, to consist of the Townships of Sombra, Dawn and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford and Howard (taken from the county of Kent).

The County of GREY, divided into Two Ridings, to be called respectively the South and North Ridings:

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton and Melancthon.

55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, St. Vincent, Sydenham, Sullivan, Derby and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of PERTH, divided into Two Ridings, to be called respectively the South and North Ridings.—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.

57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of WELLINGTON, divided into Three Ridings, to be called respectively North, South and Centre Ridings.

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.

59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol and Pilkington, and the Villages of Fergus and Elora.

60. The South Riding to consist of the Town of Guelph and the Townships of Guelph and Puslinch.

The County of NORFOLK, divided into Two Ridings, to be called respectively the South and North Ridings —

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham and Woodhouse, and with the Gore thereof.

62. The North Riding to consist of the Townships of Middleton, Townsend and Windham, and the Town of Simcoe.

63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole and Dunn.

64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland).

65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby and Louth, and the Town of St. Catharines.

66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold and Welland.

67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto and the Gore of Toronto, and the Villages of Brampton and Streetsville.

68. The County of CARDWELL to consist of the Townships of Albion and Caledon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe).

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and the North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Innisfil, Essa, Tossorontio, Mulmur, and the Village of Bradford.

70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The County of VICTORIA, divided into Two Ridings, to be called respectively the South and North Ridings;—

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.

72 The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Township lying to the North of the said North Riding.

The County of PETERBOROUGH, divided into Two Ridings, to be called respectively the West and East Ridings:

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith and Ennismore, and the Town of Peterborough.

74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee and Snowden, and the Village of Ashburnham, and any other surveyed Townships lying to the North of the said East Riding.

The County of Hastings, divided into Three Ridings, to be called Respectively the West, East, and North Ridings:—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.

76. The East Riding to consist of the Townships of Thurlow, Tyendinaga and Hungerford.

77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Marmora and Lake, and the Village of Stirling, and any other surveyed Townships lying to the North of the said North Riding.

78. The County of LENNOX to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town and Amherst Island, and the Village of Napanee.

79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough and Bedford.

80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island and Storrington.

The County of RENFREW, divided into Two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blythfield, Brougham, Horton, Adamston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastapol, and the Villages of Arnprior and Renfrew.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards and any other surveyed Townships lying North-westerly of the said North Riding.

Every Town and incorporated Village existing at the Union, not specially mentioned in this Schedule, is to be taken as part of the County or Riding within which it is locally situate.

## THE SECOND SCHEDULE.

### ELECTORAL DISTRICTS OF QUEBEC SPECIALLY FIXED.

COUNTIES OF

| | |
|---|---|
| Pontiac. | Shefford. |
| Ottawa. | Stanstead. |
| Argenteuil. | Compton. |
| Huntingdon. | Wolfe and Richmond. |
| Missisquoi. | Megantic. |
| Brome. | Town of Sherbrooke. |

## THE THIRD SCHEDULE.

### PROVINCIAL PUBLIC WORKS AND PROPERTY TO BE THE PROPERTY OF CANADA.

1. Canals with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and Public Vessels.
5. Rivers and Lake Improvements.

6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the Use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing and Munitions of War, and Lands set apart for General Public Purposes.

## THE FOURTH SCHEDULE.

*Assets to be the Property of Ontario and Quebec conjointly.*

Upper Canada Building Fund.
Lunatic Asylums.
Normal Schools.
Court Houses in: Aylmer, Montreal, Kamouraska. } Lower Canada.
Law Society, Upper Canada.
Montreal Turnpike Trust.
University Permanent Fund.
Royal Institution.
Consolidated Municipal Loan Fund, Upper Canada.
Consolidated Municipal Loan Fund, Lower Canada.
Agricultural Society, Upper Canada.
Lower Canada Legislative Grant.
Quebec Fire Loan.
Temiscouata Advance Account.
Quebec Turnpike Trust.

Education, East.
Building and Jury Fund, Lower Canada.
Municipalities Fund.
Lower Canada Superior Education Income Fund.

## THE FIFTH SCHEDULE.

### OATH OF ALLEGIANCE.

I, *A. B.*, do swear that I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

NOTE.—*The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the Time being is to be substituted from Time to Time, with proper Terms of Reference thereto.*

### DECLARATION OF QUALIFICATION.

I, *A. B.*, do declare and testify. That I am by Law duly qualified to be appointed a Member of the Senate of Canada [*or as the case may be*], and that I am legally or equitably seized as of Freehold for my own Use and Benefit of Lands or Tenements held in Free and Common Socage [*or* seized or possessed for my own Use and Benefit of Lands or Tenements held in Franc-alleu or in Roture (*as the case may be,*)] in the Province of Nova Scotia [*or as the case may be*] of the Value of Four Thousand Dollars over or above all Rents, Dues, Debts, Mortgages, Charges, and Incumbrances, due and payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said Lands and Tenements or any Part thereof for the Purpose of enabling me to become a Member of the Senate of Canada [*or as the case may be*], and that my Real and Personal Property are together worth Four thousand Dollars over and above my Debts and Liabilities.

# APPENDIX B.

## 34 *AND* 35 *VICTORIA.*

### CHAP. XXVIII.

*An Act respecting the establishment of Provinces in the Dominion of Canada.*

[*29th June*, 1871.]

WHEREAS doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in Territories admitted, or which may hereafter be admitted into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:—

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited for all purposes as "The British North America Act, 1871."

Parliament of Canada may establish new Provinces and provide for the constitution, &c., thereof.

2. The Parliament of Canada may from Time to Time establish new Provinces in any Territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the pas-

sing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament.

Alteration of limits of Provinces.

3. The Parliament of Canada may from Time to Time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of Territory in relation to any Province affected thereby.

Parliament of Canada may legislate for any territory not included in a Province.

4. The Parliament of Canada may from Time to Time make provision for the administration, peace, order, and good government of any Territory not for the time being included in any Province.

Confirmation of Acts of Parliament of Canada, 32 & 33 Vict. (Canadian) cap. 3, 33 V. (Canadian), cap. 3.

5. The following Acts passed by the said Parliament of Canada, and intituled respectively: "An Act for the temporary government of Rupert's Land and the North Western Territory when united with Canada," and "An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of Manitoba," shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen's name, of the Governor-General of the said Dominion of Canada.

Limitation of powers of Parliament of Canada to legislate for an established Province.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last mentioned Act of the said Parliament, in so far as it relates to the Province of Manitoba, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter

from Time to Time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

# APPENDIX C.

## 38-39 *VICTORIA.*

### CHAP. XXXVIII.

*An Act to remove certain doubts with respect to the powers of the Parliament of Canada under Section Eighteen of the British North America Act*, 1867.

[19*th July*, 1875.]

WHEREAS by Section Eighteen of the British North America Act, 1867, it is provided as follows:— 30 and 31 Vict., c. 3.

"The privileges, immunities and powers to be held, "enjoyed and exercised by the Senate and by the House "of Commons, and by the Members thereof respectively, "shall be such as are from time to time defined by Act of "the Parliament of Canada, but so that the same shall "never exceed those at the passing of this Act, held, en- "joyed and exercised by the Commons House of Par- "liament of the United Kingdom of Great Britain and "Ireland and by the members thereof."

And whereas doubts have arisen with regard to the power of defining by an Act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities: and it is expedient to remove such doubts:

Be it, therefore, enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the

Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Substitution of new Section for Section 18 of 30 & 31 Vict., c. 3.

1. Section Eighteen of the British North America Act, 1867, is hereby repealed without prejudice to anything done under that section, and the following section shall be substituted for the section so repealed.

The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof, respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or power exceeding those at the passing of such Act, held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the Members thereof.

Confirmation of Act of Canadian Parliament.

2. The Act of the Parliament of Canada passed in the thirty-first year of the Reign of Her present Majesty, chapter twenty-four, intituled "An Act to provide for oaths to witnesses being administered in certain cases for the purposes of either House of Parliament" shall be deemed to be valid, and to have been valid as from the date at which the Royal assent was given thereto by the Governor-General of the Dominion of Canada.

Short Title.

3. This Act may be cited as "The Parliament of Canada Act, 1875."

# INDEX.


AGRICULTURE, DEPARTMENT OF, 71.

Agriculture, concurrent powers of parliament and legislatures respectively, 118.

Annapolis; formerly Port Royal; seat of government until 1749, 97 *n.*

Appendix to this work; British North America Act (1867); an act respecting the establishment of provinces in the dominion of Canada (34-35 Vict., c. 28); an act to remove doubts with respect to the powers of the parliament of Canada under s. 18 of the B. N. A. Act (38-39 Vict., c. 38).

BLAKE, Hon. Mr.; obtains modifications in letters patent and instructions to governor-general, 66 *n.*

Boundary Award; the character of the controversy between Ontario and the Dominion; decision of the privy council, 156-158.

*British Columbia.* See *Columbia British.*

British North America Act, 1867.—(Appendix A of this work; following figures refer to sections of the Act:) Preliminary, 1-2; union, 3-8; executive power, 9-16; constitution of parliament, 17-20; of the senate, 21-36; of the house of commons, 37-52; money votes, 53-54; royal assent and disallowance and reservation of bills, 55-57. Provincial constitutions: Executive power, 58-68; legislative power, in Ontario, 60-70; in Quebec, 71-80; legislatures of Ontario and Quebec, summoned, continuance of election laws, etc., 81-87; constitutions of Nova Scotia and New Brunswick, 88; first elections in

British North Am. Act—*Continued.*

provinces, 89; application to legislatures of provisions respecting money votes, etc., 90. Distribution of legislative powers: Of parliament, 91; of provincial legislatures, 92; education, 93. Uniformity of laws in Ontario, Nova Scotia and New Brunswick, 94. Agriculture and immigration, 95. Judicature, 96-101. Revenues, debts, assets, taxation, 102-126. Miscellaneous provisions: As to legislative councillors of provinces becoming senators, 127; oath of allegiance, how administered, 128; continuance of existing laws, courts, officers, etc., 129; transfer of officers to Canada, 130; appointment of new officers, 131; treaty obligations, 132; use of English and French languages, 133; appointment of executive officers for Ontario and Quebec, 134; powers and duties of executive officers, 135; great seals, 136; construction of temporary acts, 137; as to errors in names, 138; as to issue of proclamations before union, to commence after union, 139; as to issue of proclamations after union, 140; penitentiary, 141; arbitration respecting debts, 142; division of records, 143; constitution of townships in Quebec, 144. Intercolonial railway, 145. Admission of other colonies, 146-147. Schedules: I. Electoral districts of Ontario, II. Electoral districts of Quebec; III. Provincial public works and property to be the property of Canada; IV. Assets to be the property of Ontario and Quebec conjointly; V. Oath of allegiance and declaration of qualification. Acts in amendment thereof, 34-35 Vict., c. 28; 38-39 Vict., c. 38.

CAPE BRETON; ceded to Great Britain; under government of Nova Scotia, 96, *n.*

Capitulation of Canada; terms of in 1760, 7.

Census of Canada; in 1760-'90, 18 *n*: in 1839-44, 50 *n*; in 1881, 86 *n*.

Chatham, Earl of; opposes Quebec Act, 13.

Civil Code; in province of Quebec, 170.

Civil List; control of, 33, 45,

Civil Service; legislation respecting, 43-45.

Clergy Reserves; their origin, 23; question settled, 41-42.

Colborne, Sir John; administrator, 30; establishes rectories, 42.

Colonies of Canada; responsible government in, 36-40.

Columbia, British; admission of, 60; constitution of local legislature, 101-102.

Common Law of England; in use in Canada, 171.

Commons, House of; its constitution, 75; representation therein, 81-86; franchise for elections, 85, 87; powers and privileges under British North America Act (see ss. 37-52 B. N. A. Act, 1867, app. to this work); use of the French language therein, *ib.* s. 133.

Confederation of Canada; brief history of its origin, 52-61.

Congress, American; declares against Quebec Act, 13 *n*.

Consolidated Fund; charges on, 36 (Union Act, 1840) 88 (B.N.A. Act, 1867).

Constitution of the United States; compared with that of Canada, 115-116.

Constitutional Act, 1790: provinces of Upper and Lower Canada, established by its provisions, 17-25; history of its operation, 25-29; suspension of constitution in Lower Canada, 29.

Constitutional Act—*Continued.*

Controller of Customs, 74.

Controverted Elections Act; judicial decisions on questions of jurisdiction respecting, 121-122.

County judges; their appointment and removal, 172 *n*.

Coutume de Paris; in use in French Canada, 4; basis of civil law in province of Quebec, 170 *n*.

Criminal laws; in the jurisdiction of the parliament of Canada, 171.

Customs, Department of; 71-74.

Crown, the; represented by the governor-general, 64; recommendation as to votes of money (see sec. 154 of B.N.A. Act, app. A to this work).

DE GREY, Solicitor General; his opinion in 1763 on rights of French Canadians, 11 *n*.

*Deputy-Governor.* See *Governor-General.*

Disallowance; of provincial acts, 108-113; powers and responsibilities of dominion government in this respect, 114.

Distribution of legislative powers; between general parliament and local legislatures, 116-118.

Dominion; origin of name, 63 *n*.

Double majority system; an expedient to arrange political conflicts between Upper and Lower Canada, 51-52.

Dufferin, Lord; Governor-General of Canada, 65 *n*.

Durham, Lord; Governor-General of Canada and High Commissioner, 30; his report on Canada, 32; recommends legislative union, 33; establishment of a supreme court, 119 *n*.

EDUCATION; exclusive powers of provincial legislatures, 117.

Elections; acts respecting, 85-87.

Escheats; decision of privy council respecting, 147-151.

FEDERALIST, The. See *Hamilton, A.*

Federal union of the provinces; conference at Charlottetown, 54; at Quebec in 1864, 54; passed by provinces, 55-57; passage of act of union (see B.N.A. Act, 1867, app. A) by Imperial Parliament, 56; meeting of first parliament of Canada, 57; acquisition of N.W.T., 57-60; establishment of Manitoba, 59; admission of British Columbia, 60; of P. E. Island, 60. Constitution of the general government and parliament, 63-89; of the provincial governments, 90-107; distribution of legislative powers, 115-119.

Fishery licenses and leases; judicial decision thereon, 132-134.

Fox, Mr.; favours a representative assembly in 1774, 14 *n*; an elective legislative council, 21 *n*.

Franchise Act; passed by the dominion parliament for elections of members of the Commons, 85, 87.

French language; use of in the legislature restricted by union act, 1840; repeal of objectionable clause, 47; used in law records and journals of Canadian Parliament, sec 133, B.N.A. Act, app. A to this work.

GEOLOGICAL SURVEY of Canada; provided for, 73.

Governor-General; office of, 64; how appointed, 64; appointment of administrator in his absence, 67; may be removed at any time, 67 *n*; his salary, 88; advised by a privy council, 68; opens and prorogues parliament, 75; assents to or reserves bills, 75; dissolves parliament, 75-77; appoints and removes lieut-governor, with advice of his council, 90-91; deputy-governor, 66.

Gosford, Lord; Governor-General of Canada, 30.

Great Seal; Governor-General appointed under, 64.

HALIFAX; founded, 97 *n*.

Hamilton, Alexander; his remarks in the *Federalist* on the value of a supreme court, 170 *n*.

House of Commons. See *Commons*.

Howe, J.; his remarks on the irresponsibility of the executive in Nova Scotia, 27 *n*.

INDEMNITY to members of Parliament, 85 *n*.

Independence of Parliament; acts respecting, 88.

Indian affairs; department of, 73.

Indian titles; judicial decisions respecting, 151-155.

Inland Revenue, department of; 71, 74.

Instructions royal; to Governor-General, 65-67.

Insurance; judicial decisions on question of jurisdiction respecting, 123-128.

Intendant; functions of, in French Canada, 2-3.

Interior, department of; formed, 73.

Interpretation of B.N.A. Act, 1867; rules laid down respecting, 159-163.

JUDGES. See *County Judges and Judiciary*.

Judiciary; establishment of Supreme Court of Canada, 119; decisions on questions of legislative jurisdiction: Controverted Elections Act of 1874, 121; Ontario License Act, 130; Policies of insurance, 123; Fisheries Act of 1868, 132; Canada Temperance Act, 136; Dominion Liquor License Act, 146; Indian Titles to Lands, 151; rules laid down for construction of B.N.A. Act, 159; value of a supreme court under a federal system, 170 *n*; private bills referred to that court by senate, 168 *n*; how appointed, 171; independence of the judiciary, 171-172; salaries permanently charged on the civil list, 172; hold office during good behaviour, 172; only

JUDICIARY—*Continued.*

removed on address of two houses, 172, county court judges removed for sufficient cause by governor-general, 172 *n.*

Justice; department of, 71-74.

Justices of the peace; how appointed, 171 *n.*

KEEWATIN; creation of provisional district of, 104.

LAND QUESTION in P. Edw. Island; settled at entrance of island into confederation, 100.

Legislative Council; of Canada (under Quebec Act), 14; Upper Canada, 21; Lower Canada, 241; province of Canada (after 1840), 35; Quebec (after 1867), 94; Nova Scotia, 98; New Brunswick, 99; Prince Edward Island, 100; abolished in Ontario, 93; in Manitoba, 101; in British Columbia, 102; its relations with the old assemblies, 25-27.

Legislative powers; distribution of. See *Chapter XI.*

Letellier de St. Just; dismissed from the lieut.-governorship of Quebec, 91 *n.*

License Acts respecting sale of intoxicating liquors; decisions of Supreme Court of Canada respecting an Ontario Act, 130; Dominion Act for issue of licenses, 139, 146; Liquor License Act of Ontario, 139-146.

Lieutenant-Governor; before union of 1840 in Canada, 67; of each province since Confederation, 90; may be dismissed by governor-general in council, 90; assembles and prorogues legislature, etc., 92-93.

Lorne, Marquis of; governor-general of Canada, his remarks on constitution of Canada, 176 *n.*

Loyalists, U. E.; immigration into Canada, 17-18.

MACDONALD, SIR JOHN; in charge of clergy reserves bill, 42 *n*; member of Quebec conference, 55 *n*; presents confederation resolutions in

MACDONALD, SIR JOHN—*Continued.*

legislative assembly, 55 *n*; his opinions on constitutional and parliamentary questions, 53 *n*; 70 *n*; 109 *n*; 114 *n*; 158 *n.*

Macdonnell, W.; first speaker of legislative assembly of Upper Canada, 24 *n.*

Macpherson, Mr. Speaker; held seat in cabinet, 72 *n.*

Manitoba; establishment of province, 59; meeting of first legislature, 60; representatives take seats in parliament, 60; constitution of local legislature, 101; disallowance of certain acts of, 112-113.

Marine and Fisheries; department of, 71, 74.

Members of the Commons; number, 86; election, 85; indemnity, 85 *n.*

Military councils; established in Canada, 8.

Military government in Canada: established from 1760-1763, 8.

Militia; department of, 71.

Ministers; members of the privy council, 69.

Monck, Lord; first governor-general of the Dominion, 57 *n.*

NAVIGATION LAWS; repealed, 47.

Newark (Niagara); legislature of Upper Canada first assembles at, 24, 25 *n.*

New Brunswick; first formed into a province, 98; came into confederation, 57; local legislature of, 98-99.

Newfoundland; refused to enter into confederation, 61; representation in Senate in case of admission. See *B. N. A. Act, s.* 147, *app. A to this work.*

Niagara. See *Newark.*

North-West Territory; acquisition of, 57; insurrection in Red River, 59; establishment of province of Manitoba, 59-60; imperial order in council placing all British North

North-West Territory—*Continued.*

America, except Newfoundland, under control of Canada, 61; government of, 103: creation of provisional district of Keewatin, 104; imperial legislation to remove doubts as to power of Canadian parliament to legislate with respect to new provinces in territories, 105; representation of North-West Territories in parliament, 86.

Nova Scotia; constitution of local legislature of, 96-98; enters into confederation, 55-57.

OATH; taken by the governor-general, 65; by lieut.-governors, 91.

Ontario; constitution of province of, 93; boundary of, 156-158.

Ontario Liquor License Act; judicial opinions thereon, 139-146.

Osgoode, Hon. W.; first speaker of legislative council in Upper Canada, 24 *n*,

Ottawa; chosen as seat of government of Canada, 35 *n*,

PANET, J. A.; Speaker of Lower Canada Assembly in 1792, 24 *n*.

Parliament of Canada; constitution of, 75; duration of, 82; control over revenues and duties, 88; first meeting in the Dominion, 57; Manitoba representatives take seats in, 59; British Columbia representatives, 60; P. E. Island representatives, 61; N. W. T. representatives, 85-86; imperial legislation to remove doubts as to its power to legislate with respect to new provinces in the territories, 105; its legislative jurisdiction, 116-118.

Police Magistrates; how appointed, 171 *n*.

Postmaster General; department of, 71.

President of the Privy Council; 71.

Prince Edward Island; constitution of province of, 99-101; admission into the Confederation, 60.

Privileges and Powers of Parliament. See *appendix C. to this work*, "*The Parliament of Canada Act*, 1875."

Privileges, etc.—*Continued.*

Proclamation of 1763; issued by George III., 8, 9 *n*.

Property qualification; required for senators; declaration respecting, 79.

Privy Council of Canada; appointed to aid and advise the Governor-General, 68; origin of name, 68-69; the ministry, 69-74.

Privy Council, judicial committee of; their decisions on questions of legislative jurisdiction. See *Chapters XII, XIII.*

Public Printing and Stationery; department of, formed, 73.

Public Works; department of, 73.

QUEBEC ACT, 1774; parliament intervenes in Canadian affairs and passes act, 12; its details, 14-16.

Quebec Conference; resolutions for Confederation of Canada passed at, 54.

Quebec; constitution of province of, 94-96.

Quorum; in the old legislature of Canada, 35, 36; in province of Canada, etc. See ss. *of the B.N.A. Act, app. A. to this work*, 35, 48, 78, 87.

Rupert's Land; acquired by the Dominion, 59, 62.

RAILWAYS AND CANALS; department of, 73.

Rebellion of 1837-'38; its origin, 25-29; suspension of constitution of Lower Canada, 30; arrival of Lord Durham, 30; his ordinance of 1838, 31.

Receiver generalship; abolished, 73.

Red River; insurrection in, 59.

Representation in Parliament; of the provinces, 83-86.

Representation by population; demanded by representatives of

Representation, etc.—*Continued.*

Upper Canada, previous to 1865, 49-51.

Responsible government; Lord Durham's opinion thereon at time of difficulties in Canada, 32 *n*; its establishment in Canada, 37-39; in Nova Scotia, 40; in New Brunswick, 40; in P. E. Island, 100.

Rochefoucault-Liancourt, Duke de la; describes ceremonies at opening of Upper Canadian legislature in 1795, 25 *n*.

Roman Catholics in Canada; only required to take oath of allegiance, 14; relieved of their disabilities, 16.

SECRETARY OF STATE OF CANADA; department of, 71, 73.

Seigniorial Tenure; established, 5; abolished, 43.

Senate; its constitution, 75, 77, 78; present organization, 78; qualifications of senators, 79; addition to number, 79-80; vacancies, 80; indemnity to members, 85, *n*. See ss. 21-36, 39 *of B. N. A. Act, app. A to this work*.

Simcoe, Lieut.-Governor; opens and closes first session of legislature of Upper Canada, 24, 25 *n*.

Smith, Hon. W.; speaker of legislative council of Lower Canada in 1792, 24 *n*.

Solicitor-General; 70, 74.

Speaker; of the Senate, appointed by the Governor-General. See *sec.* 34 *of B. N. A. Act, app. A to this work*. In the Commons, by the House. See *ibid*, ss. 44-49. Speaker of Legislative Council in Quebec, not a member of the Executive Council, 96. Before Confederation, in Upper and Lower Canada, 21, 24; in Canada, 35-36.

St. Catherines Milling & Lumber Co. *v.* the Queen; decision of the Supreme Court of Canada, 151-155.

Stipendiary Magistrates; how appointed, 171.

Streams' Act of Ontario; disallowed, 110.

Supplies; dispute between executive and assemblies with respect to control of, 26.

Supreme Court of Canada. See *Judiciary*.

Supreme or Superior Council; established in French Canada, 3.

Sydenham, Lord; Governor-General of Canada, 35; his opinion as to a municipal system, 40 *n*, 41.

TAX BILLS OF QUEBEC; judicial decisions on, 127, 155.

Temperance Act, Canada, of 1878; judicial decisions respecting, 135-139.

Temporalities Fund of Presbyterian Church in Canada; judicial decision thereon, 128-130.

Thurlow, Attorney-General; his opinion on the Proclamation of 1763, 9 *n*; on the rights of French Canadians, 11.

Titles in Canada; special marks of royal favour conferred on eminent Canadians; order of St. Michael and St. George enlarged, 21 *n*.

Trade and Commerce; department provided for, 74.

Treaty of Paris; 7.

UNION ACT, 1840; its origin, 32-35; Poulett Thomson (Lord Sydenham), first governor of United Canada, 35 *n*; its leading provisions, 34-36; responsible government, 37-40; importance of legislation from 1841-1867, 40-48; its repeal, 49.

VANCOUVER ISLAND; constituted a British colony, 101-102; united to British Columbia, 102. See *Columbia, British*.

WILMOT, Mr. Speaker; held seat in cabinet, 72 *n*.

Winnipeg South-Eastern RR. Bill disallowed; 112.

YORKE, Attorney-General; his opinion on rights of French Canadians in 1763, 11 *n*.

Ontario; disal-

etween executive
with respect to

f Canada. See

r Council; estab-
anada, 3.

overnor-General
s opinion as to a
40 *n*, 41.

EC; judicial de-

anada, of 1878;
respecting, 135-

of Presbyterian
a; judicial de-
130.

-General; his
Proclamation of
ights of French

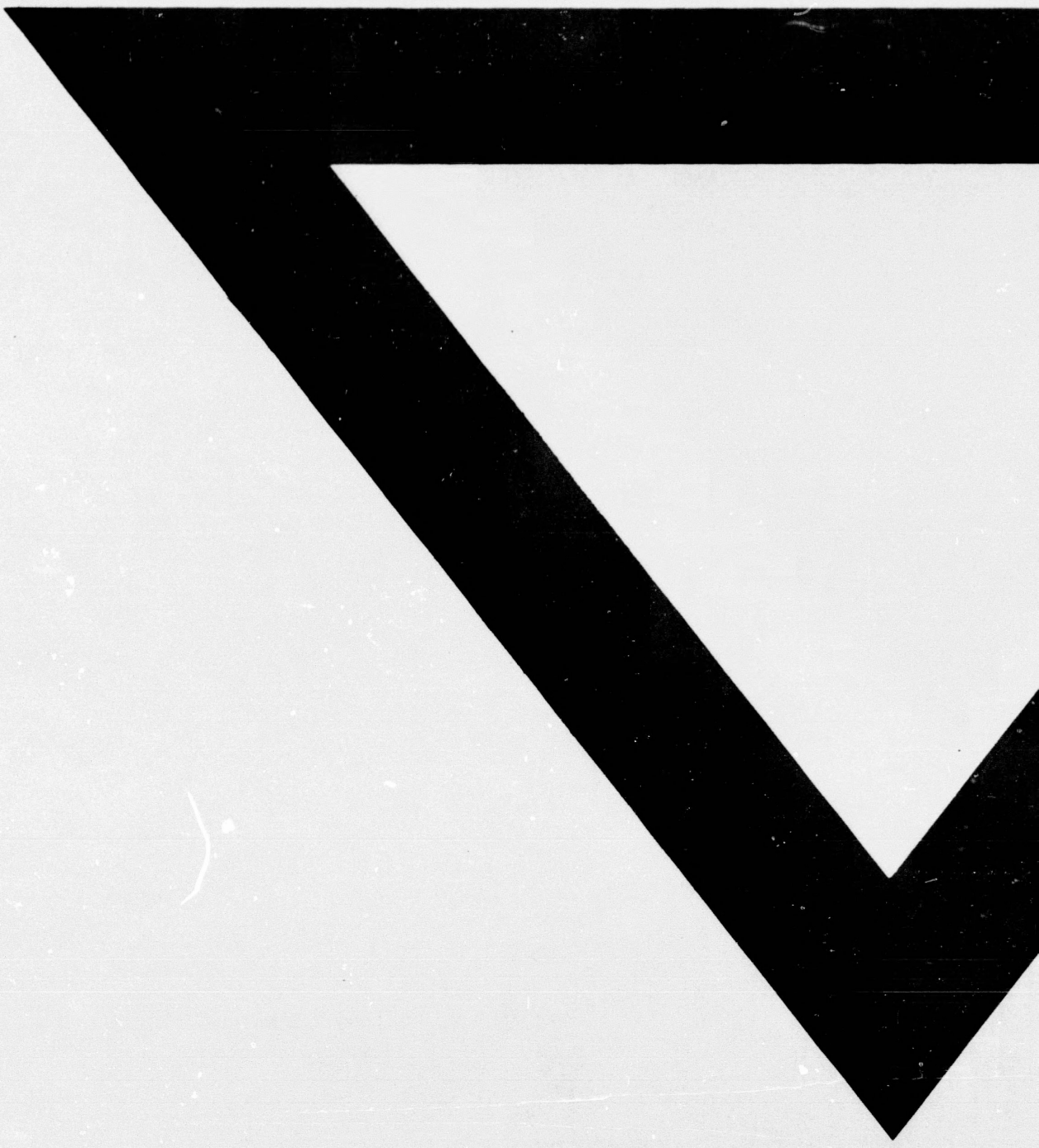
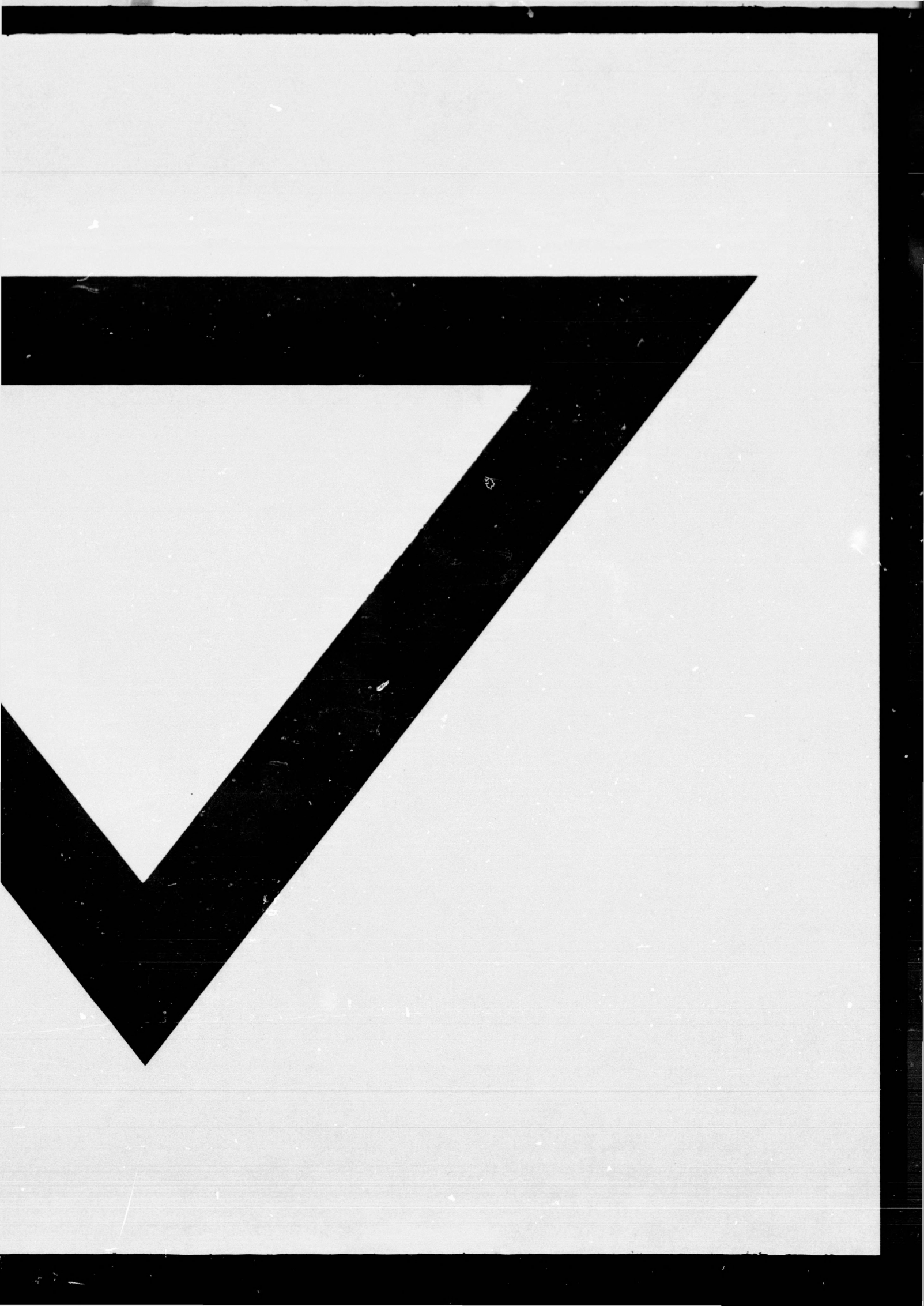
pecial marks of
rred on eminent
of St. Michael
arged, 21 *n*.

ce; department

s origin, 32-35;
(Lord Syden-
of United Can-
ling provisions,
government, 37-
legislation from
repeal, 49.

constituted a
102; united to
02. See *Colum-*

r; held seat in

tern RR. Bill

eral; his opin-
nch Canadians