THE UNION OF THE PROVINCES OF BRITISH NORTH AMERICA.

BY

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PREFACE.

A WORK entitled *L'Union de L'Amérique Britannique du Nord, par l'Hon. Joseph Cauchon, Membre du Parlement Canadien, et Rédacteur-en-chef du 'Journal de Québec,'* has recently made its appearance. The well-known abilities of the author, as a legislator and as a journalist, and his long acquaintance with public affairs, together with the importance of the subject, have been the motives which have induced me to translate this work, for the benefit of those who may not be versed in the French language. The subject of a Union of the British North American Provinces is treated, in all its bearings, from a French Canadian point of view, having reference, not only to the continuance of British connection, but to the preservation of those peculiar institutions of Lower Canada embraced in the words, '*Nos institutions, notre langue, et nos lois.*' There is, however, no narrow-mindedness of thought or expression. The advantages to all the provinces, politically and commercially, are clearly shewn, and, while facts and figures are interesting, the writing is vigorous and convincing. The translator feels assured that the labor of translation will not have been altogether lost upon the thinking and intelligent portion of the English-speaking population of the province. He lays it before them, convinced that Mr. Cauchon's views will be appreciated, and his style of conveying ideas generally admired.

G. H. MACAULAY,

TRANSLATOR.

QUEBEC, 15*th February*, 1865.

THE NEW CONSTITUTION

AND THE

QUEBEC CONFERENCE.

Introduction.

CHAPTER I.

AT the present moment, after having seriously studied the project of Confederation (which we had the good fortune to lay for the first time before the country), from every point of view, and estimating all probable results, as well as we have been enabled to appreciate them, and after an attentive hearing of the intercolonial delegates in their explanations of the motives by which they were actuated, and the meaning of the several articles of the project as so submitted, we confess that we still approach this subject with trepidation. The question of Confederation is undoubtedly the most important which has ever been brought before the statesmen and journalists of Canada. Who would not feel really anxious when the responsibility of grappling with such a question is to be undertaken? That which is going on at the present moment before our eyes is neither more nor less than a revolution, a bloodless one, if you will, but as complete a revolution in ideas and things as if we had reached it by the spilling of blood; it is the transformation, nay, the very transmutation of our political and social institutions. The elements are the same, or nearly the same it is true, but they are under new relations, and with new condi-

tions of equilibrium. A new association is to be formed, on a new basis, and with new principles of vitality. A large association will be created out of small communities which have hitherto been isolated, separated from each other, as it were, by differences of language, habits and the very nature of peculiar institutions. For divers reasons, an attempt is made to bring these into a group, with the view of forming a nation. The question is therefore a grave one, if ever we had one to consider, and imperiously demands patriotism, study and serious consideration. In 1840, after the temporary suspension of the Act of 1791, England granted to us a new constitution. The anguish and painful apprehensions of our population at that memorable period will long be remembered. But at that time we French Canadians had no deliberative voice in the councils of the sovereign, and consequently we were perfectly free from responsibility with regard to this act, which was conceived in injustice; under any circumstance, however, we could only be considered responsible to a certain extent, in so much as historical antecedents had brought us to that issue. At the present day matters are completely changed. Not only are we possessed of a deliberative voice, but Great Britain grants to us (the parties interested) full and complete liberty to construct, demolish or reconstruct our system of government. This power, which is almost unlimited, has imposed upon us corresponding duties and responsibilities, and we are thus bound to speak and act with prudence, wisdom and calculation. In the midst of our debates and internal discussions for the upper hand, let us not forget that there exists the responsibility of condemning as well as that of approving, and that the man, who, with the desire to oppose the project, might judge from his particular party point of view, is as liable to condemnation as another who might start from the same stand point to approve of the project. The writings of the press should become refined by duty, responsibility and the gravity of public affairs. The press should control party spirit, and should freely soar above all favoritism as well as personal antipathy, because, while political men and parties may perish, the nation will remain with the destiny which we have created for it,

and our names will be judged by posterity, gratefully or malevolently, according to the effect of our present acts. We must not forget, that while the history of the country at this period is created by us, we do not record that history, and therefore we should be wrong were we to depart from those principles of wisdom, truth and justice, which constitute the happiness of a nation, to satisfy any strong predilection, to gratify a feeling of hatred, or to obtain a temporary triumph. Let us reflect for a moment on the immense progress towards political liberty which we have accomplished between the years 1840 and 1864. Have we not obtained a signal victory over the despotism and oligarchy of the former date, which had given rise, a short time previous, to the bloody and disastrous events that seemed, at that time, to reserve for us another fate? How does it happen then, that we have thus transformed those ancient instruments of punishment and servitude into a vital political principle? We answer, by our wisdom, our moderation, the justice and generosity of our principles! We have, therefore, every reason to return thanks to Providence for the past, and should not despair of the future, because, if we ever have had a period in our history calculated to discourage us, it must certainly have been that during which irritated and uncontrollable feelings were the means of raising scaffolds and of immolating victims, and when despotism, with the intention of oppressing, established an equality of representation with a numerical inequality.

We alluded in a former part of this article to our fears—they are not of modern date. On the 2nd of July last, we wrote with views which could scarcely be misunderstood :—

'From the commencement of the last ministerial crisis, two 'thunderbolts have fallen on our political planet, and their fulmi-'nating effect is still felt in the most remote regions of some con-'sciences! The men who possess these consciences are in doubt, 'hesitate and ask for light, when perfect obscurity reigns. They 'are in ignorance at this moment of the probable result of such 'conduct, and they do not know whether the dark and rugged 'path which they now follow, will lead them to an abyss or to

'success. Are these violent shocks merely the precursors of 'greater commotions, or will the atmosphere be thereby purified 'and cleared up? This is in reality the question now predomi-'nant in every man's mind. * * * * * *
'Political alliances may be severed without any danger, but 'constitutions are not destroyed as easily and with such impunity, 'and God knows what may be reserved for us in the future, 'in the shape of happiness or ruin.'

Before going any further, not with a view of recrimination, but simply to write historically, and trace out the course which we propose to follow, let us pass rapidly in review the events which brought on the Quebec Conference. We shall merely recapitulate what we have written during the past few months.

In 1858, when the Macdonald-Cartier Administration resigned on the Seat of Government question, Mr. Brown was called upon by His Excellency to construct a Cabinet, which lasted as it is well known only two days, but which lasted long enough to sow the seeds of misfortune in the political soil in existence at that period. Hon. A. A. Dorion actually admitted to Hon. Geo. Brown the correctness of the principle of Representation by Population! At the present stage we shall certainly not attribute any personal motive to Mr. Dorion in this unfortunate concession, and we shall be satisfied with a quotation from his own words duly published. In the Legislative Assembly, on the 6th day of July, 1858, he spoke as follows:—

'The hon. member for Brockville, the Postmaster General 'and the Speaker, and other members representing Eastern con-'stituencies in the present Parliament, had heretofore voted in 'favor of Representation by Population,—it would be seen how 'they voted when on the subject on the present occasion. It would 'soon be impossible to resist the claim of Upper Canada in this 'respect, and if it were not conceded at once, it would be carried 'without any safeguards being given to protect the French 'Canadians. A dissolution of the Union, a Federal Union, 'and Representation by Population are before us, and we should see

'if it could not be granted, surrounded by proper safeguards for the 'protection of the religion, language, and laws of Lower Canada.'

He spoke again on the 3rd May, 1860, to the following effect :—

'I warn the members representing Lower Canada, that when 'the time comes, the whole of the Upper Canada members will 'unite, and with the assistance of the Eastern Township members, 'will obtain Representation by Population. I look upon the Federal 'Union of Upper and Lower Canada as the nucleus of a grand 'Confederation of the British North American Provinces which I 'strongly desire to see. In conclusion, I must state that I shall 'vote for the resolution, as it is the only way by which the diffi-'culties existing between the two sections of the Province can be 'settled. I believe that time will accomplish a union of all the 'Provinces.'

The defeat of the Brown-Dorion Cabinet was the means of bringing into power Hon. A. T. Galt, who, in 1857, had made a speech in favor of the Confederation of the Provinces. In order to obtain the services of this eminent financier, it was found necessary to make concessions which would have the effect of saving his antecedents and his personal dignity. To this circumstance must be attributed the Dispatch of 1858, which served as the basis of the formation of Mr. Brown's Constitutional Committee, and, as it were, of the generation of the Taché-Macdonald Cabinet. To this dispatch the Imperial Government made no reply; but the germ of Confederation was cast upon the soil by the same hand, side by side with that of Representation based upon population. Both germs were developed in that same soil with different chances of success, until the former, favored by causes which cannot be detailed in this article, at length stifled or choked the latter with its more vigorous stems. Thus, Mr. Dorion became the father of Confederation, as he had already been the parent of Representation by Population. History has already recorded this fact, and will again record it. If we measure the ground gone over since 1851, it will be found that the Lower Canadian majority has nobly performed its duty. We can find no precedent for a more bitter contest between the partisans and adversaries of a cause.

In order to bring us to our senses, threats and terrorism were freely used. Civil war, foreign invasion, and England's interference were thrown down to us with the gauntlet. We were divided among ourselves, tearing each other to pieces as enemies, and the relics of strength remaining with us were not homogeneous, whether taken on the ground of origin, language, manners, religion, sentiment, or interest. And, with all these disadvantages, all these formidable obstacles arrayed against us, we have, up to the present date held our own against every storm—we have, in fact, lulled the impending tempest. How heavy then must be the responsibility which rests on the heads of those who, with some motive (which we do not desire to impugn in the examination of such a serious and uncertain question), have divided, to a certain extent, our national phalanx and have brought us to our present position? How can we appreciate the danger in store for us? It is by concluding that it is not caused by the opposition or antagonism of Upper Canada, but solely by our own internal dissensions, and by that unfortunate party spirit, which causes us to forget the gravest and holiest matters, in our regard for persons.

The Coalition and the Conference.

CHAPTER II.

WE have now reached the decisive period.—The Taché-Macdonald cabinet, which had scarcely been in existence for six weeks, was defeated on the 14th day of June, under circumstances well known to the country, and the following day the cabinet respectfully asked the Governor General to dissolve Parliament and to appeal to the constituencies.

Hon. J. A. Macdonald (leader of the Upper Canada section of the Government) explained in the following words the position in which the Cabinet was placed by the vote of the 14th, and the

result of the advice given to Lord Monck by the Ministers of the Crown :—

'And, considering the state of parties in this House, the equality 'in numbers of those who support and those who are opposed to 'the Government, and the great improbability of our being able 'to form, out of the present House, a Government that would com- 'mand a majority, they thought it their duty to advise that there 'should be an appeal to the people; and that, after the necessary 'business was gone through, there should be a dissolution. His 'Excellency gave his assent, this morning, to this, stating that he 'has accepted the advice, and has authorized us to dissolve—has 'given us the *carte blanche* in that respect. The Government have 'had, from the time of that vote till this moment before them, the 'consideration of the very grave questions that divide parties in this 'country, and the expediency, if possible, of avoiding the extreme 'measure of proceeding to a dissolution. (Hear, hear.) And with 'that view, for the purpose of seeing whether there is any means 'of solving the difficulties which have arisen in the country, espe- 'cially those between Upper and Lower Canada, we considered it 'our duty to confer with leading members of the Opposition, to- 'day, to see if we could not agree on some plan by which a Gov- 'ernment could be formed, possessing a majority from both sections 'of the Province. We were not in a position to do so before 'to-day. We have had that conference with hon. gentlemen on 'the Opposition side, and have made such progress that I see the 'way to a solution of the difficulties without the necessity of a dis- 'solution of Parliament. (Hear, hear, and cheers.) This, of 'course, is a very grave step. The considerations are very grave 'in themselves, and require careful deliberation; and the House 'will, therefore, not be surprised that I should ask them to adjourn 'till Monday, in order that there may be a full conference between 'leading parties on both sides. I may say that the hon. gentleman 'with whom I conferred is the hon. member for South Oxford.'

Since the defeat of the Cartier-Macdonald administration, which occurred in the spring of 1862, we have witnessed the defeat of three successive administrations without promising to their suc-

cessors a happier lot. These were the Sanfield Macdonald-Sicotte, the Sanfield Macdonald-Dorion, and the John A. Macdonald-Taché administrations. After a general election, the strength of both parties appeared to be equal. The majority (consisting of one or two votes), which seemed to alternate between the right and left sides of the House, decidedly paralysed the efforts of the Government, and rendered legislation impracticable.

The system was, to raise public men for a day to the level of Ministers, and the next day to hurl them from power, on the principle adopted by the Romans when the empire was in the decline. The natural result was, the advent of a fatal period, at which the whole governmental system was brought to a stand-still.

The attempt made by Sir Etienne Paschal Taché to obtain assistance among the Members forming the Upper Canadian majority, had failed; and no alternative was left but a second dissolution within ten months of the first. This, it was contended, might accomplish the destruction of that deplorable equilibrium which existed in the relative strength of both parties.

If that extreme measure had been resorted to, could it have succeeded? We are in doubt on this point. It might certainly have been anticipated that the numerical strength of the Liberal-Conservative party in Lower Canada would have been increased, but it is by no means certain that a proportionate diminution might not have been the result in the upper section of the Province, and it is quite probable that subsequent to such an election, we might have witnessed the sad spectacle of one section of the Province arrayed in deadly strife against the other!

In any case it so happened that the chiefs of both parties were fearful of the result, and after several adjournments and lengthy consultations, they arrived at the conclusion which is well known to us all.

On the 18th June, 1864, we offered the following opinion:—

'This coalition, (and at that time it was nothing more than a 'coalition) is preferable to an election, provided that the moral 'character of our public men does not suffer, and that the confi-'dence of the people in our statesmen be not thereby shaken. 'In fact, if the political crisis between the two sections of the

'Province had reached that grave position, in which a duty may 'be imposed upon the representatives of the people to appease 'the storm, and in so doing to procure the silence of personal and 'antipathetic opinions, it would be much better that the doctrine 'should prevail: *Salus populi suprema lex.* This, at least, is the 'opinion of Hon. George Brown, the constant enemy of Lower 'Canada, to whose principles we have offered every opposition, on 'the ground, it is well known, that he exhibited hatred, antipathy 'and prejudices against us, while above all, he labored to subject 'Lower Canada to Upper Canada influence.

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'Whatever may have been the motives and the causes of this 'singular reconciliation, and although we could scarcely have en-'tered into such an arrangement ourselves without fear, we frank-'ly and cordially state our intention to await the moment when 'our friends shall have been tried, before condemning them, and 'our sympathies are with them, because we appreciate their pat-'riotism and we know that their task is a difficult one. At any 'rate, let us await the development of negociations in order to 'judge them with more certainty.'

And we concluded our article in the following words:—

'We write freely on the present occasion, because, nothing in 'this strange chaos of events and personal positions, can affect us 'individually.

'Should the result be favorable, we will certainly congratulate 'our friends seriously and cordially; should the reverse be the 'result, we will give them our feeble assistance to ward off any 'danger that may ensue.'

Since that date we have conscientiously kept our word, in spite of provocation. We have abstained from condemning, as well as from approving, without being well informed. We cannot wait any longer. In the matter of Confederation our antecedents and our convictions, as enunciated in 1858, are still in existence. Let it not be supposed that we are desirous of consigning to oblivion opinions which were conscientiously offered and carefully prepared! On the contrary, we desire to have them remembered, in

order that by a comparison of reasoning and circumstances, it may be found why we have modified those opinions, if we have modified them, and why we still maintain their correctness should we think proper to do so. We hold to our own dignity as journalists, against which no accusation of personal interest can be brought; but, as error is possible and really of frequent occurrence in every case, such a feeling of personal dignity would be absurd if placed as an obstacle to a discovery of the truth.

The greatest minds have often paid the penalty of weakness, and as infallibility is far from being an essential element of the human intellect, it would certainly be a lack of dignity and probity should we persist in error, fearing that by so doing we should be guilty of contradiction and avow our fallibility. If we write thus, it is not because we desire in any manner to abandon profound and sincere convictions without due examination; on the contrary, we continue to hold these convictions until proof of error be adduced. However, when we are asked to reconsider a question of such gravity as that of Confederation, would we be justified in answering with the Indian, '*I have said it.*'

Six years ago we wrote on hypotheses, but at the present moment we are compelled to give our opinion on a reality, and that, under circumstances by far more serious. At that time we could have been silent, now, duty compels us to speak.

In 1858, as we then stated, 'We had no tangible fact before 'us, no matured project which could serve as a basis for discus- 'sion, and we were inevitably compelled to form our opinions from 'hypotheses.' In a consideration of these hypotheses, we reached the number of twenty-seven, including the Union as a unit, also a Federal Union.

We imagined that 'the whole question was considered in those 'twenty-seven hypotheses, and that the solution of the problem 'could be found in them.' But, after the labors of Mr. Brown's Constitutional Committee, after study, experience, thought, and finally, after a perusal of the Resolutions of the Quebec Conference, we came to the conclusion that our twenty-seven hypotheses of 1858 did not by any means contain the only practicable constitu-

tional forms of Government suitable for Confederation. Should we, therefore, in the face of such an important error, fearing to be guilty of contradiction in our opinions, stubbornly persist in the error we had committed? At the present moment, we possess for our guidance, a project which is tangible and available, and should we commit any errors, they can only occur in our style of appreciation, because the details of the project are designated by land marks which cannot mislead us in our examination. Were we not, therefore, justified in warning those who seemed inclined to condemn summarily? 'Do not pronounce your opinion now. Reserve 'your judgment!' Among the principles which we then enunciated so positively, there are some that now fall to the ground because they do not agree with facts of the present day, and we established rules which would have had the effect of rendering our public men too unyielding and narrow-minded. Other principles must give way before imperious circumstances, and they should not be considered absolute but subject to those circumstances. The doctrine of '*périsse la patrie plutôt qu'un principe*,' enunciated by *Les Girondins* when they ascended the scaffold, is simply absurd, and in direct opposition to the fundamental principle of public law, '*Salus populi suprema lex*.' In the government of nations the destructive principle is neither understood nor practised. Moreover, there are other principles which do not hail from any particular date, but which are inflexible and immutable in their nature, because they are based upon facts, and their essential element is that of truth.

We shall now explain. We stated, in 1858, "That the Maritime 'Provinces had raised the cry of Confederation, because they had 'nothing to lose, were utterly valueless as allies, and that they 'desired to make up their budgets out of the revenue of Canada.' Now, the bases of the Coalition formed in June last, distinctly disprove our assertion of 1858, and it is a fact well known to the public, that the cry of Confederation has been first raised by Canada, and not by the Maritime Provinces. It has also been proved that the financial resources of those Provinces are, in proportion to the respective figures of population of all the Pro-

vinces of the proposed Confederation, at least in as healthy a condition as ours.

We stated also, in 1858: 'By the adoption of the Federal 'principle, the provinces, both small and large, will have equal 'weight or power in the General Federal Legislature, in fact the 'population of the small Island of Prince Edward will be equivalent 'in power to the one million two hundred and fifty thousand 'inhabitants of Lower Canada.'

In the project of Confederation which we are now examining, three of these provinces are grouped as it were into one, and these three together, in the Upper Chamber will only have (as thus united) the same number of members as Lower Canada. The small Island of Prince Edward will have only four members out of the twenty-four representing the group. We also stated, in 1858, 'That direct taxation by the local legislatures would become 'actually necessary, should Federation be accomplished under 'Colonial rule.' Now, the project is clearly against this peremptory condition, inasmuch as it not only permits the local legislatures to raise the revenue required for local purposes, without having recourse to direct taxation; but it also grants a *bonus* to these legislatures which will enable them to liquidate their unimportant debts within a stated time, and to accomplish those public improvements which, although subject to being termed local, are nevertheless the source and essential principle of our national prosperity. Thus, if in spite of our antipathy in regard of any system of Confederation, the plan now proposed has been imposed upon us by the force of circumstances; if for instance, we were offered the choice of annexation to the United States, and a Confederation of the Provinces; or even between the latter and Representation by Population in a union purely Federal with Upper Canada; if in fact this Confederation were proved to be necessary for our common protection, and had we the power to do so, we could not remain in an isolated position. Why, therefore, should we be held to stand inflexibly or uncompromisingly to an opinion formed years ago upon hypotheses and published under circumstances entirely different.

With regard to the third category, that of absolute principles, we need not enter into proof, it explains itself. We shall find a large number of such principles in the course of the work we have undertaken.

The Issue.

CHAPTER III.

IN our opinion, the question at issue may be divided into the following propositions:—

1*st*. By accepting, in an alliance with Hon. George Brown, a Confederation—whether, of all the British North American Provinces, or of both sections of the Province of Canada: were the ministers of this Province actuated by a sense of duty, or by a sole desire to remain in power?

2*nd*. Could the existing Union between Upper and Lower Canada have been maintained under the present system?

3*rd*. If not, had we reached the propitious moment at which our Constitution should be amended in order to establish it on a new basis?

4*th*. Admitting that it were possible to maintain the existing union intact, should we persist in so maintaining it, or should we seek a greater destiny in a different order of things?

5*th*. If the moment had arrived at which it became proper to amend our Constitution, have our statesmen who have undertaken this important work solved the difficulties presented by the question in the best possible manner under the circumstances?

When the Government announced that they had communicated with Mr. Brown, and when later, they informed the House that an alliance had been formed with him on the basis of Confederation, we certainly feared and hesitated, and we reserved our judgment.

After having described all the difficult circumstances in which the Cabinet was placed, and all the motives which could justify them in a reconciliation with an old enemy under the conditions proposed, we added, 'Certainly, in the position occupied by our 'political friends, we should have feared such a test.' But, it was not from want of confidence in those political friends, it was doubt of the result of the test to which they were subjecting themselves; because, we stated in our article of 2nd July, in writing which we laboured under the same painful impression:—

'The Cabinet, after several interviews with Mr. Brown, has agreed 'to submit to Parliament a Constitutional project which will be 'based on State reasons, as regards the composition of the Federal 'Parliament. "*L'Etat en haut, le 'nombre en Bas.*"—"The State 'at the head, the people under it."

'This complex system, which the Government do not yet com- 'prehend better than we do as regards general land marks and 'essential details, the relative positions of the several Legislatures, 'and, in a word, everything that may effect in any manner our 'social or political position; this project, (which may fairly be 'so called), will be carefully, prudently, and patriotically prepared 'for the interests of all, and will then be submitted to the 'most rigorous test of discussion both in Parliament and in the 'press.'

Our language would have been very different, had we not been confident that our public men were patriotic and disinterested, because, in addition to our fears, our antecedents on this question were entirely opposed to this new idea which had suddenly been created by a political crisis. Nevertheless, as we have already stated frequently, this faith in our public men could only with us be delayed until they had undergone a fair test, because, as regards this test, we had reserved the privilege of forming our opinion upon the merits with perfect independance without looking to right or left, above or below us.

The Canadian Union.

CHAPTER IV.

'Could the existing Union between Upper and Lower Canada have been maintained under the present system?'

WERE we to accept Hon. A. A. Dorion's opinion, we could easily answer in the negative. But, as we have always energetically protested against any change, and that, as it were from superstitious fear, as we had always driven the idea from our mind; when we are now called upon to look that proposed change fairly in the face, we are compelled to glance calmly and carefully around us to seek the solution which we require. We opposed constitutional changes when offered to us by Lower Canadians, under the guise of Representation by Population, in 1848; we resisted them through annexation, when offered to us by Republicans and bankrupt merchants, in 1849; we opposed them when offered to us by the Radicals of Upper Canada in 1851 and 1854; we refused them in 1857, at the hands of Hon. Mr. Galt, our present Finance Minister; we rejected them with indignation, in 1858, when Messrs. Brown and Dorion wished to impose Representation by Population on Lower Canada; and we refused them with the same disdain when offered to us by the same men in 1859, '60, '61, '62 and '63. We then said to the Upper Canadians, in the powerful words of Shakespeare, 'TO BE OR NOT TO BE?' For us it is a question of life or death! You say, '*You shall not be*;' we reply, 'We shall be!' We desire to be inoffensive, just, tolerant and generous, but our existence must be maintained! Do not ask us for Representation by Population, because it is our death-knell, and we wish to live; or, in other words, we are not prepared for political extinction!

When we spoke thus, we were united in a solid phalanx, with well closed ranks. Back to back with the members of English origin representing counties in Lower Canada, we had to protect us, on all sides, powerful auxiliaries in Upper Canada. As for Lower Canada, it was a struggle for life or death, and in Upper

Canada a struggle in which party feeling was the motor. While the Lower Canadian phalanx remained intact, that of our Upper Canada friends gradually diminished in number, while working for our interests, under the accusation that they were working for interests which were opposed to those of Upper Canada. During this period, the population of Upper Canada, favored by the natural emigration from Europe and the United States, increased in a proportion calculated to render the demand for a proportionate representation reasonable. This cry, which was at last one of antipathy, and even of hostility against us, became so popular that the greater number of our faithful Upper Canadian friends were compelled, from the force of public opinion, to abandon us, and Upper Canada was apparently constituted into a camp hostile to our interests. On the other hand, the Lower Canadian representatives of English origin, who could not be supposed to have a sympathetic regard for our institutions, our language and our nationality, entertained different opinions on the subject of Representation by Population, and, fatigued with these incessant and systematic contests between the two sections of the Province, threatened to abandon their position. During late crises, they neither concealed their opinions in private circles nor in public speeches. These same men held the balance of power between Upper Canada and the French Canadian element, and, at a moment's notice, could change the equilibrium between the representation of Upper and that of Lower Canada, if not by a Legislative Act, at any rate by an appeal to the Imperial Government. This could be felt and seen every day, in the impotency of the Administration and the paralyzed condition of legislation. The equilibrium existing between the antipathies on both sides of the Legislature was so closely balanced, that a change in the vote of one member might frequently defeat the Ministry of the day, and stop the working of the parliamentary system, to the great injury of the public interests.

This deplorable state of affairs brought into play ambition, as well as animosities, both from small and great, and throughout our Legislature unjust claims or exactions of a very absurd nature.—As these exactions were numerous, and could not all be satisfied,

they reacted on a weak Government, and frequently crushed it under their weight.

Thus we find that two ministerial crises occurred in 1854, one in 1856, one in 1857, two in 1858, one in 1862, one in 1863, and two in 1864.

Labouring under the strong impression created by such a state of affairs, and under the immediate effect produced upon us by the last ministerial crisis, and the explanations given in the House, which enabled us to foresee the Coalition and its consequences, we wrote, on the 18th of June, under very strong feeling, the following words :—'There are so many grave and severe lessons given in 'these few explanations to individuals, without heart and without 'patriotism; there are so many exaggerated hopes suddenly and 'forever dashed to the ground; so many disappointed calculations, 'so many intrigues and manœuvres proved to be unprofitable, so 'many sudden and unexpected reverses of fortune and strange 'transformations, that Members of Parliament and the public were 'equally astounded.

'And still it was evident that this was in reality the desirable 'and necessary solution, because it was received with enthusiasm 'by a large majority of the House, who received the announce-'ment with stirring applause, and by crowded galleries, the occu-'pants of which gave their assent in as noisy a manner as the rules 'of the House would permit.'

Could we then persist in perpetuating a state of affairs which has lasted for ten years, with an annual increase of difficulties, and which could only end in an unfortunate collision, in which with inadequate forces, we could scarcely hope for victory.

With such facts before us, with such a prospect, and an absolute and imperious necessity commanding us, would we have been justified in saying as we had hitherto said—'NEVER.' And, if we have felt the necessity as we have felt it to be our duty always to refuse our sanction to the constitutional changes that were offered to us by Messrs. Brown and Dorion, could we conscientiously refuse to seek some other constitutional means of assuring the safety

of our institutions, our language and our laws, as we evidently could not maintain the existing constitutional plan.

We therefore conclude by asserting that it had become impossible to maintain the present union under the present system.

Changes in our Constitution.

CHAPTER V.

'Had the most favorable moment been reached to remodel the constitution, and to place it on other bases?'

IF it be true, as we think we have proved in our last article, that a period was approaching at which all government and all legislation would have become impossible, we could fairly say that if it were not the most favorable moment, at least, action at that moment had become necessary. But there are other reasons which induced us to decide that the favorable moment had been reached, and that by any delay in the solution of a problem of such importance, we would have run a serious risk, and accepted the consequences of grave responsibility. The public men of both parties had become exhausted in the struggle, and were discouraged at the sad prospect of continued difficulties. During leisure, they sought ardently for some solution of the problem. They were averse to admitting that they were altogether exhausted and conquered, or that they had steered an erroneous course: but they offered to meet each other half way in order to save their personal dignity, and to escape the humiliating avowal of incapacity to deal with the crisis.

They were therefore prepared for compromises, and ready to enter fully into the path of those concessions which, at other times they would have rejected with disdain, and even with indignation. In order to convince ourselves of this fact, let us refer to the

circumstances under which the Taché-Brown-Macdonald Government was formed. After the vote of the fourteenth of June, the Ministerial crisis was prolonged without any apparent issue. The Cabinet had, on the morning of the 15th, asked for power to dissolve Parliament; but the tardy reply of the Governor General caused great anxiety, and was the means of creating numerous conjectures.

The hopes of the chiefs, or of those who had the ambition to reach that position, rose and fell from hour to hour, as the quotations on the stock-market. Aspirations, rising from every point, seemed to be curbed and loosed, they fretted like race horses impatient for the start, and every thing appeared to tend inevitably towards a dissolution, uncertain for all, and desired by none.

A costly general election, which had not been decisive in its character had but lately taken place, and a second trial more difficult and more costly perhaps than that which had preceded it, was scarcely more decisive than the first.

It was under these circumstances that Mr. Brown, frankly addressing two friends of the Cabinet, stated that he was prepared to assist the latter in the crisis, provided that certain constitutional changes should be promised.

'I shall,' said he 'decline insisting upon Representation by 'Population, and shall be content with the promise, that a sincere 'attempt will be made to accomplish a Confederation of the Pro-'vinces of British North America.'

Ministers who could neither foresee the actual result of the advice tendered to the Governor General two days previous, nor that of the general election which would necessarily follow, and who could not see in the future any solution of existing difficulties, freely accepted these offers of conciliation and agreement, and immediately entered upon their task.

We have already quoted the words of the Hon. John A. Macdonald, in which he explained the nature of the political situation, and the motives which prompted the latest ministerial action. We shall now quote from Mr. Brown, when he spoke, on the occasion of his accepting the alliance which he had himself sought.

On the seventeenth of June last, he addressed the House as follows :—

'I am sure the House will acquit me of all intention of aiding 'hon. gentlemen opposite, in using a threat of dissolution to 'coerce members of this House. (Hear, hear.) I am sure, every 'member of this House will comprehend, that hon. gentlemen 'opposite, to whom I have been opposed for so many years so 'strongly, could not have approached me in any way, to ask me 'to join with them in the construction of an Administration, 'unless under the force of very extreme circumstances. And hon. 'gentlemen will also feel, that I could not, by any possibility, 'have met these gentlemen on the Treasury benches, except under 'such circumstances; that nothing else, except the position in 'which this House stands, and the consideration of the repeated 'endeavors made for years, to form a strong government, as also 'the consideration of the strong political feeling existing between 'Upper and Lower-Canada; and, that in case of a dissolution, we 'are not likely to bring about a satisfactory change of that condi- 'tion of affairs—could have induced me to enter into communication 'with those hon. gentlemen. (Hear, hear.) I am bound to say, 'that the hon. gentlemen opposite, are approaching this question, 'as far as I can understand, with a candor and frankness worthy 'of any set of men. (Hear, hear, and loud cheers.) Their 'approach has been made to me in a way that members on both 'sides of the House ought to be glad to find was the case. I do 'hope then that, instead of any unpleasant feeling arising with 'regard to it, or with respect to past political affairs, we shall feel 'that this is a matter that ought to be approached with the great- 'est possible gravity; that, we have to consider the interests of 'both sections of the Province, and to endeavor to find that settle- 'ment of existing difficulties, which will be satisfactory to both, 'and that we shall reach a termination of those constant scenes of 'discord that have only been too frequent in past years.'

When there seemed to be a universal desire in the public mind to settle our difficulties, who would dare to maintain, that the favorable moment for remodelling our Constitution had not been

reached? It was stated at the time, that many members of the Opposition were seeking eagerly for power, and that Mr. Brown, finding himself abandoned by those whose political position he had created, desired by this extraordinary and unexpected proceeding to recover his lost position, and to punish his ungrateful followers.

Let us suppose that this is true, and that the ambition of one man was the cause of bringing on the constitutional crisis,—is it less true—is it not on the contrary more evident, that the moment to settle this question had been reached, inasmuch as this ambition, in order to frustuate that of others, felt the necessity of arrangements, and the want of conciliations.

After having admitted the possibility of a perpetual *statu quo*, and the necessity of remodelling some day our constitutional compact, would it have been wise to retreat at this solemn moment, and thereby still further irritate passions by an obstinate resistance, and to place the future of this country in the category of eventualities?

Mr. Dorion stated in a speech, from which we have already quoted in this series, that, 'Upper Canada would eventually obtain 'Representation by Population, with the assistance of the members 'representing the Eastern Townships,' and we have already seen that the latter, exhausted and worried, commenced to murmur, threatened to give way, and asked in any possible solution that an end might be put to this prolonged struggle, which had become so unprofitable to the country. If we were already too weak to resist, if our only chance of remaining masters of the position was by alliances which threatened to be lost to us from day to day; and, if by the secession of some, and the progressive increase in the numbers of others, we were naturally to become more and more isolated; did not reason, wisdom and patriotism command us to act energetically and spontaneously, and were we not bound to save such great interests from the chances of the future?

The Canadian Union and the Future.

CHAPTER VI.

'Admitting that it were possible to maintain the present Union intact, should we persist in so maintaining it, or seek greater destinies in a different order of things?'

ALL the nations of the world naturally aspire to great destinies, and to an important position in the human family, because, in addition to the legitimate feeling of pride which actuates them in seeking to reach the highest rank, they know that there is more chance of their being respected favored and prosperous, in proportion to the power which they can show.

All agree on this point. All seem to understand, as it were by intuition, that the Colonial condition is nothing more than a state of transition—a mere step from the infancy to the virility of a people. In order to be convinced of the actuality of this social law at every period of the world's existence, it is but necessary to refer to the history of the ancient colonies of Phenicia, Greece and Asia, and the colonies established in modern times by Europe, on the continent of America, particularly those of the United States, Mexico, Brazil, and all the Spanish and Portuguese Republics of Central and Southern America. This social law, against which England fought during seven years, with all the power of her fleets and armies, seems still to be universally recognized.

At the present moment, this law has become an axiom of political economy, as well as the profession of faith of all the statesmen of Great Britain, who continually warn us to prepare ourselves, by a strong political and military organization, for the emancipation which is at hand.

We are certainly happy colonists—free as the fish that swim in the ocean or the birds that fly through space, and this because we are under the protection of the British flag; and still we ask, Englishmen, Scotchmen, Irishmen, Canadians, all—are you not desirous, if you can, of becoming a great nationality? The only obstacle to the success of these aspirations can be found in our

local difficulties, in the fear of losing, by any change of system, those privileges which are very dear to us, and which we would not sacrifice even to greatness, power, glory, or the title of nationality.

Is there one individual among us who would consent to remain as he is, if he were certain that none of these privileges could be lost in the new order of things; and if the colonies of British North America were on an equal footing with regard to institutions, laws, manners, language and religion, would we not all exclaim with one voice, at the period of maturity of our colonial existence, '*Let us be a Nation*?'

The title of colonist implies nothing criminal or dishonorable in itself, but nevertheless we feel that it humiliates us, because it means infancy, subjection, guardianship. The citizen of the Mother Country speaks of us as 'our colonists,' 'our colonies,' 'our dependencies,' in the same manner that he speaks of 'our fleets,' 'our arsenals,' 'our implements of war'; while as citizens of an independent nation we would be ourselves, in fact our own masters.

The colonist has no history of his own, and were he as great a genius as Shakespeare, Bossuet, Liebnitz, or Pascal—were he as great a statesman as Richelieu, Pitt, Fox, Colbert, Carnot, or Guizot, he would scarcely be mentioned in the world of intellect. We do not here express our individual opinion—we allude to something greater and more noble, a national aspiration—something which reigns in every mind, and has its place in every heart.

Now, if we leave this class of ideas, let us not forget that if we do possess our autonomy of manners, religion, laws and language, we do not possess in the same degree in the true sense of the word, our political autonomy. In the present condition of our existence we scarcely count more than one-third of the whole population; and in Lower Canada, one-quarter of the population is composed of a different nationality, distinct from ours in language, predilections and prejudices.

When, therefore, we say that we wish to remain as we are, we merely wish to speak as Lower Canadians, and if we so speak, the voices of a quarter of a million in Lower Canada reply:

'Recollect that we also are inhabitants of Lower Canada, and 'that we also aspire to other and greater destinies. In this we 'join with Upper Canada and men of our own origin who are to 'be found in every part of the proposed Confederation. With 'them we offer protection to your religion, to your institutions, as 'well as to your civil laws, which we have ourselves adopted, be-'cause, in spite of the prejudices which we may have brought 'with us from the Mother Country, we find in those laws full 'protection to our property; and if everything that you hold 'dear be preserved from danger in this step towards a future, why 'should you place obstacles in our way, and in your own way, 'when everything seems to induce us to march forward hand in 'hand to take our place and rank in the family of nations?'

There is another motive which should impel us. Every man who reflects seriously must perceive, that if we are to progress, there are but two paths in our exceptional position that we can possibly tread—Confederation or Annexation. If we have been enabled to sleep in peace until the latest events of our time have come upon us, certainly the gigantic struggle between the Northern and Southern States of America during the past three years and a half must have brought us to reflection on the reality of our position, and at the present moment we are compelled to feel that, unless we hasten to sail our bark towards Confederation, the current will inevitably draw us towards Annexation. Annexation is not now approved of by us more than in 1849, and again in 1858, when we wrote:—

'In the union of the provinces we might find combinations, 'some less fatal to our interests than others; while in annexation 'no choice would be left to us, as we should have to accept it and 'its conditions without power of modifying them. Under the best 'possible terms of union we would be at least one to three, while 'in annexation we would scarcely be one to thirty. Under 'colonial union we might perhaps obtain a share of the actual 'revenue in the shape of general improvements; in annexation 'to the United States our revenue, to the last cent, would be paid 'into the Federal Treasury, out of which it would only be taken

'to pay the expenses of the army and navy. In colonial union, 'as French or as Catholics, although weakened, we still could, on 'an emergency, present a bold front; in annexation, we would 'find ourselves surrounded at every point, and, like our brothers 'of Louisiana, we would disappear. They soon, who like our-'selves speak a foreign language, will humbly call upon history 'for their origin and the names of their ancestors now forgotten. 'And they, like ourselves, are the descendants of a few heroes 'who fought during a century and a half against the influence of 'a powerful race in the unsettled parts of the new world.

'If our national identity could not be maintained in colonial 'union, how could it be maintained in annexation? The same 'feelings, the same prejudices, the same institutions, the same 'languages, the same religious and social ingredients, would be 'found in the latter under relations more disproportionate and 'much more dangerous for us. Therefore, if we are at some 'period to take our place among nations, colonial union would, in 'our opinion, be preferable.

'It remained with France at the time of the conquest to decide 'whether our population of French origin should or should not 'now number eight millions on the banks of St. Lawrence; and 'to prove this, it is only necessary to take the census of 1850. 'But France did not so decide it; and when we shall feel our 'colonial fabric falling to pieces around us, too weak to establish 'an empire of our own, and fearing invasion and destruction, we 'shall seek for new alliances.

'It is true that no alliance could give a complete guarantee of 'our autonomy, but we must not forget, that placed as we are in 'America, in an exceptional position, governed by force and 'circumscribed within the narrow limits of fatality, we must make 'a choice among alliances more or less dangerous to us.

'No alliance could secure us perfectly from danger, but that 'least to be feared would be a union of the provinces, because, 'while it would be strong enough for protection from outside 'aggression, it would be weaker for purposes of oppression.'

These remarks, owing to events and the state of the times, seem

almost to have acquired a prophetic character. Annexation at the present moment, would involve the enrolment of our farmers and mechanics to carry on a war to the knife, which would probably bring them to destruction in the fetid marshes of the South. It would involve taxation on landed property, trade and manufactures; it would impose a tax of five hundred millions of dollars, out of which we would have to pay annually more than the twentieth part; it would capitalize a debt against us of three billions of dollars, the interest of which, each year, we would have to pay, with the prospect of a still heavier debt and additional taxation.

But, supposing that this frightful picture did not alarm us, in what position would we French Canadians find ourselves in an alliance with a nation of thirty millions of Republicans so different from us, not only in language, but in feelings and manners, because we are conservatives and monarchists, both in our instincts and in our aspirations. Far be the thought from us to doubt the fidelity of the British population of Canada to the Crown of Great Britain, but if, as ourselves, that section of our population aspires to become a nation at some future day, we may fairly state, taking our opinion from reasonable sources, that they might favor annexation more than ourselves, because they speak the same language, are of the same religious persuasion, and essentially possess the same social institutions as the inhabitants of the American Union. The only point for them to consider in making a selection would be, the material question of profit or loss; more or less of trade, more or less of taxes. The truth of this is clearly shown by the project of Confederation itself, in which it will be seen that the exceptions affect only Lower Canada, and in the speeches made by Mr. Tilley, in New Brunswick, in which he states frankly and unequivocally, that with that Province there can be but one paramount question in the discussion of the scheme, namely, that of pecuniary interest; will New Brunswick, under the union, pay more or less, receive more or less—will the taxes imposed, under the union, be more or less than they now are? The question has been thus received by the press and public men of that Province, and they have so discussed it, with a view to accept or reject it.

But for us—what a difference! If we already feel ill at ease in an alliance in which we only count for one-third, in what position would we find ourselves in the midst of a people numbering thirty millions? Of course, we are speaking throughout from the point of view of our national autonomy, and everything that constitutes it. We again ask, what would be our position? The annexationists of 1849 have never answered us, although they could do so; but the reply could easily be given. That compact was composed in a great measure of bankrupt merchants and republicans. The word autonomy had no signification. The former wanted annexation because they desired to recover the commercial prosperity they had lost, and the latter hoped to obtain democratic institutions under a republican form. The former abandoned the idea and almost the recollection of it in the prosperity of the years that followed their declaration; and the latter, without having abandoned their position of '49, and without paying any attention to the conservative idea which preoccupies the thoughts of one million of their fellow countrymen, nevertheless seek by political tactics to alarm us with regard to the lot which awaits French Canadians in a Confederation of the Provinces of British North America.

With ourselves, they were aware of the position of Louisiana in the American Union, a state which was founded by our ancestors; and they well knew that the first act of the masters of the position was to abolish the French language in Parliament, in the Courts of Justice, and in the composition of public documents! This did not occur such a long time ago. It is but a short time since this state, which was a French colony, entered into the American Union, and still the French language is rapidly disappearing, and it is well known that families bearing French names can no longer speak the language of their ancestors. Now, change, invasion, and absorption were much more difficult there than they would be here, because in that state the climate alarms and prevents immigration, while in the North the current of population flows towards us from all European sources. Under such a condition of things, how long would we remain French? How long would

we preserve that autonomy which is so precious to us, and how long could we continue to say as Frenchmen, 'Our institutions, 'our language, and our laws,' inscribed on pages, some times glorious, some times bloody and mournful, but always visible on the frontispiece of our history?

No! we cannot always remain in the Colonial condition. We desire some day to be a nation, and if this be our manifest destiny, and the object of our aspirations, we much prefer a political condition, in which we shall be a vital and indestructible element, to being thrown as a drop of water into the ocean, to form part of a large nation, in which we would lose in a few years, not only our language and our laws, but even the recollection of our glorious origin.

Necessity for Union of all the Provinces.

CHAPTER VII.

'Why should we provide for a Federal or Legislative Union of the Provinces of British North America?'

AS we have already shewn that our local difficulties completely hampered the working of our political machinery, and necessitated constitutional changes; that a superior power of circumstances compelled us to select between annexation and the union of the provinces; that our interests, our tastes, our habits, the character of our institutions, and a conservative instinct induced us to lean towards the latter solution, and that soon, in order to follow that universal law which, from the beginning of the world had directed the destinies of these colonies, we must, whether willing or not, prepare to assume our position in the family of nations. But we have not yet shewn why it is that as a colony of a great empire, we had so soon to abandon the protection of the Mother Country, and direct our course towards an unknown future, and why the

Union of the Provinces of British North America is the combination most likely to conduct us towards the desired end; in a word, how it happens that in this union, the geographical, maritime and commercial elements of a great people and a great country seem to be clearly proved to exist. This is the complex question with which we have to deal in this article.

In 1858, we pronounced our opinion against every species of union—Federal as well as Legislative—because at that time powerful in the Parliament of the day, in which we had destroyed all opposition, and caused to cease, for a certain time at least, the demand of Upper Canada for Representation by Population, we supposed that we might perpetually remain in the political condition then existing; because we hoped that by immigration, the equilibrium might be re-established between the two sections of the Province of Canada; because we believed that the Maritime Provinces, poor and without resources, would seek for this union in order to re-habilitate the impoverished state of their exchequer; because we did not believe that the protection of the Imperial Government would so soon or ever be withdrawn from us; because we had no reason to appreciate, before the breaking out of the American war, the danger that we incurred by remaining isolated; because we never dreamt that at a future day Great Britain, seeing the approach of our independence, and beginning to feel the heavy weight imposed by our guardianship, should instruct us to prepare for that solemn change; because we could not perceive in a union, the prospect of commercial advantages which we did not already possess; and finally, because we feared the effect of that union upon our religious and national interests, and the preservation of our peculiar institutions. However, as we have already stated in our last article, if called upon to make a choice between a union of the provinces and annexation, we then offered our opinion most positively, as we do now, in favor of the former.

As it is wise to make provision for a surprise, to organize and to constitute the elements of a nation, amply and solidly, in case the day may come when the Mother Country might give us notice to rely upon our own resources; it would be too late to commence

the consideration of that important question in the midst of a crisis. We are far from desiring the separation, and we wish to avoid it as long as possible, because the yoke of the Mother Country has for many years been excessively easy, and we require some time, much reflection and labor, to prepare us for such a separation; but since it is providentially reserved for us, when it does come may we not be proud to be able to number six to eight millions as a people, and to show to the astonished world a commercial status valued at two hundred and fifty to three hundred millions of dollars as our title of admission to the family of nations.

We shall occupy the same position in the North as Mexico in the South, and we shall be in a position to act as a counterpoise in the balance in which will be weighed the destinies of British North America, and thus we shall acquire the good will, and, in case of necessity, the protection and even the material support of the great European powers.

Let us not forget that the conquerors of the world have invariably hailed from the North; the whole of China, India and Asia has been conquered by the invading hordes of the North; even the Roman Empire was gradually broken up and extinguished by the robust people of the North. But any such strength can only exist, even national existence is only possible, when the people are strongly organized in virtue of a compact union of all the elements of greatness and future success. Separated from each other, each isolated portion would inevitably be invaded and finally crushed.

We are not prone to assist those who are too weak to help themselves, because we have no desire to perish with them; this is equally true in the history of individuals and of nations.

We are convinced, at the present moment, that our internal dissensions compelled us, necessarily, to adopt a new order of things; that, after prolonged resistance, we should have met with a less happier lot; that we had to choose between annexation to the United States and the Union of the Provinces; that the latter is preferable to the former; that the Maritime Provinces are quite as prosperous as we are, and that an alliance with them would neither be a tax on our budget, nor a gnawing canker-worm on our revenue;

that the protective ægis of the empire would certainly be wanting at a future day, and, therefore, the time had arrived for us to prepare for national emancipation. But we have not yet examined this question in one of its most important phases—that of commerce; the great, and some may say, the all-important source of fortune and public prosperity, inasmuch as it comprises, in its gigantic folds, agriculture, arts and manufactures.

We wrote in 1858: 'What would be the advantage to Canada 'derivable from either a Legislative or a Federal Union of all the 'Provinces of British North America? It is as much the interest 'of the Maritime Provinces to seek for our channels of trade, as it 'is our interest to seek for theirs. We know that a political union 'would, in no respect, change the present condition of things, and 'in any case, those provinces could not inflict more injury upon us 'than could the United States, our only rivals in their limited markets.

'When communication by sea and land shall have been 'established between us, we will be in a very favorable position to 'furnish our produce in defiance of all possible rivalry, If the 'object of those provinces, in soliciting a union, be solely in a 'commercial sense (and they do not now solicit it), it cannot in any 'case in our colonial condition be solicited on any other ground. 'Why should we not rather have recourse to free-trade, which 'could be obtained without organic constitutional changes,—with-'out the intervention of the Imperial Parliament, with the mere 'consent, in fact, of our existing Legislatures?

'Free-trade, from a commercial point of view, is equivalent to 'an absolute political fusion; it produces precisely the same 'effect without entailing the same inconvenience and danger, and 'without necessitating the same sacrifices.'

We still hold the same opinion as regards the effect of union on our intercolonial trade. Free-trade would still be for us, from a commercial point of view, equivalent to political fusion; but the latter as it is now proved by figures, (the correctness of which cannot be questioned,) would not now require the sacrifices which we then feared. Six years of thought and hard experience

in the midst of social discord, passion, hatred and difficulties of every nature, have taught us many things which we could not then know. An experience of six years in the life of the people of the New World, is greater than that of a century in the life of the people of the Old World.

If we are dashing forward on the path of manifest and imperious destiny, as it were, like a charger on the course, impatiently champing the bit, should not wisdom guide us towards that path which leads to safety? And if this political union be not more costly than free-trade, why should we hesitate and continue to persist in an opinion, the causes and motives of which have disappeared?

The united budgets of all the Provinces may not be of great assistance to each other, but they will not interfere with each other. A political union will not accomplish more for our internal commerce than free-trade, but is it necessary to the development of our external commerce. Therefore, if we are desirous of occupying a respectable position among nations, we should seek such an union. What constitutes, in fact, the elements of a great people? We find them in an internal territory, suitable for agricultural purposes, and otherwise rich by its mineral and other resources; in ample interior navigation, which facilitates the means of exporting our products to, and importing what we require from, foreign countries; in an extensive sea coast with numerous deep harbors that can be used at all seasons of the year, that permit of trade on a large scale, and the development of a powerful navy, without which moral and material influence cannot be exercised, and commercial communications cannot be safely protected. Can it be said that Upper and Lower Canada possess all these varied elements within their own limits? We do possess a fertile soil of great extent, capable of supporting a large population. We already number three millions of souls, with the prospect of doubling our population in twenty-five years. We have an extensive system of internal navigation, canals and railways on a large scale. We enjoy a trade that commands the astonishment and admiration of foreign countries. But, our inland seas, canals,

and harbors are sealed with ice during five months of the year. We never could succeed alone in becoming a maritime and commercial power. It therefore becomes necessary to extend our territory, in order to possess posts on the sea-side that may assist commerce and furnish sailors to our fleets. It consequently becomes expedient to form an alliance with the Lower Provinces, in the form of a compact based upon equity and strength, for mutual protection. We have our copper and iron mines, but we have no coal. The area of the coal fields of New Brunswick and Nova Scotia is greater than that of all Britain; and without coal, how can we keep our manufactories employed, and how can we provide for our fleets when we have them? Nova Scotia and Newfoundland are favored with harbors sufficiently vast and deep to bear on their bosoms the fleets of the whole world. Newfoundland is the greatest fishing station in the world, and the nearest port to Europe. That point on the confines of the ocean could serve us at all seasons of the year as our most advanced military station, our best maritime arsenal, in fact, our bulwark of defence. On this account it became essentially important to bring Newfoundland into the projected union, even at a pecuniary sacrifice. With Newfoundland, Cape Breton, Halifax and the small islands in the St. Paul's Narrows, and at the entrance to the Straits of Belleisle, with the harbors to be formed among them, we could, at every season of the year, command the entrance to the Gulf of St. Lawrence, and shut out all other nations.

Nature seemed to have specially prepared for the nation to be called into existence, all these means of defence, prosperity and greatness.

If we were accused of wandering in the atmosphere of theory and exaggeration of hope, we would reply:—

Are we not already a people numbering four millions, with a foreign trade amounting to $137,500,000, with ships on the sea valued at five millions, and a coasting-trade at six millions? Point out to us the nations that have started with such resources, and with two or three exceptions, where are those now in existence who can show an equally satisfactory statement, and similar guarantees of power and vitality?

"Federal or Legislative Union."

CHAPTER VIII.

'Which should we prefer, a Federal or a Legislative Union?'

THIS is a difficult problem to solve. If we could make a constitution as we write a book, if practice were as easy as theory, it would not be so difficult of solution. When we wish to establish a great nation, we have to work with elements already in existence, we have to deal with manners, predilections, social and political institutions, full of life and vigor, and strong in the determination to perpetuate those qualities; and as, for these reasons, all written constitutions must be formed of compromises, that is to say, of reciprocal concessions made by all parties concerned, and the first question to be considered would not be, whether a perfect Legislative Union could be accomplished, but whether any compact could be formed in which the different elements could be placed in juxtaposition to each other, without mutual interference, injury or destruction, and in which the differences of opinion of all parties could be allowed to exist.

We have before us, as evidence of this difficulty of solution, the experience of Austria, Hungary, a portion of Italy, Russia, Poland and Circassia, Holland and Belgium, the Northern and Southern States of America, England and Ireland, and, in fact, our own history. Poland, unable to exist as a nation, is a frightful scar on the side of the Muscovite giant; perhaps, at some future period, when her days of oppression shall have been weighed in the scales of God's unerring justice, Poland may punish the oppressor. Austria now understands, although rather late, that the instincts, language and institutions of a people cannot be consigned to destruction by sovereign edicts, and that it is more prudent and wise to offer a protective and paternal hand. By its new policy, which is liberal and intelligent, it may save Hungary; but what will become of Venetia, boiling, as she is, with rage and hatred under the curb and restraint of a state of revolution? Holland, by neg-

leeting to study the lessons of wisdom, and by ignoring toleration, lost, with Belgium, in one day, the four-sevenths of its population and its territory; and the future reserved for the Northern States of the American Union, a nation created in the midst of great difficulties, and out of elements which could, with difficulty, be brought to harmonize with each other, in order to establish a compact whole, cannot now be predicted.

If a Legislative Union had been possible, that is to say, had we found in such a union all the protection required for our institutions, and if all the other provinces, to form part of the projected alliance, had consented to such a constitutional form of government, we should certainly have preferred it, because the greater the cohesion in a nation, the better do its component elements become harmonized and unified, and the greater is the prospect of its life, prosperity and greatness.

On this subject, we have never changed our opinion, and we wrote in 1858: 'Union, with a provision for Legislative Union, 'regarded in some aspects would certainly be the most logical, and 'that for several reasons: 1st—The budget; 2nd—Our Colonial 'system; 3rd—American counterpoise and equilibrium; 4th—The 'immediate results of a union under its different aspects.

'With regard to the budget, that species of union would be 'more suitable, because it is more than probable that a Government 'and Legislature for all these provinces would scarcely be more 'expensive than the present Government and Legislature of Canada 'alone; while Confederation would necessitate the maintenance of 'seven Governments and seven distinct Legislatures.

'It would be so with regard to the Colonial system, because 'there is nothing which could be accomplished by the Federal 'Legislature which might not be done by each of the existing 'Legislatures; and nothing could give to this Congress of the different provinces the imprescriptible attributes of the Imperial 'Parliament.

'It would be so with regard to the counterpoise and the equi-'librium of the United States, because in unity we find centraliza-'tion and indissolubility; because centralization and indissolubility

'are two powerful elements—two great principles of national 'existence; one of initiation, the other of resistance; one of 'action, the other of cohesion. It is unity alone, initiation and 'resistance, when combined with unity, which can possibly save us 'in the future from the clutches of the American eagle. France 'exhibited that extraordinary faculty of strengthening herself by 'disasters, and recovered from those gigantic combats for 'supremacy, in which she was engaged with all Europe, by her 'centralizing policy and by the principle of national unity and indis-'solubility. Any state constituted on the principle of the United 'States of America would, in Europe, be annihilated more easily 'than Poland, or would be, as the states of the Germanic Con-'federation now are, alternately the property of one or the other of 'the Great Powers in which that principle of unity forms an 'essential component element. The Constitution of Poland con-'tained a weak and dissolvent principle, and as we know, 'Poland has been absorbed. The Constitution of the United 'States contains the same weak element, but they will not be 'absorbed on one condition only, that of proving their position to 'be the most powerful and best constituted of all the nations 'having a footing in the New World.'

But some of the Provinces, and Lower Canada is not alone in that opinion, reject a Legislative Union because they desire to exist on local principles; and any Legislature in such a union, whatever its existence might be, would not protect those sectional interests which cannot be allowed to perish, and which would thus be delivered to the caprice or ill-will of foreign majorities.

What therefore remains to be done? In our opinion, we should use our position to the best advantage; we should strive to establish as perfect a constitution as we possibly can by harmonizing the elements which we now possess, instead of trying to re-model, or perhaps to annihilate them; and while paying due respect to them, to approach as nearly as possible to unity, centralization and indissolubility; in a word, to avoid the fatal errors which have been the means of bringing on the present crisis in the United States.

When we thus wrote on the subject of the United States in 1858, when we said that their constitution contained a weak and 'dissolvent principle,' we little thought that scarcely two years and a half would pass away before we should be witnesses of the terrible and sanguinary consequences of that fatal dissolvent principle.

They are already severed into two separate bodies, and for the past three years and a half have been engaged in a war of mutual extermination. Admitting that after this cruel contest, in which two millions of men may have perished, while devastation and ruin have been carried over a vast territory, once so happy, that the South may be conquered—we ask—can the North succeed in holding the South? It may be occupied perhaps, but with more difficulty than Russia now holds Poland by the throat in the clutches of its two sanguinary eagles. Already in other parts of the Union we can perceive the presence of that spirit of independence which will produce its fruits, let us rest assured, when the armies which now march over the surface of that immense republic shall have returned to their firesides.

The Constitution of the United States is of a mixed nature; it was formed on the basis of a compromise between the partizans of National Unity and those of State Sovereignty. The framers of that Constitution made every effort to establish it on other bases; but the principle of State Sovereignty was an insurmountable obstacle, and consequently the organization of the nation was decided upon by its framers, in a manner which established landmarks, and inoculated it with that poison, the disastrous effects of which now astonish and afflict the world.

If therefore we have the power, let us abstain from imitating that example, and although we also are obliged to abandon the idea of framing a Constitution perfectly unitarian in its principle, let it by all means be as unitarian as possible, provided always, that under the ægis of this unity we can obtain protection for those institutions which we wish to preserve. According to the projected Constitution, the delegation of legislative and administrative powers can neither be brought from the Federal

Government nor from the people. But the attributes of the several legislatures and governments are to be distinct one from the other, and must be concurrently given by the same power, the Imperial Parliament, in order that, when the time has come for us to take up our position in the family of nations, we shall find ourselves in a position perfectly justifiable.

We accept Confederation instead of a Legislative Union, not from choice, but from necessity, because we find it to be in our interest. This solves another problem framed by us in 1858:—'What can be the object of a Federal Government in our colonial 'condition, subject as we are in legislative matters to the Imperial 'Parliament?'

We put this question, because we did not then feel that irresistible force which seemed to lead us towards constitutional changes, and because we did not then reflect upon the probability of the arrival of a period of colonial emancipation, at which this general government, which in our present state of dependence is not now necessary, would take the place for us, now occupied by the Mother Country. If we had the privilege of waiting and reflecting, even for a certain time, we know that we are not working only for the present but for a future, and perhaps for a future close at hand, and for this reason the establishment of a Federal Parliament and Government can be fully justified. Nothing but such circumstances could possibly justify us; there is evidently a power of cirumstances which compels us, in a limited time, to make a selection to-day among two or three modes of colonial, and perhaps to-morrow, between two principles of national existence.

'Protection to Peculiar Institutions.'

CHAPTER IX.

'How would we find the greatest protection for Roman Catholicism, a French nationality, the institutions and the general material interests of Lower Canada? By adopting the plan proposed by the Quebec Conference? By a Federal Union of both Canadas? Or by maintaining the existing Union?'

IN 1858, we wrote: 'In a Legislative or Federal Union of all 'the Provinces, what part would be taken by the religious 'element?

'If we submit the question in this form, it is not only because it 'has thus been put elsewhere, but because we deem it to be necessary to regard it that light, the least approachable and the most 'perilous of all.

'The religious element is the most volcanic of all the social 'elements; an eruption may take place at any moment, at a time 'when you least expect it, and its burning lava is only cooled by 'the blood of its own victims.

'The part to be assumed by the religious element in the Union, 'may, therefore, be very considerable or almost null, according to 'circumstances, and the causes which may exercise influence upon 'it. We are peaceful, we are friends, we are brothers, we are 'Christians, we are in fact, sometimes inert; but at an unforseen 'moment, a spark carelessly thrown into our social edifice, which 'is always combustible, might cause a conflagration which could 'not be extinguished. Thus we must look around us, not with 'the view of demolishing (God forbid!), but to take measures 'to prevent our annihilation by a destructive element.

'It is therefore evident that in the interests of society, the 'religious element, owing to the dangers to which it may give rise, 'should on no account be allowed to assume a political part. Of 'course we speak of those passions and religious animosities as opposed to the Constitution from motives of triumph and domination, and not of faith. Without the latter, the people would be

'in an unfortunate position, because deprived of hope, that only 'fortifying consolation for the being gifted with thought, he could 'only expect when his miseries are over, darkness and unexplored 'space.

'But in addition to that which is desirable, side by side with 'that reason which would seem to advise that the religious element 'should have no place in the Constitution, we know that there are 'societies which exist with their indestructible ingredients and 'constituent parts, with their passions, their dogmas, their pre-'judices, and with opinions as varied as the stars in the sky.

'Reason asserts one thing, practice another; and we have ex-'perience in those gloomy teachings, from which no country has been 'spared; therefore, we now understand that it becomes necessary 'to examine this Union of the Provinces from a religious point of 'view.

'The religious element will not be comprised in the letter, but 'it will be in the spirit of the Constitution. It will become mixed, 'in spite of every precaution, with the legislation and the ad-'ministration of the day, and in the same manner as in chemical 'combinations, the stronger ingredient will surely prevail, what-'ever may be done to paralize its effect.

'The Constitution of the United States distinctly provides that 'no religious test will be a condition of elegibility for public em-'ployment, and nevertheless the whole machinery seems to be oiled 'with Protestantism.

'A short time after the conquest of Canada, the English colonies 'of America, now the United States, presented a petition to the 'Mother Country praying that the French Canadians might be de-'prived of the enjoyment of the religion of their fathers. Franklin 'himself signed this document, replete as it was with fanaticism and 'intolerance; but, when these colonies revolted and invited Canada 'to join them, as an encouragement, they offered us religious liberty.

'They adopted the principle in their Constitution, as they stipu-'lated for the right of Canada to form part of their Confederation. 'These two ideas formed a corollary one of the other; but ex-'perience has proved that this generous provision has not effaced 'in practice the feeling which prompted Franklin.

'Thus the religious element must, in any case, play its part in a 'Constitution, and no one should be surprised who observes the 'bitterness with which our religious and Catholic institutions are 'systematically attacked in our present Legislature, that we should 'ask, actuated by a feeling of alarm: What will be in the Union 'of all the Provinces, the respective numerical strength of Catho-'licism and of Protestantism?'

These are still our opinions, because they are based upon the experience of every age and of every country.

No one can deny the importance of the part taken by the religious element in sacred history, dating from the Egyptian era; in Rome, where paganism and christianity fought against each other during three centuries and a half; in the seventh century, under the terrible and designing Mahomet; in the eighth century, in that vast empire governed by Charlemagne; in the twelfth and thirteenth in France, in the wars waged against the Albigenses, and in the European crusades against Islamism; in the sixteenth, when the reformation, taking its rise in Germany, spread over Scandinavia, a portion of Switzerland, England and Scotland; and in our days, the influence of the element is still felt in China, India, a portion of Turkey, Russia, Poland, England and Ireland.

We thus find that the history of the whole human race justifies our opinion, and to put aside this important aspect of the question from a false sense of delicacy, would be to neglect, in a culpable manner, the obligations and the responsibility of the publicist and the statesman.

Moreover, the idea which now creates anxiety with us, as Catholics, also engages the attention of Protestants in an equal degree. We are all aware of the important part assumed by the religious element in the formation of a constitution, and each creed claims from another the greatest possible share of protection. Therefore no religious sect can be accused of egotism and intolerance, when instinctively compelled, for the purposes of preservation, to seek, under the roof of a constitutional edifice, a shelter from all possible storms.

The same instinct actuates nationalities, who, anxious for the

future, seek to know whether they can be at ease, can live and become freely developed, in a new state of political existence. The text of our article presents itself to us under two different aspects; that of general organization and that of local organization. We must therefore consider the measure of protection that would be afforded to our religion and our nationality, as French Canadians, how these important interests would be protected under local organizations, and what would be the legislative and governmental forms which would thus protect them.

Have we under our present constitution more protection for Catholicism and our French nationality than we would have in a Confederation of the Provinces, or in that of the two sections of the Province of Canada? This is a complex question which deserves our serious consideration.

With our present mixture of Catholics and Protestants throughout the Provinces, Catholicism, far from being the stronger, does not even exercise in our Legislature an influence in proportion to its numerical force. Thus Catholicism, which counts 1,200,865 souls in the union, is only represented by 52 members in the Lower House, while Protestantism, which counts 1,305,890, is represented by 78 members. If the two religions were represented in equal proportion, there should be a proportion of 62¼ Catholic to 67¾ Protestant Representation. Upper Canada, which, according to the Census of 1861, contained 258,051 Catholics, only sends to Parliament 2 Catholic members.

With regard to origins, there is a still greater disproportion: French, 883,568; English-speaking population and others, 1,623,-187. We thus find that the French race is not much protected by the Constitutional Act of 1840, and that it cannot be blamed for seeking a new state of existence which will further guarantee it against the possibility of future contests.

The Confederation of the two sections of this province, or that of all the provinces, by giving us a local government which would protect these privileges, the rights and the institutions of the minority, would certainly offer a measure of protection to us, as Catholics and Frenchmen, much greater than the present union; because, from

our present position, as a religious minority, we would become, and always remain, a national and religious majority. But we would not accept a system which would not protect, in the same ratio, both majorities and minorities: nothing can be enduring that is not founded on justice.

We stated in the beginning of this article that in this question two aspects were presented to us for consideration: that of general, and that of local organization. We have treated the question of local organization, and it now only remains for us to shew how our religion and nationality would be protected under a general government.

It is evident that as a local constitution is given to Lower Canada in order to protect our peculiar institutions, and as the general government cannot therefore exercise any influence over them, Confederation cannot possibly endanger them. And, moreover, the French language, the only subject of alarm, has by the project of the Conference obtained the same protection, the same rights, as it now possesses under the union of the Canadas.

With regard to this protection, a Confederation of the two sections of the Province of Canada might have been as favorable as a Confederation of all the Provinces of British North America; but it could not be more favorable. At the same time, it would not have offered the same advantages in every other respect, and that with the former we should not have been as advantageously situated when the proper time had been reached to enter into the family of nations.

If we insist so strongly upon the consideration of these delicate questions, it is because there are doubts and fears in the public mind with regard to them, and because the success of the principle of unity in British North America depends upon a close examination of them. Our intentions must not be misunderstood: we neither ask for the exclusion of other origins and other religions, nor do we seek for any privileges in our own favor. All that we demand is that our institutions may not be annihilated.

It does seem to us that, for a nation that has bequeathed so much blood and liberty to the new world, we are not asking for too much,

and it is scarcely right that in some quarters we should be interpreted in a spirit of bitterness and anxiety. Therefore we say, that the Quebec Conference, practical in its object, just and liberal in its intentions, clearly understood the duty imposed upon it, and decided the question without hesitation, without opposition, and without murmuring.

Now, if we approach the question of material interests, and if, as we think we have shewn more than once in this series of articles, that we were compelled to make a choice between two alternatives, apart from annexation to the United States—the Confederation of the two sections of the province, and that of all the colonies of British North America—nothing now remains but to ascertain, under which of these two conditions of political existence we would find the greater protection for those interests which are now the subject of discussion in Upper Canada, New Brunswick, Nova Scotia, Newfoundland and Prince Edward Island. In Lower Canada we are less anxious, because the material question is equally interesting to all the races that inhabit this section of the Province.

Until lately, we admit that we were more favorable to a Confederation of the two sections of our province than to the larger confederation, because, up to that time, we had no ambition for a separate nationality, and we imagined that in the former plan we would find more protection for the interests of Lower Canada. We acted as if we were opposed to actual enemies, and, with good tactics, we desired to have the least possible number of enemies arrayed against us; but since then, our relations with the eminent political men of the Maritime Provinces have convinced us that many apprehensions and many motives of resistance are no longer justifiable.

A feeling of equity undoubtedly guided all the proceedings of that Conference. There appeared to be sympathy for Lower Canada, although justice was meted out to all. Can it be that because we were numerically in a minority, and that the instinct of self-preservation kept the weaker in a solid phalanx with a view to protection against a large majority, that we were thus dealt with?

Let it be understood, there can only be the question of material interests at stake in this matter, because all others are protected by the system of local governments. Now, in the project of the Conference, as regards those interests, we hold the balance of power between the contracting parties. An Upper Canada newspaper so well understood this, that a calculation was published in its columns tending to prove, that in thirty years that province would contain a larger population than the whole of the rest of the Confederation, and thus would be in command of the position.

The compiler forgot one very important item. Let us suppose (and of course history does not justify the supposition) that the population of Upper Canada should double every twenty years, and that the number of its members in the Lower Chamber of the Union in 1894 would be greater than that of all the other provinces united, it is not the less true that our representation in the upper house, possessing equal powers, in fact a counterpoise of the other, will have a deliberative voice, and will possess the same power in the National Parliament. Thus, in the Upper Chamber, Upper Canada can never have more than 24 votes, and we shall have 24, while all the Provinces, *minus* Upper Canada, will have 52 votes. If Upper Canada therefore, may at some future day possess numerical preponderance in the Lower House, it must always be our equal in the Upper House, and the question of number will always remain intact, according to the Constitution.

It is therefore evident, that in a material point of view, we would be in a better position in a Confederation of all the Provinces, than in a Federal Union of the two Canadas, because, in the latter we would be 24 to 24, and a change of one vote might place the majority of the Legislative Council on the side of the majority of the Lower House, and thus give preponderance to Upper Canada. In a Confederation of all the Provinces, it will require a change of 28 votes to give that preponderance. Thus, we have nothing to fear from the adoption of the latter alternative.

Moreover, no circumstance and no cause could unite in a compact body all the representatives of Upper Canada, either in the Upper or Lower Chamber, because experience teaches us, by

reading the pages of history, that political parties will always exist, and will pay but little attention to territorial distinctions. Material interests do not always recognize territorial divisions, and the avenues of commerce are rarely confounded with geographical limits. We observe this in Central Canada and the Ottawa District, the commercial and industrial interests of which are almost identical with those of Lower Canada. Who will contend, with a map of North America in his hand, that the material interests of the Maritime Provinces are not more with us than with Upper Canada? We can therefore conclude, without hesitation, that a Confederation of all the Provinces would be more advantageous to us than that of the two sections of Canada.

For all these reasons, we can fairly conclude, that this peculiarity of the situation will produce a feeling of mutual justice among the weak and strong elements of the new political combination.

With this article, we terminate our general observations, and we shall now enter upon the question of details.

The Solution of the Problem.

CHAPTER X.

'If the favorable moment had been reached to remodel the Constitution, have the men who undertook the task arrived at the best possible solution under the circumstances?'

THIS question comprises the whole project of the Quebec Conference; it becomes therefore necessary to subdivide it into as many heads as there are important points to consider in that project.

The Delegates lay down the following principles:—

'1. That the best interests and present and future prosperity of 'British North America will be promoted by a Federal Union

'under the Crown of Great Britain, provided such Union can be 'effected on principles just to the several Provinces.

'2. In the Federation of the British North American Prov-'inces, the system of Government best adapted under existing 'circumstances to protect the diversified interest of the several 'provinces, and secure efficiency, harmony and permanency in the 'working of the union, would be a general Government, charged 'with matters of common interest to the whole country; and local 'governments for each of the Canadas, and for the Provinces of 'Nova Scotia, New Brunswick and Prince Edward Island, charged 'with the control of local matters in their respective sections.

'3. In framing a Constitution for the General Government, the 'Conference, with a view to the perpetuation of our connection 'with the Mother Country, and to the promotion of the best in-'terests of the people of these provinces, desire to follow the 'model of the British Constitution, so far as our circumstances 'will permit.'

After having discussed several plans of union, with their different conditions of existence, we have proved that Federation was undoubtedly the system most likely, in our position, to protect us and to secure our prosperity. We have established, that either a Legislative or Federal Union of all the Provinces had become a political necessity required by our circumstances, and a wise measure to adopt, preparatory to our passing from a state of colonial subjection to that of national emancipation. Nothing new remains but to consider whether this union can be justly accomplished with so many different elements and distinct interests.

But it may seem that the words '*under the British Crown*' should suddenly put a stop to our national aspirations, because they establish imperatively, a perpetuity of the colonial condition.

In order that we may be understood, let us state, that we do not lay much stress on our aspirations, because nothing would be more agreeable to us than to see a perpetuation of a state of things which has hitherto secured to us so much happiness, protection and liberty; and the longer we enjoy the privilege of the guardianship of the Mother Country, the better shall we be prepared,

for a time which must necessarily come; again we say, we do not speak of aspirations, but write in anticipation of our future, according to the opinions offered on that subject by the statesmen the most eminent and the best authorized to speak on the part of the Mother Country.

If the Federal principle is the best adapted to our circumstances and our wants, has the system of Confederation proposed by the Conference been wisely selected and carefully considered?

Is the preponderance of the unitarian principle which is therein found a sound one? Is it better adapted to our interests, judging by experience, than the principle of State Sovereignty? Is it preferable to a delegation of power from the people to the rulers, a division and a scattering of our national forces, —and are our local interests in danger? Is the British system of parliamentary government in our present social condition, and under circumstances that may lead to Confederation, better for us, than a Republican form of government, which has been tried elsewhere during the past seventy-five years, and the experience of which we all possess?

We reply to this question in the affirmative. The project of the Quebec Convention, as a whole, has been wisely prepared. The principle adopted, that unity shall be the preponderating element in the Constitution, with certain stipulated conditions, is preferable in every respect to State Sovereignty and a delegation of power by the people to the rulers. We repeat, most positively, that the British system of parliamentary government is far preferable to the radical republican form of government adopted in the United States.

What do we find in this project of the Quebec Conference which we propose examining at every point, and of which we shall give a general description before entering into details? We find a government and a parliament that exist within their own attributes, and which, without having the power to delegate, possess nevertheless without obstacles and without foreign control, an absolute sovereignty over the vast circle of those peculiar attributes. Independent of control, they command or direct—public order, the

national debt, the budget, trade, tariffs, internal and external taxation, national loans, postal service, the census, our defences, the fisheries, navigation, coinage and currency, banking, interest, the criminal law, and with some exceptions the civil code.

In this system we find something approaching national unity, but we also find organizations independent of the general compact, which hold their attributes perfectly independent of the general government, having obtained them from the same source as the general government and parliament; local organizations quite able to take charge of local matters, with an allowance of public funds distributed among the provinces for local objects, quite sufficient for our purposes, if economy and wisdom preside over the administration of our sectional governments.

In our present position, and with our present wants, we require a general organization, with a power of cohesion which will assure protection for us in the future against foreign aggression or a dissolution of the elements which constitute our national strength, similar to that which has broken up the United States of America. We also require perfect security and protection for those local institutions which we have hitherto preserved in the midst of all dangers as something sacred; institutions which have passed intact through the most stormy periods of our history, and that no hatred or ill-will could affect.

Either we possess this powerful organization in the Constitution offered to us on the principle of unity, or we have it in that security and that protection granted to us in local governments and in local legislation; we are therefore in a better position than under the existing union.

To admit State Sovereignty and the privilege of delegating power as the basis of a general Constitution, would be to assert the right of secession; it would be to introduce into the system a germ of dissolution which would, sooner or later, produce fatal consequences.

With the principle of State Sovereignty, in a case of danger, national unity might be preserved, as the American Union has been saved by a military despotism, or, as in 1812, the National Gov-

ernment might be paralyzed in its action by the ill-will of the different states.

In the United States, in order to prevent the mutual absorption of the different elements, a Supreme Court was created, superior to the Constitution, whose mission it was to preserve that Constitution and to bring back any erring elements; but the Judges of the Supreme Court of the United States, as public functionaries, feeling in their position the necessity of strengthening the General Government, gradually undermined the Constitution in favor of unity and national strength, as well as the attributes reserved by the different states when they delegated certain definite powers to the Central Government.

Previous to the war, these judges had not dared to maintain that the President or Congress of the United States could touch the constitutions of the different states, or fundamentally change their local institutions. They now permit the exercise of this power. Is it because no complaint is made, or because they think that Federal interest should overrule a constitution which was freely consented to by a Congress of all the States?

We are not prepared to affirm, against the teachings of history, that a civil war is not possible in a country constituted on the principle of legislative and administrative unity, because national difficulties may for several reasons be brought into existence, and nothing human can last forever; but at least, we should, when we have the power to do so, establish a political state of existence, avoiding dissolvent principles, particularly if we wish to live and perpetuate that state of political existence. Now, the dissolvent principle in the American constitution is that of State Sovereignty, which permits the old Southern Colonies to maintain slavery intact, and which forbids Congress to interfere.

Slavery is a social question, and consequently one of public order; it should therefore have been placed under the control of the Federal Government and Parliament.

A reply may certainly be given to us in accordance with an opinion which we have ourselves frequently expressed, that the American Constitution of 1789 was a compromise. In order to accomplish

the union of the several states that had but lately gained their independence, and that were guided by instincts and were under the dominion of institutions utterly opposed to each other, it became necessary to make many concessions, even to silence the important term of slavery, and the states, several of which had desired admission into the union, would not have consented to accept it unless the right of State Sovereignty were admitted.

All this is true; but because it is true, and that we are differently situated, with the means of avoiding the dangers that are to be found in the American Constitution, we should have the firm will to ward them off, and to constitute our national future on a firmer basis, with more homogeneous elements, and on principles less liable to dissolution.

If we had not our own experience of the working of public affairs during twenty-three years, under the most difficult circumstances, to guide us in our appreciation, we might say, with history before our eyes, the monarchical, with an admixture of the democratic principle,— in other words, parliamentary government—is preferable, in every respect, to the republican form of the government of the United States. It gives greater guarantees against a despotic exercise of power, with a greater amount of protection and liberty to individuals, while it affords the people a more immediate, spontaneous and certain control over the administration and legislation of the hour.

But in order that this system may be thoroughly efficacious, in order that it may be able to resist those formidable ordeals that have destroyed so many thrones and have broken up so many constitutions, it must be essentially British in its object, in its spirit and in its operation. The constitutional powers of the state, although perfectly distinct, must possess some elasticity to save them from manifold dangers, and to allow of occasional tension without a chance of being violently broken; the Executive, surrounded with the respect and veneration of the people, should have the upper hand, under their responsible control. It becomes also necessary to avoid, both with rulers and people, the existence of permanent obstacles, opposed to the expansion of matured

national opinion; in other words, there should be a mutual power to destroy such obstacles, the power of dissolving parliament remaining with the rulers, that of dissolving administrations and of replacing them by men enjoying the confidence of the public, remaining with the people. A system of government for the interests of the people should be essentially conducted by the will of the people.

In the American system we do not find liberty with order; that necessary elasticity and that constant and spontaneous control by the people over the administration of the day. It is true that the head of the Executive is there elected by the people, but during the period of his presidency he is absolutely independent, and may exercise his power in a despotic manner; during four years he may defy popular opinion as manifested by the representatives of the nation, under the pretext that he also is elected by the nation, and that he has no account to render to any public power during his occupation of that presidential chair.

On the other hand, under circumstances of imminent danger, requiring legislation, he may be right and his parliament may be wrong; public opinion may be in his favor, but he may be paralized in his executive action by the ill-will of the representatives of the people, who have the constitutional right to say, 'Mr. President, like yourself, we have been directly elected by the people, 'to that power only are we responsible, and we are the best judges 'of our own legislative acts.'

Under such a system, it is not surprising that serious conflicts should arise in public affairs, and that the machinery of government should be frequently clogged. The history of the American Republic furnishes many examples of this unfortunate difficulty.

Let us now cast our eyes towards Great Britain. In that empire, the person of the Sovereign is held sacred, and that Sovereign 'can do no wrong.' The men without whom no governmental action can be taken, may err, mal-administrate, and may even be guilty of malversation, but they are subject at any time to the consequences of their double responsibility to the Sovereign and the people, while they can be reached at any moment. Should

they give erroneous advice to the Sovereign while in charge of the public affairs of the empire, they are liable to be excluded from the Council, and others are selected who are wiser and more popular; and the people, through their representatives, have the right, at any time, to address the Sovereign in these words: 'The men 'who surround you in the councils of the nation do not possess 'our confidence.' As a natural consequence, public men so condemned, must give way to others who enjoy the greater confidence of the people.

If there be conflicting opinions between the chief of the Executive and the representatives of the people, on the subject of selecting the advisers of the Crown, the former uses the right of dissolution in order to appeal directly to the people, but always and solely with the view of learning the will of the latter, and to accomplish their wishes. The most important events that have occurred during the past few years, as described in the pages of British Constitutional history, fully inform us on this point. If ever England could fairly entertain any fears for its Constitution, it was certainly at the time, when Catholic emancipation and the Reform Bill were subjects of serious agitation; when a monarch, imagining, that by conceding the former measure he might violate his oath, and that in accepting the latter he incurred the danger that the democratic element might cause the overthrow of the throne of Great Britain, and he resisted with firmness that principle so dangerous to the existence of a Monarchical Constitution. But in this Constitution there was a vital and elastic principle which saved it, and the Sovereign, finally convinced that he governed for the people, and that the right of veto was only given in order to enable him to express his will, after mature deliberation gave way and thus saved himself and the Constitution. This vitality and elasticity, and the principle of double ministerial responsibility are so well worthy of consideration, that even when a king was beheaded on the scaffold the throne remained with its Monarchical Constitution more stable and better respected than in the days of despotism.

Should we therefore be blind enough to ignore such examples

and such teaching, in order to make trials that have been fruitlessly attempted elsewhere, and that instead of conducting us to liberty with order, would forcibly bring us either to a despotism in the hands of one man, or the despotism of the masses,—the latter more terrible and more odious than the former.

Sovereignty.

CHAPTER XI.

THE fourth paragraph of the project states, that the Executive authority shall be vested in the Sovereign of the United Kingdom of Great Britain and Ireland, and be administered either by him or by his representative according to the well-understood principles of the British Constitution. This paragraph being the corollary of the third, which we considered in our last article, requires no further explanation. The fifth provides, that the Sovereign or representative of the Sovereign, shall be Commander-in-Chief of the land and naval militia forces. The sixth establishes, that there shall be a General Parliament for the Federated Provinces, composed of a Legislative Council and a House of Commons.

These is nothing worthy of special consideration in the 7th, 8th and 9th paragraphs, which provide for the division of the representation in the Legislative Council among the Provinces, and establish the territory to be submitted to the control of the new constitution. We have elsewhere sufficiently established the equity of the principles upon which this arrangement is based, and the importance for us in every sense, of furnishing to the nation that we are about to create, a vast territory possessing resources containing all the elements of power, greatness and prosperity.

Mr. Galt, in his speech at Sherbrooke, spoke as follows :—

'In point of population the Provinces of British North America 'would form, if united, a very respectable power in the world. 'Many countries which boasted of kings and emperors were not 'as strong or as great, either in population or territory, in trade 'and commerce, in industry or in the intelligence of their inhabi-'tants, as the united Provinces of British North America would 'be, when united under one Confederation. With a population 'numbering now nearly four millions of people, with a territory 'extending from the Atlantic to the Pacific, with a larger coast 'line than that of the United States, with a river, commercially 'speaking the greatest and most important in the world, passing 'through the centre of our country, connecting the east with the 'west, and bearing on its bosom the trade and commerce of the 'whole interior of this great continent. With all these advantages, 'we might look forward to a future for this country, which, 'whether we lived to see it or not, our children would rejoice 'to see, and feel that a power was being established on the north-'ern part of this continent, which would be able to make itself 'respected, and which, he trusted, would furnish hereafter happy 'and prosperous homes to many millions of the industrial classes 'from Europe, now struggling for existence.'

The London *Times* agrees with Mr. Galt in his appreciation of the greatness in store for us. The following are its words :—

'The last mail from Canada has brought us the resolutions 'finally agreed to by the meeting of delegates from five pro-'vinces of British North America—resolutions destined to lay 'the foundation of a future empire. No public act of our time 'deserves more careful and respectful attention than this re-'markable and unique proceeding.'

In order to convince ourselves of the truth of this statement, let us glance attentively at the map of British North America, and measure the extent of territory which, under the project, is to be submitted to the control of the Federal Government. We know that Canada alone possesses a territory of 350,000 square miles,—one-third more extensive than France, three times larger than Great Britain and Ireland, and three times more ex-

tensive than Prussia. And what is Canada, in extent, compared to the Western prairies, the area and fertility of which can scarcely be appreciated or judged even with reports before us furnished by Mr. Dallas, Governor of the Hudson's Bay Company, and Dr. Rae, an old factor, well known from his reputation as an astronomer and as having discovered the remains of Franklin and his unfortunate companions. The latter, instructed to attempt the discovery of a pass through the Rocky Mountains for the Trans-continental Telegraph Company, states: 'That 'the River Saskatchewan is a great public highway, flowing 'through immense fertile valleys, in which wheat and barley 'might be grown in abundance.' Mr. Dallas alludes to it in the following words: 'The whole country is more or less eminently 'adapted to colonization. Two years ago, I rode on horseback, in 'the month of August, over the greater part of that country. 'We had to wade, as it were, knee deep through tares and fitch. 'I there saw horses and oxen as fat as any I ever found on the 'best pasturage grounds in England. These animals had passed 'the winter in the open air without a mouthful of hay. This 'will give a better idea of the climate here than if I were to furnish the variations of the thermometer.

'I look upon this country as well adapted to settlement, and 'extraordinarily healthy. Everything seems to thrive here; the 'wheat crop is of course rather uncertain, but all other cereals 'and vegetables attain the same perfection that they do in 'England. Towards the north we find an area of timber land 'and undulating prairies, which extends over the whole country. 'The lakes and rivers abound with fish, and the prairies with every species of game, &c., &c.'

The distance between the two extreme points of this territory between the two oceans, is four thousand miles, and a superficies of four million square miles is comprised within that area; the country is irrigated in every direction by large and navigable rivers and inland seas.

Mr. Galt has been blamed for stating that it is an advantage for a country to possess an extensive sea-coast and ample means of

internal water communication. The maritime nations of the old and new world do not concur in this opinion; on the contrary, they believe that the development of the resources of the sea-coast favors foreign and domestic commerce—the coasting trade, on the one hand, favoring our domestic commerce, while our shipping, in their voyages from port to port, favor our relations and exchanges with foreign nations.

The Provinces of British North America have an extensive sea-coast, and internal means of water communication of great length, with foreign trade valued at $137,447,567, and tonnage, including the coasting trade, at $11,859,934.

If the river Thames has created the City of London, and if the sea-coast of England has been the means of making it a maritime and commercial country, what may we not expect from the magnificent coast and harbors of the Atlantic and Pacific Provinces, the Gulf and River St. Lawrence, the Saguenay, the Ottawa, the St. Maurice, the Lakes Ontario, Erie, Huron, Superior and Winnepeg with the two branches of the River Saskatchewan (the two latter offering navigable waters 1800 miles in length), with other rivers and lakes which irrigate and fertilize the different parts of this colossal territory?

It is therefore evident that a mistake has been made in confounding the extent of our sea-coast with that of our frontier, the latter being an inconvenience, but one common to all countries.

'The Federal Legislative Council.'

CHAPTER XII.

'The Members of the Legislative Council shall be appointed by the Crown, and shall hold office during life, &c., &c.; their appointment shall take place on the recommendation of the General Executive Government, upon the nomination of the respective Local Governments.'

HON. MR. BROWN stated, in Toronto, that this return to the old principle of nomination by the Crown, and the consequent

abandonment of the elective principle, was a concession made to the Maritime Provinces. The Member for South Oxford belonged to a minority which, in 1856, combatted and voted against the elective principle. He does not tell us whether the experience of the working of the new system has in any manner modified his ideas, and we are therefore compelled to believe that his opinions of 1864 are similar to those held by him in 1856. Those who have been identified with the stormy periods of the parliamentary history of Lower Canada, will recollect under what circumstances the agitation commenced, to substitute the elective principle for nomination by the Crown in the Upper House.

In 1820, Mr. L. J. Papineau spoke admiringly of the justice and generosity of the British Government. In 1826, he spoke in terms of praise respecting Sir Francis Burton, the representative of the Sovereign. In 1827 however, he commenced a series of attacks against the same executive power, which were destined to be concluded by devastation, incendiarism, human hetacombs and the destruction of that glorious constitution justly given to us by Pitt in 1791, in spite of the opinions of the oligarchy, who were desirous of governing and legislating for us.

In order to avoid direct conflicts, the Imperial Government placed the Legislative Council, which was completely under its control, between the popular branch and the executive. The greater number of Legislative Councillors were selected from among the members of the Executive, and thus the Legislative Council was but a mere counterpart of the Government. It became almost impossible to legislate, because the Legislative Council systematically rejected every measure sent up by the popular branch.

In 1828, the Legislative Assembly sent Messrs. Cuvillier,* Viger and Neilson to London as delegates. Mr. Neilson was asked, when he appeared before a Committee of the House of Commons, to describe the evil, and to suggest a remedy. He very naturally replied, that the evil was to be found in the obstacles placed by

* On referring to Journals of House of 1828, we find that the name of Cuvillier must be substituted for that of Papineau.

the Legislative Council in the way of all legislation, and that he believed that the sole means of abolishing the evil was to introduce the elective principle into that body. He, however, gave that opinion as his own, prudently remarking that the population which he represented did not agree with him on that point.

In 1832, an Elective Legislative Council had become a panacea throughout the country, and the prudence of its adoption was agitated in the press, at public meetings, and on the floor of the House. It was again asked for in the 92 resolutions of 1834, and it was continued to be regarded as the saving plank in our constitutional platform until the latter was broken by the shock of rebellion and the brutal despotism of the day.

In 1840, a new constitution was given to us. It was conceived in injustice, and was intended by its authors to keep in a perpetual state of subjection men who certainly had committed errors owing to the want of some constitutional light to direct them in their path, but who, after all, were only guilty of desiring to possess the immunities of British subjects, and with them, the privileges of self-government.

Lord Sydenham, who had handed over the elections of Lower Canada to his hired minions, having, as it were, spread terror throughout the land, no doubt relied upon the stability of a condition of affairs laboriously and astutely devised; but the session of Parliament had scarcely opened, before that feeling of constitutional liberty which laid dormant under the ruins of 1837 and 1838, became once more vivified by incompressible energy, and the Governor General was forced to recognize, in the celebrated resolution of 1841, parliamentary government with all its consequences.

Lord Sydenham was soon gathered to his fathers. His successor was Sir Charles Bagot, of cherished memory, who, accepting the consequences of the Harrison resolution, offered the reins of power to Messrs. Lafontaine and Baldwin.

If, after the death of this venerable man, we find hinderances in the way of our constitutional progress and in the working of parliamentary government, it is because Sir Charles Metcalfe, no

doubt a remarkable and honest man, had just arrived from India, where he had resided from his boyhood—far from a constitutional atmosphere—with inveterate notions of arbitrary government, with strong prejudices against the Executive Councillors given to him by a parliamentary majority, and whom, with sincere conviction, he looked upon as the enemies of the British Crown.

But these difficulties proved, in a still more forcible manner, the power of the principle that had been conceded. Lord Metcalfe was compelled to bend before that power in spite of his despotic instincts and the prejudices imbibed in his education. He was compelled to admit the control of Parliament over the administration of public affairs. Under no other condition would Mr. Draper consent to undertake the formation of his cabinet, and the last replies of the Governor General to the addresses that were presented by the people, are full of constitutional soundness.

Since the Union, the Legislative Council has never proved itself to be an obstacle in the way of legislation, and we have never felt the want of changing its character in order to place it more in harmony with public opinion. If any reproach could be offered, it would rather be because the Council had been too much influenced by the popular branch, and sometimes legislation has been hurried without the necessary thought and reflection.

Let us suppose that we had obtained an elective Legislative Council previous to 1840, would the desired end have been attained? No, the effect would merely have been to change the ground of the contest, and give to the Government two adversaries instead of one. These could only be overcome by the strong arm of the Constitution, the right of 'veto' and the Imperial sanction, which could always be relied upon.

Our statesmen of that day, whatever may have been their merit and ability, do not seem to have had any idea of parliamentary government, because, no doubt owing to a prejudice instilled by the experience of the past, men who accepted seats in the Executive Council were looked upon as traitors to the popular cause, and the House of Assembly considered any apparent intention, on the part of its members, of furnishing the opinions of the Executive, as a

violation of its privileges, and as rendering them liable to ostracism. At the present day, what a prodigious change do we find in public opinion! Now, members of the Ministry in the House, never can be sufficiently communicative, and they are accused of want of respect to the Legislature and the country, even if state reasons compel them to be silent.

Since 1841, there could be no serious contest between the two branches of the Legislature, because the people, through their representatives, exercised a direct influence over the admistration, and therefore, through that administration, over the Legislative Council appointed by the Crown. There could consequently be no motive to continue the agitation in favor of an elective Council, but certain public men, who had been identified with former constitutional agitations, feared to be accused of inconsistency and infidelity to their former opinions, if they did not continue to desire that which they had asked for in times gone by.

'*Tempora mu tantur et mutamur in illis.*' This great truth is more applicable in the government of nations than in other mundane affairs. And inconsistency does not depend upon refusing to change our opinion when every thing around us becomes changed, and when every thing encourages that change, but on the contrary, in holding to those opinions when they can no longer be justified. In order to be consistent, we do not eat when we are no longer hungry, under the pretext that we were hungry before we ate, and we certainly do not have our coat cut according to a fashion for years in desuetude, because it happened to be the fashion in the days of our youth. It could, therefore, only be in politics that we could consistently eat without being hungry, and that we could be compelled, at the risk of our honor, to perpetuate fashions which have long been superseded.'

The introduction of the elective principle into the Legislative Council has not produced the desired results, because it is evident that the selection made by the people has not, upon the whole, been a happy one. The same zeal has not been shown in these elections as we find in those for the Legislative Assembly, while, as a general rule, the most able men have remained in the Lower

House. Perhaps it may be, that materials are wanting to form two popular branches in an efficient manner, and that in any case, the best share of talent would remain with that branch in which originates everything relating to our great material interests. Perhaps also, it may be, that the electoral divisions are on two large a scale, and candidates are alarmed at the labor and expenditure rendered necessary; or again, the difficulty may perhaps be found in the restrictions placed by the Constitution itself on the choice of the electors. We merely state the fact as true, but we believe that all these causes combine to produce present results.

In obedience to the dictates of public opinion, the writer of these lines in 1856, composed with his own hand the Constitution of the Elective Legislative Council; and it is now with heartfelt satisfaction and true conviction that he hails the return to the old principle of nomination by the Crown under circumstances far more favorable than in the past.

If there be any reason for the existence of a Legislative Council, it is because it acts as a conservative element,—a counterpoise and check on the hasty legislation of the people. All statesmen of forethought of every country, instructed to perform the duty of framing constitutions, have always provided for the protection of the people against their own sudden fits of passion; moreover, democratic predilections possess too much power in the United States for us to deny the wisdom of checking them, in the interest of that nation which we are about to create.

In the Legislative Council of the Federal Parliament will be found the nominative principle with that of election; the conservative element, which is absolutely essential, being included by the wish of the people, and in which no obstacle can be found to public feeling, matured by evidence, time and reflection.

In critical times the Members of the Council will recollect their origin, and in their resistance to outward pressure will only act according to their own wisdom, and the dictates of public interest.

If, in the projected Constitution, there be found a guarantee of stability against popular outbursts, there will also be found a guarantee of perfect independence against the servility of the

administration of the day, in the first place, because of its popular origin, and also, as it were still more efficiently, by the provision made for a limit to the number of Councillors.

Everything therefore, proves that the Conference, in thus framing the project, have wisely reflected, while they have acted with patriotism. Moreover, elections have in our day been of such frequent occurrence, that the moral sense of the people has become as it were deadened, and they now ask for elections of a more reasonable nature, better suited to their feelings and wants.

There should be no misunderstanding with regard to the import of certain facts. In abandoning the elective principle in the Legislative Council, the people do not give up an inherent right, because the elective principle in that body is of no more value in that respect than the nominative principle. They are merely two different conditions in the formation of one branch of the Legislature, and a selection is to be freely made from the two, through the representatives of the people. The duty or right of the people is to control the Administration of the day through their representatives, and to choose the mode by which the greatest wisdom and reflection may be secured, without permitting the existence of a power which may, at any time, stop the operation of the constitutional machinery.

The motive which caused difficulty during the last years of the existence of the Constitution of the year 1791, with regard to the principle of election in the Legislative Council, no longer exists and, at the present moment, the republican idea is to be found prevalent only in the minds of our democrats, who would like to see it perpetuated.

The Minister for the Colonies is evidently opposed to the elective principle. He fears, however, that in case of difficulty between the two branches of the Legislature, the proposed system would preclude the possibility of increasing the number of Legislative Councillors.

The reason adduced for this limitation of the number of Councillors can be easily understood; and without it, who would sanction Confederation? But the question of danger, as foreshadowed by Mr. Cardwell, deserves close consideration.

Can it be established, that real danger can exist, because it might happen that one branch of the Legislature would, and the other would not, be elective? Does it follow, that because the Legislative Council would be unchangeable in its will, as in its number, that it could, at any time, completely interfere with Legislative action, and absolutely defy public opinion or the public desire, after a close and careful examination of circumstances by the people of the country?

There are two powerful reasons which lead us to a contrary opinion; the first is, that there are no interests in America foreign to those of the mass of the people, and we have no *castes* to be dealt with; the second reason is, that even if the latter did exist, no resistance could be possibly offered to the expressed will of the people; and the Legislative Council, if it were to abandon its *role* of moderation and counterpoise, in order to obstruct the working of our constitutional machinery, would inevitably be carried away by a tempest similar to that which has destroyed so many thrones, and has broken up so many dynasties.

Our Legislative Councillors will be selected from the mass of the people; they will live among us, and form part of us; they will know and appreciate the wants, desires and predilections common to us all, with this difference, that, having been spared the ordeal of election, and exempted from a feeling of constant fear of the electors, they will not have to undergo the dangerous, and sometimes unreasonable exactions of popular demonstrations. They will thus be enabled to decide calmly, maturely and with reflection, upon the merits of those legislative questions which may be sent up from the popular branch, replete with the evidence of hasty legislation.

We find that in England where *castes* exist, where a powerful nobility enjoying privileges, posts of honor, fortune, and, in a word, the greater portion of the landed property of the empire, live, as it were, beyond and above the people; those difficulties so much feared by us cannot last, because public opinion instantly causes them to cease by threatening to overturn the whole system.

If such conflicts were there persisted in, they would inevitably

produce revolution, because it is well understood that the House of Lords merely moderates political affairs, and if the safety valve of the people's security were obstinately closed by that body, an explosion would inevitably be the result.

It may be said in reply that the number of peers is not limited, and that the Sovereign may at pleasure increase that number.

This is certainly true in theory, but not in practice. The Sovereign creates peers when public men have rendered important services to the nation, or, in exceptional cases, when exceptional rewards have been deserved, but never with the intention of submerging the will of the majority, of paralyzing free action, and of weakening the dignity and usefulness of a body so important and so necessary in the Constitution.

The constitutional history of Great Britain offers but few examples of conflict between the two branches; the most celebrated and most obstinate of these, was that which arose upon the subject of the Reform Bill in 1831 and 1832. The people became so irritated at the stubborn resistance offered by the nobility to a reform in the system of parliamentary representation, that they at last refused to listen to the advice of the most powerful political men who had hitherto enjoyed their confidence in electoral contests. They even rejected candidates whom they had for a length of time persisted in sending to the House of Commons, with the promise, however, that they would be re-elected after the passing of the Reform Bill. On several occasions the House of Commons had, by its vote, manifested the public opinion of the country; but the House of Lords persistently refused to sanction the bill. It was supposed by that House that if a certain number of rotten boroughs were disfranchised, and if the representation of several of the great commercial centres were increased, there would be an end to the privileges and separate existence of the nobility.

The popular anger increased in proportion to the resistance of the House of Lords, and the Sovereign—who felt the approach of the storm from the direction of Manchester, who distinctly heard the sounds of rebellion rumbling in the distance, clamoring, as in 1660, for the head of a king to gratify their vengeance—at last

gave way to the urgent advice of Sir Charles Grey, who, armed with the terrible power of swamping the majority of the House of Lords, obtained the creation of a sufficient number of new peers to effect that purpose, and thereby saved the realm.

The House of Lords gave way, and its annihilation was thereby averted.

All constitutional writers agree that this creation of a hundred peers would have been a revolution as great as that which threatened to overthrow the throne of William IV., had it not been that the monarch believed that between a revolution which threatened to demolish his throne, and the one which attacked the independence of the House of Lords, it became his duty, for self-preservation, to choose the latter alternative.

Thus the principle of limiting the number of Legislative Councillors is not as dangerous as at first sight it may appear.

Property Qualification.

CHAPTER XIII.

'The Members of the Legislative Council shall possess a continuous real property qualification of four thousand dollars, over and above all incumbrances, and shall be and continue worth that sum over and above their debts and liabilities; but in the case of the Island of Prince Edward, the property may be either real or personal.'

THUS, the amount of property required to secure eligibility by the Constitutional Act of 1856 for a Canadian Legislative Councillor is $8,000, while $4,000 will now suffice for a Federal Legislative Councillor.

This is a concession to the Maritime Provinces, because in that portion of the proposed Confederation, wealth is not developed in the same ratio as in Canada.

In order to meet the circumstances of Newfoundland and Prince

Edward Island, even greater concessions have been made, by rendering candidates eligible either on real or personal property.

It will be a difficult matter to establish the possession of personal property or even the net value of real property, after deducting mortgages, and debts that are not secured by mortgage. This cannot be established, but it will be necessary that the Federal Legislative Councillor shall, on the day of his appointment, as well as subsequently, possess, really and truly, over and above all debts and mortgages whatever, property valued at $4,000.

For instance, promissory notes are debts or obligations. How can the amount of these be established when a variation may occur from one moment to another? How can the amount of other personal debts, such as balances of accounts current that may reach a large amount, be established? In other words—how can the actual value of personal property be ascertained?

Necessity has compelled us to adopt this principle, and we must now put it in practice in the best possible manner. It has been suggested that the Councillor should take the oath of eligibility at the opening of each session of the Legislature. This would at least be a moral confirmation which would be avoided by scrupulous and honest men, if that qualification were not possessed.

In any case, the improbability of establishing with precision the amount of wealth possessed by any Legislative Councillor cannot affect, in a serious manner, the working of the great political machine which it is proposed to create. The important point is, that the men who may be called upon to form part of that conservative body, shall possess something which it will be their interest to protect, and that they will understand from theory, as well as their own personal experience, that they are solemnly bound to take an important part in the working of the Constitution. It is necessary that they should be to the constitutional fabric that which the corner-stone is to masonry—the strength and stability of the edifice; they must possess social weight, and that guarantee of prudence which possession of property gives them.

Legislative Councillors.

CHAPTER XIV.

'The first selection of the Members of the Legislative Council shall be made, except as regards Prince Edward Island, from the Legislative Councils of the various Provinces. If a sufficient number be not found in the existing Councils qualified, and willing to serve, the complement must necessarily be filled up elsewhere.'

'In these appointments, due regard shall be had to the claims of the members of the Legislative Council of the Opposition in each Province, so that all political parties may as nearly as possible be fairly represented in the Federal Council.'

'Each of the twenty-four Legislative Councillors representing Lower Canada, in the Legislative Council of the General Legislature, shall be appointed to represent one of the twenty-four Electoral Divisions mentioned in Schedule A of Chapter First of the Consolidated Statutes of Canada, and such Councillor shall reside or possess his qualification, in the Division he is appointed to represent.' (14th and 16th paragraphs.)

THUS, according to Article 14, the Federal Legislative Councillors shall be selected from the Councils of the different Provinces of the proposed union, provided always, that a sufficient number may be found who are eligible to accept; but at the same time, Article 16 provides that in Lower Canada, the Federal Councillors shall represent the Electoral Divisions established by the Consolidated Statutes, and shall reside or possess the property upon which they qualify in the Divisions thus assigned to them.

These two provisions seem, at first sight, incompatible with each other, and require some explanation.

There would be no necessity for such explanation, if we had to select our Federal Councillors from the number of those elected for Lower Canada. In such a case, it would merely have been necessary to say, that our twenty-four Legislative Councillors-elect would be the twenty-four Councillors to represent us in the Federal Parliament; but in such a case, we must necessarily exclude the life members of the Council for this section, at a moment when we are desirous of establishing that body on the nominative principle, and we can fairly infer that such was the thought of the Conference if we read literally the words pronounced by Mr. Galt at the

Sherbrooke banquet; 'It was intended that the first selection of 'Legislative Councillors should be made from the present Legisla-'tive Councils of the several provinces, and without referring to 'the reasons which actuated gentlemen from the Lower Provinces 'in regard to this matter, he thought it might be sufficient to 'point out that in Canada, where we had forty-eight gentlemen 'sitting in the Upper House by the right of election, it would have 'been doing a wrong, not merely to them individually, but to their 'constituents too, if they had from any cause been attempted to 'be overlooked. It was quite evident, even if no such clause had 'been inserted, that no attempt would have been made to pass over 'those gentlemen who had been selected by the people themselves 'as the most fit and proper persons to represent them in the Legis-'lative Council.'

But such cannot have been the intention of either the Conference or of Mr. Galt himself, because the latter adds to his former remarks the following words:—'However, the arrangement was that they 'should be chosen, regard being held in that selection to the relative 'position of political parties. If the power of nomination were 'entrusted to the Government without restriction, they might be 'inclined to appoint their own political friends to the exclusion of 'the others. But it was intended that the nomination should be so 'made, that not only the Members composing the Government, but 'also the Opposition to the Government, should be fairly represented 'in the Legislative Council.'

Mr. Galt's views sufficiently indicate that a choice will be made, otherwise, as we stated in a former part of this article, it might have been easier to decide that our 24 Councillors under the elective system, should be the 24 Councillors in the Federal Government. But the 16th Resolution, as it is written in the project, would seem to interfere with the operation of the 14th Resolution, inasmuch as the Federal Councillors are to be selected indiscriminately from among the elected and the nominated members of our Legislative Council, because Resolution No. 16 requires that the Federal Councillors for Canada shall reside or possess their qualifications in the divisions to be assigned to them.

Now, Lower Canada has at the present moment 34 Legislative Councillors, 10 of whom are life-members. If, therefore, the latter are not to be entirely excluded, and have a right to hope that the Federal Councillors will be indiscriminately selected from all the members of our present Council; by compelling these to reside or possess their property qualification in any of the existing Electoral Divisions, it is quite clear that the choice will be restricted to the disadvantage of a large number of life members, who may fairly be considered as eligible in every other respect.

There is still another motive which is against the literal interpretation, both of Mr. Galt's speech, and of the 16th Resolution of the project; it is, that such an interpretation would render an equitable distribution among political parties utterly impracticable

We must therefore conclude that the Conference intended, that the first Federal Councillors should be selected indiscriminately from amongst both life members and elected councillors of Lower Canada, and that residence, or the situation of property qualification, would only be brought into operation in future appointments by the Crown. Resolution 14 can be clearly interpreted in this manner, and the Conference could never have entertained the absurd idea of abrogating it by Resolution 16.

The motive which actuated the Conference in stipulating residence or its substitute, property qualification within the Division, is the same as that which obtained in the Elective Law of 1856. It was framed in order to secure, in a vote upon the project, the concurrence of those Councillors who might fear that without these restrictions, local candidates might be sacrificed for others comparatively strangers to an Electoral Division. But there is another motive, which is explained by Mr. Galt in the following words:—
'He might say it here, because it was said by everybody outside,
'that in the event of anything like injustice being attempted towards the British population of Lower Canada by their French
'Canadian fellow-subjects, they would most unquestionably look
'for remedy and redress at the hands of the General Government,
'who would have the power of causing their interests to be repre-
'sented in the Upper House of the General Legislature. So far

'as regarded the interests of the French Canadian population, on 'the other hand; he thought there could be no question whatever 'that they might safely enough trust to their representatives in the 'Upper House being taken from amongst their best men, and in 'fair proportion to their numbers also. It was proposed that, in 'the case of Lower Canada, the selection should be made from the 'electoral limits which now existed. And he thought wisely so, 'because certain sections of the Province were more particularly 'inhabited by French Canadians, and others by those of British 'origin. Consequently, there was a greater certainty that fairness 'would be meted out to both parties, if the representatives in the 'Upper House were to be chosen from the electoral limits which 'now existed.'

We have no objection to this local provision, which was insisted upon in 1856, when the Legislative Council passed the Bill, although it may frequently hamper both local and Federal Governments in their selection, and frequently prevent them from nominating the most able and the best deserving men. If, as Mr. Galt stated, the English-speaking and Protestant population of Lower Canada desires this for its own protection and in order that it may be represented according to numbers in the Upper Federal Chamber, the same rule would hold good when applied to those portions of the country inhabited by the French race, and we would find precisely the same relations of equilibrium between different origins, as those established by our present elective Legislative Council.

These small details of calculation are excessively unpleasant, and but too clearly shew the multiplicity and diversity of the elements of which our social and political community is composed.

But as we are in this position, and as it would be impossible to change or modify them, even were we to desire it, nothing remains but to arrange them wisely and prudently in the construction of our new constitutional edifice, and to give to each suitable space therein.

It is only by such an arrangement that we can hope to construct with strength and durability.

Representation by Population.

CHAPTER XV.

17. "Representation in the House of Commons shall be based upon population; and the number shall be determined by the official census taken every ten years, and the number of representatives at the commencement will be 194, distributed as follows:

Upper Canada,	82
Lower Canada,	65
Nova Scotia,	19
New Brunswick,	15
Newfoundland,	8
Prince Edward's Island,	5.'

18. 'There will be no change in the number of representatives apportioned to the different Provinces, until the taking of the census of 1871.'

19. 'Immediately after the taking of the census, in 1871, and at the taking of each decennial census, the representation of each province will be re-distributed on the basis of population.'

WE explained in our article, chapter 4, the powerful reasons which determined our statesmen to concede the principle laid down in paragraph No. 17 of the project of the Constitution, and which we have re-written at the head of this article. The distribution of the representation is there based upon the population of the different provinces, determined according to the census of 1861. By that census, Upper Canada contains a population of 1,396,091 souls; Lower Canada, 1,110,664; Nova Scotia, 330,857; New Brunswick, 252,047; Newfoundland, 130,000; and Prince Edwards Island, 80,757.

The principle of representation in the Lower House has been conceded by the Maritime Provinces, the populations of which are comparatively small, and whose progressive increase is less rapid

than ours. They no doubt believed, that they would find a sufficient protection against the populations of the larger provinces in the Upper House, where they are upon a footing of representative equality with them.

If the population continues to increase in Canada in the same proportion as in the decennial period from 1851 to 1861, we shall have, in 1871, a population of 3,398,070, and 4,606,305 in 1881.

We have no data to enable us to establish the average progression of the collective population of the Maritime Provinces, but Mr. Galt has stated that it is much slower than with us.

From the moment that Confederation was proposed as a substitute for our present Constitution, it became, of necessity, a question of numbers in the formation of the Federal Legislature; for what purpose would it serve to replace a single parliament by three legislatures, necessarily more costly, in order to arrive precisely at the same constitutional mode, and to meet exactly the same difficulties?

Every Confederation is a compromise; but where would be the compromise if nothing were ceded either on the one hand or the other? The compromise on the part of Lower Canada is the concession of Representation by Population in the Lower House, and the compromise on the part of Upper Canada is the concession of equality in the Upper House, in exchange for representation based upon population, in the Lower House. The same compromise has been effected between the two Canadas and the Atlantic Provinces, and it was the same motive which prompted it.

Previous to the introduction of the elective principle in the Legislative Council, representative equality had no existence, and Upper Canada has only succeeded, even up to this day, in preserving its numerical preponderance by means of its life Councillors.

The Constitution of 1840 only stipulated for equality in the Lower House. Let us suppose that the majority of the Legislative Council had chosen to adopt a project of law which would have been hostile to the interests of Lower Canada; as Upper and Lower Canada were equally represented in the Lower House, the bill adopted by the Upper House would have been certainly thrown

out, and it is by the Lower House alone that we have, up to this time, been able to protect and save our institutions, taking into account also the good will shown to us by Lower Canadian representatives of English descent.

Why has the Legislative Assembly always been the battle field with respect to the struggle that has been going on for the last fourteen years between Upper and Lower Canada on the question of Representation by Population? It is because there alone equality has existed, and there alone could be found the means of solving the constitutional problem; if then, instead of the present Constitution, we substitute Local Legislatures, and over them the Federal Parliament, we shall see in that case precisely the inverse of that which we have always observed in our present Legislature, that is to say: that on the occurrence of any local misunderstanding, the struggle will be carried from the Lower House to the Legislative Council, and precisely for the reasons that we have adduced.

We are speaking here on the hypothesis of the perpetual antagonism and antipathies which exist between races and provinces, and it is in consequence of this, that we cannot surround sectional interests with too much protection against the chances of the future. But, by enlarging the ground, and in creating, by the Union of the whole of British America, other interests, as distinct as those which are in antagonism with each other to-day, we may hope to soften the asperities of the struggle by turning them aside from their object, by dispersing them, and by directing them upon other points less fraught with danger and evil consequences.

It is in the counterpoise of interests freely established by the parties to the contract, that we may hope with reason to find the safe working of the new constitutional machinery. We have said, that it was equality in the Lower House that turned that place, since the Union, into the enclosed battle-ground of all our struggles with Upper Canada.

But there was another cause added to that, which claims public attention almost exclusively: that is, the power of initiating money measures—the great, and, so to say, the only sinew of politics in the normal period of society. It was probably that

consideration that influenced the Imperial Government to recommend the principle of equality of representation at the period of the union.

In extraordinary times, social questions govern to the fullest extent material interests; they are pursued with more animation and bitterness through sacrifices, and often produce ruin and desolation. It was representative equality, and the interests of which it was the signification, which gave to the Senate its importance and its moral preponderance in the American Congress, and in the eyes of foreign nations.

And yet it had not the power of initiating money measures, like the House of Representatives; it had only the privilege of modifying them.

But it was the battle field of social questions, and of territorial interests, just as our Legislative Assembly has been up to the present day.

This was the cause of its importance, the reason why the American people sent the most eminent men to that body, and the cause of its triple superiority, intellectually, morally, and politically.

Readjustment of Representation.

CHAPTER XVI.

'For the purpose of such readjustments, Lower Canada shall always be assigned sixty-five members, and each of the other sections shall at each readjustment receive, for the ten years next succeeding, the number of Members to which it will be entitled on the same ratio of representation to population as Lower Canada will enjoy according to the Census last taken by having sixty-five Members.'

THIS clause of the project was at first misunderstood and misinterpreted. It was asked, why must Lower Canada remain stationary, while others provinces have the privilege of progressing?

Let us in the first place hear Mr. Galt, he who of all the Ministers has the most completely explained and rendered the thought of the Quebec Convention in his speech at Sherbrooke :—

'Population was made the basis, and to prevent any undue aug-'mentation in the numbers of the Lower House as population 'increased, it was settled that there should be a fixed standard, on 'which the numbers of the House should be calculated, and Lower 'Canada was selected as affording the proper basis. Although, Lower Canada had not the largest, still it had a very large popu-'lation, which was more equable in its increase than any of the 'others, not increasing on the one hand so fast as Upper Canada, 'or on the other hand so slowly as the Lower Provinces, and the 'numbers of the House of Commons (for that was the name 'selected) would not be subject to such irregular variations as if 'the population of any of the other provinces were taken as the 'basis.'

The Minister of Finance, however, has not given us the whole. This arrangement is entirely to the advantage of the provinces, whose populations, already less numerous, will only increase in the smallest proportion. The *Toronto Globe* has perfectly understood this, and has perfectly explained the operation of this clause.

The principle of representation based on numbers is established by the project of the Conference; by the very conditions of its existence, it is moderated in its consequences; its work of expansion is wisely compressed by checks and considerably delayed in its progress.

To enable us to understand this, let us take an example: suppose that the project of Constitution were to stipulate as follows, the House of Commons shall be composed of three members; as you would only count for a third of the whole population, you will be represented there by one vote, and we shall have the other two, because we are the two-thirds.—Here, the principle of population is perfectly recognized and perfectly practicable; but the majority against us would be but one vote; and, displacing that single vote we would have the majority!

Now, let us suppose another case; and let us say that the repre-

sentation instead of being three, should be three hundred members in the House of Commons,—our third would then be one hundred, and the two other thirds, two hundred. The same proportions would be perfectly preserved with the principle of representation based upon population as in the first case, and yet the majority against us here, would be one hundred! Now, it will be conceded, that it is easier to displace one vote than one hundred.

Then, while preserving population as a basis, we may considerably modify it in its progression and its results; it is evident, from what we have said, that the lower the number that constitutes the pivot of the system is, the better it will be for us, and for the Atlantic Provinces.

Now, let us lay hypotheses aside, and work with reality to guide us. Lower Canada, having a population of 1,110,664 souls, and a representation of 65 members, each of these must represent an average of 17,087 souls. That is the basis adopted by the Convention at the outset.

If 17,087 should continue to be the permanent average of the population to each member, and that the total population of Lower Canada should become doubled in thirty years, reckoning from 1861 to 1891, Lower Canada would then have a population of 2,221,328 and a representation of 130 members.

If Upper Canada at the end of the same period, should have, (and it is quite possible) a population double the amount of ours—that is to say 4,442,656, it would possess a representation of 260 members, and a majority over us of 130 members.

But if on the contrary, the figure 65 of our representation, should remain stationary at the same period, the average of the population to each member, through the whole extent of the Confederation, would be 34,174, and Upper Canada would have a right to 130 members. Thus, in the first case, Upper Canada would have a majority of 130 votes over Lower Canada, while in the second case, that majority would only be 65 votes!

It is then, evidently important that the figure of our representation should remain as it is.

The result would be still more fatal to us, if a lower figure than

the present one were taken as a basis for representation—let us say 15,000, and that it were declared that in future there would be one representative for every fifteen thousand souls. That proportion would give us immediately 74 members, and Upper Canada 111,—that is to say a majority for the latter of 37 votes, while we only find 17 in the present project. In 1891, we should have a representation of 128 members, and Upper Canada would have 296 and a majority over us of 148 votes!

The principle which we have just analyzed is certainly the most important one; it is in fact all important; but Mr. Galt has given it its proper value; for in adopting a fixed number, or a mechanism which enables us to see the possibility of a diminution of the figures of representation, and which in every case moderates its development, we may be brought in a given time to a representation by far too large.

The Parliament of Lower Canada under the Constitution of 1791, had adopted the number of 2,000 as a basis for local representation, and in 1836 the number of members in the Lower Chamber was reckoned at 88. With our population to-day, supposing the same basis to have been persisted in, our representation would be 555.

This proves, that if at the outset we ought to give the largest possible share to the popular representation, so that every part of the soil should be represented, and be able to make its wants immediately and directly known—on the other hand, when the development of public prosperity has improved the means of communication and has thus made all local wants as patent as the general wants, it then becomes possible, even useful, from an economica point of view to give to that same representation a narrower basis.

Proportion of Decrease in Representation.

CHAPTER XVII.

21. 'No reduction shall be made in the number of Members returned by any section, unless its population shall have decreased, relatively to the population of the whole Union, to the extent of five per centum.'

22. 'In computing at each decennial period the number of Members to which each section is entitled, no fractional parts shall be considered, unless when exceeding one-half the number entitling to a Member, in which case a Member shall be given for each such fractional part.'

WE have been asked, how Resolution No. 21 would operate, and how it should be interpreted? We think we can explain in a clear and distinct manner its significancy, and the mode in which its stipulations will be carried out. In the first place, we may state, that this clause was inspired by interested parties, and it was a happy thought, because it is exclusively favorable to those provinces whose population may increase in the smallest ratio, and in the same manner as the resolution preceding it, to which we gave our attention in our last article; it may be a means of modifying, and in some cases of nullifying the consequences to be expected from the adoption of the principle of Representation by Population.

When this clause provides, that no reduction shall be made in the number of members returned by any section, unless its population shall have decreased, relatively to the population of the whole union, to the extent of five per cent. or more; it is meant by the word *decreased*, that an absolute proportionate decrease or increase of five per cent., more or less, of the whole population of the Confederation shall have taken place.

At the starting point, in 1861, the populations of the different sections start from precisely the same point, to dash forward on their career of progress, in the same manner as race horses starting for the Derby. The average number represented by each member over the whole extent of the Confederation is fixed at 17,087. The question is, what sections will first reach the goal in 1871, and what will be the relative distance between each of them? We mean this to apply to relative increase, and not to an absolute in-

crease of the population. The census of 1861 is an established fact, the figure of the total population of the whole Confederation and that of the populations of the different provinces separately taken, is also known. It becomes necessary now to establish, in the first place, the proportion in which the collective populations of the Confederation during the period between 1861 and 1871 have increased; then to ascertain the proportionate increase of population in each of the provinces, which, by the 20th Resolution are to be submitted to the effects of a rise and fall in the representative thermometer.

The figure of the population of Lower Canada, which is to be the basis of all calculations being known, by dividing it by the number 65, the actual number of its members, we will obtain a quotient or result that will be the figure on which shall be computed the representation of all the provinces.

If the numerical increase in the population of Lower Canada, during the decennial term, is equal to that of the population of Upper Canada, not only will the latter be deprived of any increase, but its representation will be diminished. In order to prove this, let us give some figures, based of course on hypotheses, because it is impossible to ascertain what will be the real increase. Let us suppose that the increase during the decennial period is 300,000 for Lower Canada, and 300,000 for Upper Canada, the population of Lower Canada would then be 1,410,664, and that of Upper Canada 1,696,091. By dividing the first number by 65, the number of members for Lower Canada, the quotient will be 21,702, which shall be the average number represented by each member over the whole extent of the Confederation; and by dividing the figure of population of Upper Canada by the same number, Upper Canada, according to the plan of Confederation, will be only entitled to 74 members.

Now, if instead of numerical increase, we take a proportionate increase of the population of Lower Canada to that of Upper Canada, the two provinces will remain with their respective representation of 65 to 82. Let us suppose the increase in the two Canadas to be, during the ten years from 1861 to 1871, thirty

per cent. on the population, we shall number in Lower Canada 1,443,863, which divided by 65 will give 22,213 as the average number represented by each member. A similar increase of 30 per cent in Upper Canada would give 1,814,918, which number divided by 22,213, would furnish a result of 82, the exact figures of Upper Canadian representation as established by the Conference.

to the increase or decrease in their population, considered proportionately to Lower Canada. But, admitting the possibility of their so diminishing as compared with Lower Canada, to effect a reduction, it will be necessary that the loss be at least five per cent. as compared with the total increase of the population of the Confederation, or in other words, that the population of those provinces should have increased proportionably five per cent. less than the total population of the Confederation.*

Now, if the population of Lower Canada should increase in a smaller rate than that of Upper Canada, the general average will be immediately reduced; and that reduction will be still greater if there be a decline in the Lower Provinces, as compared with Lower Canada; thus such a result would have the effect of changing the proportion of increase of those Provinces taken separately, and to render a lessening of the number of representatives very difficult, for the disproportion between the general and partial increase must be at least five per centum.

It is impossible to foresee what may be the increase, or even the relative increase, during the present decennial period, but we shall recur to our figures. Thus, in 1861, the total population of the Provinces was 3,300,446, while that of Nova Scotia, for instance, was 330,887. If we can anticipate that the total population of the Confederation may increase 25 per cent. from 1861 to 1871, the increase will be 825,111, and that of the population of Nova Scotia at 20 per cent., would produce 66,177. In such a case Nova Scotia may be subjected to a reduction in its representation in a proportion which shall be computed on the basis of the population of Lower Canada as divided by the actual figure of its present representation.

We purpose establishing this proportion by assuming a hypothetical proportion for Lower Canada. Let us suppose that the population of Lower Canada shall have increased during the ten years 23 per cent.; such an increase would give us 255,452, which added to the population of 1861, would be 1,366,116, which, divided by 65 (the actual figure of our present representation), would furnish 21,017, the number represented at that time by each member over the whole extent of the Confederation.

Now the population of Nova Scotia, according to our hypothesis, including the increase of 66,177, would be at the same date 397,064, which should be divided, as that of Lower Canada by 21,017. In such a division, that province would lose one vote, it would only have eighteen, while the project of the Conference grants nineteen. But in this case, the 22nd Resolution protects that province, because its terms are, that each province shall have a right to a member for the fraction of population which may remain after a general computation, provided that such fraction be over the half of the average of the population to be represented by each member.

Now, this average of population is 21,017, and the fraction remaining to Nova Scotia, after dividing the population by the said figure, 21,017, would be stated at 18,757; therefore that province would still be entitled to its nineteen members.

If the disproportions were greater, the result might be that there would be a change in the proportion of representatives in some part of the Confederation; but the explanations given in this article, we think, establish clearly, that such changes, such difficult decrease or increase in the representation, will be very difficult and of rare occurrence.

Division of Provinces for Representation.

CHAPTER XVIII.

23. 'The Legislature of each Province shall divide such Province into the proper number of constituencies, and define the boundaries of each of them.'

24. 'The Local Legislature of each Province may, from time to time, alter the Electoral Districts for the purposes of Representation in such Local Legislature, and distribute the Representatives to which the Province is entitled in such Local Legislature, in any manner such Legislature may see fit.'

THESE two clauses explain themselves sufficiently. The 23rd tells us that it will be the Local Legislature in each province, and not the Federal Parliament, which will fix the limits of the

counties for representation in the Federal Parliament. It is well understood that it is a question of the limits, and not of the number of counties, which will be regulated in the way that we explained in the two preceding articles.

Thus, under the Constitutional Act, there will be required a mechanism for enabling the provinces to re-distribute their own representation according to the census. It will doubtless be the General Government whose duty it will be to communicate to them, through their own Governments, the result of the census, and the share of representation apportioned to each of them.

As to the local representation, it will be regulated according to the views of the legislatures of each province, who will fix the limits of the local counties, and will determine the number of its representatives.

Increase of Representation.

CHAPTER XIX.

25. 'The number of Members may at any time be increased by the general Parliament—regard being had to the proportionate rights then existing.'

THIS clause is in direct contradiction with the 20th clause, which states that '*Lower Canada shall never have more, nor* '*less, than sixty-five representatives,*' and we cannot understand why, after having surrounded this question of representation with so many precautions and so many modifications to arrest or soften the consequences; why, after having pronounced the word '*never,*' they should have written, some lines below, '*may when they please.*' Let us hear Mr. Galt on this subject:

'Of course to provide for the settlement of the remote portions 'of the country which might be brought in from time to time, power

'was reserved to increase the number of members, but such num-'ber could only be increased preserving the relative proportions.'

If Mr. Galt means by 'settlement of the remote portions of 'the country which might be brought in from time to time,' those portions of country which are still in forest, and which may at a later period be brought under cultivation, it seems to us that to keep true to the word 'never' of the 20th clause, it would be easy, without increasing the representation, to re-distribute the representative divisions in such a manner as to satisfy all rights, all wants, and all aspirations.

If the question were, the entrance of other provinces, such as the North-West Territory, Columbia and the Island of Vancouver, into the Confederation, that would be another thing; for it would be necessary to give these a representation in the two branches of the Federal Parliament, a permanent one in the Legislative Council, and another, subject to the fluctuations in the House of Commons, as provided in all the other federated provinces. The project of convention provides for this latter case.

Whatever we may do, if we increase the representation, we must adhere strictly to the same proportions, but we shall never arrive at the same relative numerical results.

We can prove this at once by figures; let us suppose that the representation of Lower Canada (for Lower Canada must always be the basis of our calculations) be one hundred members instead of being sixty-five as it is to-day, the average population to each member will be 11,106, and dividing the population of Upper Canada, say 1,396,094, by 11,106, we shall have for that latter province a representation of 126 members.

The proportions may have been preserved, but that would not prevent Upper Canada from gaining 9 votes over us, since, with 65 the present number of Lower Canadian representatives as a basis for representative calculation, Upper Canada ought to have had only 17 votes more than us; while, in substituting 100 for 65 as the representation for Lower Canada, Upper Canada would, in that case, have 26 over Lower Canada. Here are the numbers as they stand at present in the project of Confederation:

Lower Canada, 65; Upper Canada, 82; difference in favor of Upper Canada, 17 votes.

Here is the way they would stand in the hypothesis which we have submitted:

Lower Canada, 100; Upper Canada, 126; difference in favor of Upper Canada, 26.

Either the word "never" should be struck out in clause 20; or, clause 25, which is so diametrically opposed to the former, should be taken out of the scheme.

After having given such positive limits to representation, and having placed such a strong check to its expansion, why then declare, almost immediately afterwards, that all this can be blown away by the breath of a simple parliamentary majority? We have in the Legislative Council 76 representatives; which is more than they have in the Senate of the United States, with a population of 30,000,000. We have 194 in the House of Commons, for a population, let us say, of 4,000,000; while in the House of Representatives they have only about 300 members to a population of 30,000,000.

Our representation, on the other hand, may increase under the conditions laid down for it by the 20th clause of the project; it will be sufficient to accomplish this, that the population of several provinces, or any single one, shall increase more rapidly than that of Lower Canada. If, for example, the population of Upper Canada followed indefinitely its progressive increase for the last 25 years, there would be no limits to the increase of representation.

Still we might establish an average for putting clause 20 and clause 25 in harmony with each other; this could be effected by modifying the 25th clause in this manner:

The Federal Parliament may increase the representation when it deems it proper; but it must have the consent of two-thirds of the members present and absent in both branches of the Legislature; that is to say, 130 votes in the House of Commons and 51 votes in the Legislative Council.

In this way clause 20 would only be touched by Parliament in a case of actual necessity, and clause 25 would become an ample

guarantee for the stability of clause 20. We ought to consent to this restriction, or something similar to it, the more readily, because in placing the word "never" in the 20th clause, it has at least been intended to give it stability and durability.

Parliaments and their Privileges, etc.

CHAPTER XX.

26. 'Until provisions are made by the General Parliament, all the laws which, at the date of the Proclamation constituting the Union, are in force in the provinces respectively, relating to the qualification and disqualification of any person to be elected, or to sit or vote as a Member of the Assembly in the said provinces respectively; and relating to the qualification or disqualification of voters and to the oaths to be taken by voters, and to Returning Officers and their powers and duties —and relating to the proceedings at Elections,—and to the period during which such elections may be continued,—and relating to the Trial of Controverted Elections, and the proceedings incident thereto, —and relating to the vacating of seats of Members, and to the issuing and execution of new Writs, in case of any seat being vacated otherwise than by a dissolution—shall respectively apply to Elections of Members to serve in the House of Commons, for places situate in those provinces respectively.'

27. 'Every House of Commons shall continue for five years from the day of the return of the writs choosing the same, and no longer; subject, nevertheless, to be sooner prorogued or dissolved by the Governor.'

CLAUSE 26 requires no explanation; but clause 27 will probably give rise to some debate. The advocates of annual Parliaments, who are not very numerous among us to-day, will say, that we wish to restrict the control of the people over their representatives. But when we consider that, though the maximum of the duration of our Parliament has been fixed at a period of four years, we have had nine general elections in 24 years, as follows: 1841, '44, '48, '51, '54, '57, '59, '61 and '63, and that consequently the average of each Parliament has been but two years and two-thirds, therefore five years will not be found an exaggerated figure for the maximum period of a Federal Parliament, which will give us

three years and a third for the average duration of Parliaments. That is surely little enough.

We are informed that an effort was made to establish it at seven years, as in England, but that a great majority of the delegates pronounced for five years, as being the most acceptable to the people. This decision of the question has not called forth any objection in the different provinces. How could it possibly do so, when the population of our provinces are literally worried and tired out by the elections which succeed each other, as it were, without interruption, from the 1st of January to the last of December in each year? Election to the Legislative Council, election to the Legislative Assembly, elections of municipal councillors, of commissioners of schools (in Lower Canada), of church wardens, as well as many others.

If Confederation be accomplished, we shall be rid of the elections for the Legislative Council, which now take place every eight years; but we shall have instead the Federal elections, which will take place nearly every three years and a half; elections to the local Legislative Assemblies, which will probably be for periods still shorter, and perhaps those of Legislative Councillors for the local governments.

Those who have been in the habit of seeing these elections, know their demoralizing effect upon the people, and should not consequently desire them, except in that degree necessary to liberty and to the salutary control of the people over their representatives.

For our part we would prefer six years for a maximum, which would give us parliaments averaging about four years in duration.

Still we willingly accept five years, which is an improvement upon four years, because it tends to lengthen the electoral periods, and because it is more in accordance with the almost universal feeling of the whole of the provinces.

Attributes of the General Government.

CHAPTER XXI.

WE have reached that part of the Resolutions which relates to the attributes of the General Parliament. These comprise all questions of public order, *minus* those reserved for the action of the Local Governments:—

'The Public Debt and Property.
'The Regulation of Trade and Commerce.
'The imposition or regulation of Duties of Customs on Imports and Exports, —except on Exports of Timber, Logs, Masts, Spars, Deals and Sawn Lumber from New Brunswick, and of Coal and other minerals from Nova Scotia.
'The imposition or regulation of Excise Duties.
'The raising of money by all or any other systems of Taxation.
'The borrowing of Money on the Public Credit.
'Postal Service.
'Lines of Steam or any other Ships, Railways, Canals and other works, connecting any two or more of the Provinces together or extending beyond the limits of any Province.
'Lines of Steamships between the Federated Provinces and other countries.
'Telegraphic Communication and the Incorporation of Telegraph Companies.
'The Census.
'Militia—Military and Naval Service and Defence.
'Quarantine.
'Sea Coast and Inland Fisheries.
'Currency and Coinage.
'Banking—Incorporation of Banks and the issue of paper money.
'Savings Banks.
'Weights and Measures.
'Bills of Exchange and Promissory Notes.
'Bankruptcy and Insolvency.
'Patents of Invention and Discovery.
'Copy Rights.
'Indians and Lands reserved for the Indians.
'Naturalization and Aliens.
'The Criminal Law, excepting the Constitution of Courts of Criminal jurisdiction, but including the Procedure in Criminal matters.
'Rendering uniform all or any of the laws relative to property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island, and rendering uniform the procedure of all or of any of the Courts in these Provinces; but any Statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof.
'The establishment of a General Court of Appeal for the Federated Provinces.
'Immigration.
'Agriculture.'

Whenever exceptional causes do not interfere with the general rule, the attributes above alluded to shall belong to the Federal Parliament, because by so deciding, we shall obtain unity in action, rapidity of execution, with uniformity and efficacy in the result. For this reason, we shall only allude to those objections which may furnish matter for discussion on account of the exceptional position occupied by Lower Canada.

The first exceptional question is to be found in the 31st paragraph of the 29th Resolution of the Conference.

MARRIAGE AND DIVORCE.

If Lower Canada had not existed, it is more than probable that the Civil Code would have been universalized, and would have been made one of the absolute attributes of the General Parliament. We are led to believe this because the Criminal Code is by the same clause, 32nd Section, made an attribute; also in the 33rd Section of the same clause, it seems to be foreseen that the system of civil law will be the same over all the provinces of the Confederation, Lower Canada being specially excepted. The Civil Law of Lower Canada essentially belongs to that section, and nothing on earth could induce Lower Canadians to abandon it, because it is based upon reason, and above all, on the Roman Law, perhaps the greatest effort of human wisdom; because it is appreciated by us, it agrees with our manners and predelictions, and because we find in its provisions greater protection for our property and our families than under any other system. Marrriage and divorce are essentially component parts of the Civil Code. They involve two great social questions, in other words, they involve the position of society itself, taken either in its normal condition or in a state of dissolution.

Reason leads us to believe that on no account whatever should the marriage tie be dissolved, and the Parliament of France after having replaced in the Civil Code the principle of the indissolubility of that tie in 1816, under the civilizing inspiration of Chateaubriand, has constantly maintained it as part of the Code from that date, in spite of the thrice repeated efforts of the Representative Chamber to have it erased, and even with the consent of the

immense majority of the popular body after the Revolution of July. It was not Catholic feelings that actuated these men, their opinions were based upon simple reason, and the desire to preserve their families intact, in order that society might not be affected or broken up.

What is society, considered out of the limits of that Christian sanction which elevates it, and protects its inviolability? It is composed of a mixture of human beings, living without relations one with the other, without an object, without laws and without clearly defined duties. If this be the case, why should we have civil laws which impose obligations and attributions, duties, rights and reciprocal claims? Why, again, should we have criminal laws that protect civil law in its operation, that protect persons and property against the violators of those rights created for the former, and the duties created for the latter? In a word, what is the pivot around which circulate these wisely-conceived civil laws,—these complicated and elaborate provisions of the human intellect? They all rest upon the rights of property.

It is therefore only with regard to property, that rights and duties exist in our social system; in a system of religious order, we find society seeking to attain its object, while in the other, we fied society in its working and mechanical operation.

But if the rights of property be surrounded by so much protection and respect, and we might even say, religious veneration, it must be because the *meum* and the *tuum*, which are the basis of the civil code, exist otherwise than in the roughness of materialism; it must be, that its origin is divine in its nature, because otherwise the *meum* and *tuum* would be of no value, would signify nothing, and the laws that establish them would be mere absurdities and criminal violations of liberty.

Property constitutes the fundamental basis of society, or rather, it is society itself, because without it the word society would have no meaning. Why is it that marriage occupies such a prominent position in the history of the whole world, and in the civil code? It is because property is to society what the form is to the human body; one cannot exist without the other, and if right of property

be sacred and of divine origin, the formula inherent to it must necessarily be of equal importance.

Marriage furnishes the natural means by which property can be transmitted. It is for this reason that it exists, under different forms, it is true, but has existed at every period of the world's history, even amongst the most barbarous nations from which civilization had been completely excluded.

Our laws do not establish the right of property, but they form, regulate, and determine the mode to be adopted in its transmission. Laws do not establish marriage. It was in existence before the laws. It comes immediately after property the latter as well as society being unable to subsist without it, and the laws operate upon the institution of marriage by guiding its effects and by providing for the transmission of property. Why do we find Holy writ filled with maledictions and terrible punishment for adultery, if it is not because the latter brings strangers into the family, and thus deprives the legitimate heirs of their rights of property? Thus, marriage should be held sacred and inviolable, since property is so, and this could not be if it were not so held; and the errors of individuals should no more affect it than they do the principles involved in rights of property.

We know that Protestant nations differ from us on the subject of marriage; they admit that reasons for divorce may exist. From the moment that this principle is admitted, the institution of marriage is fatally attacked, and a means is furnished by which social bonds are dissolved, because family rights are no longer inviolate.

How can they say, 'Thus far shalt thou go and no further,' because, if they admit that marriage is a question of public order, the laws concerning it will be formed according to the manners of the day which are at all times liable to variation. This is the history of every nation, and it is unfortunately the history of England at the present day.

Protestantism, when it admits divorce on account of adultery, bases its action on the words of our Saviour: 'He who puts away 'his wife except it be for adultery, and marries another, is himself

'guilty of adultery, and he who marries her who has been so put 'away is also guilty of adultery.'

It is certainly difficult to misinterpret the sense of these divine words, because the Founder of Christianity, while prohibiting divorce except for adultery, refused to permit even a simple separation on the ground of incompatibility of temper, and only allowed that separation on the ground of adultery.

His thought is still more clearly explained, when the act of marrying her who has been so put away is also termed adultery. If the matrimonial bond could be severed by reason of adultery, he who may have married the woman after a divorce could not be considered an adulterer, because reason teaches us that you cannot sever and bind at the same time.

While maintaining the inviolability of the conjugal tie, and consequently of the social form, the Saviour of the world permitted the casting away of the adulterous wife, and her expulsion from the rights of marriage; and this principle has been embodied in the civil code by Christian legislators under the title of *Separation de corps.*

Whatever may be said on the subject of principles and duty, parliaments have an equal power to regulate the questions of marriage and divorce, as they have with regard to the rights of persons, the possession of goods and chattels, and the transmission of property. Our Legislature has frequently exercised this power, because the Protestants are in a majority, and the question we have now to enter upon is the following:—Should marriage and divorce form part of the attributes of the Federal Parliament or of the local Legislatures?

We shall consider in the first place that which relates to divorce.

Divorce.

CHAPTER XXII.

FOR our part, we believe that since the question of divorce must necessarily be submitted to a certain control, it should be placed under the direction of the Federal Parliament, instead of being an attribute of the Local Legislatures.

Catholic opinion urged that a question of such social importance should be left to the Local Governments, but, let it be understood, that in leaving it as regards Lower Canada to a Protestant majority, we only maintain the present condition of that important question. By so referring it to the Federal Government, we avoid many causes of contention and many violent complaints which might eventually be listened to by the Mother Country, where divorce is legalized and operates as a social institution.

Who can say that the Protestants—who are in great majority in our present Parliament, and who will constitute the two-thirds of the Confederation,—would ever have consented to localize legislation on the subject of divorce; and even had they consented to this, would it have been wise to establish a rule which, although apparently favorable to one province, might have fatally interfered with five other provinces, in all of which Protestants are in majority?

By submiting divorce to the control of the Local Legislatures, it would have been rendered too easy, and might have become of as frequent occurrence as in certain states of the American Union.

The higher the position of the tribunal before which interested parties must appear to demand the dissolution of the marriage tie, the smaller will be the number of divorce cases. From 1841 until the present day, we only know of four such applications. Divorce is always costly, and the public proof of dishonor is so hideous and so solemn, that in almost every case the accuser falters before the terrible ordeal.

But if legislation on the subject of divorce were left to each

province, there might be a great difference, because the cheapness of the procedure, and the comparative lessening of the solemnity would be the means of multiplying cases *ad infinitum*, as in certain portions of the United States, where divorce is an institution which regulates marriage, and has a greater hold on the manners and customs of the people. If at a future day, and we sincerely hope that it may not be so, the Federal Legislature were to establish general enactments on the subject of divorce, let us hope that we shall at least be able to secure the privilege, that they shall only apply to Protestants.

But if, up to the present day, the Protestant majority have never even thought of general legislation on that subject; if it has reserved the privilege of deciding each case according to its own merits, in order that divorce might be more difficult to obtain, and to prevent it, except under circumstances of an extraordinary nature, by surrounding it with all kinds of difficulties, and by making the procedure very costly: we must believe, that unless the standard of morals becomes lowered (and we see no indication of such a result), the same opinion on this subject will prevail in the Federal Parliament.

The Local Legislatures, several of which will represent very small provinces, could not give us the same guarantees of conservatism and elevated tone in feelings and ideas that we will find in the Federal Parliament, which will be composed, in a great measure, of the eminent men of all the provinces. Those men, from motives of personal dignity apart from every other important consideration, will, we may rest assured, insist upon maintaining society on a respectable basis.

Moreover, this proposal does not seem to have raised any opposition on the part of those who possess authority to speak and to judge; with this exception, that it became unpleasant for Catholic ears to hear the word '*divorce*' so often and so plainly pronounced, and it was still more painful to read it in such distinct letters in the new Constitution.

If the Constitutional Act of 1840 gave to the Canadian Parliament the absolute power of legislating upon the subject of divorce,

at least we are spared from seeing it written in the pages of that Act. Therefore (and many complain of this omission), why was it not stated in the project of constitution in general terms, 'that 'the powers not attributed specially to the Local Legislatures should 'belong to the Federal Parliament.'

We would certainly agree with those who complain, if their suggestion could be realized without producing a result precisely contrary to what we desire. It is provided by one of the clauses of this project of the Conference, that civil legislation will be left to the Legislature of Lower Canada, and as divorce, legally speaking, is nothing more than a dissolution of the civil contract, it follows that, with the question of marriage, it must form part of the category of civil laws, and will thus become a special attribute of our local Legislature.

Thus, if it is intended that divorce shall be regulated as a Federal question, it should be distinctly and specially laid down that such would be the case; it is, perhaps, an exaction, but it is a necessary one.

Marriage.

CHAPTER XXIII.

THE same rules do not apply to marriage, because the latter cannot lead to the same inconvenient results and produce the same disastrous consequences. Marriage, being a civil contract, belongs to the civil code, in which it occupies a very prominent position, and, under different titles, it takes up the greater part of that code, we mean of course, as regards consequences. If, therefore, as stated in the project of the Conference, Lower Canada is to have the control of its own civil legislation, why should that privilege be

surreptitiously taken away, particularly as it is clearly granted in another part of that same project? Either the civil code should or should not be under the control of the local Legislature; if it is to form part of it, let it be really and substantially incorporated in it.

If, on the other hand, we are told, and we really believe it, 'that 'there is no intention of interfering with our code and of affecting 'the consequences which may result from the marriage contract,' it would be much better immediately to define what is meant by the word 'marriage' as it occurs in the project.

If, by connecting the words divorce and marriage, it be intended to grant to the divorced husband or wife the privilege of re-marrying, we require no explanation; and again, if the degrees of relationship and the absolute impediments that invalidate marriage are to be included, we also understand the meaning; but it is essential that explanations and definitions should be given with precision, because otherwise there must inevitably be conflict of opinion between the two legislative authorities, or a complete annihilation of the control to be exercised by our Local Legislatures over the civil code.

One Legislature might say: 'We have the control of legislation 'on the subject of marriage,' and the other might say: 'Marriage 'is a civil contract; is forms part of our code; you have therefore 'no right to touch the question. Can you now declare that the 'subject no longer forms part of that code? Therefore, why are 'we told in the clauses of the constitution that we are to have the 'control of our civil laws? The 15th section of the 43rd clause of 'the project of the Conference is therefore a deception and a lie.' These conflicts will inevitably be brought before the tribunals, and unless there be an exact and distinct definition, the bench of judges will be divided in opinion. Some will say, 'that marriage in one 'case can only be considered in its relation to divorce and to the 'liberty of the person divorced to re-marry or not;' others 'that 'the word marriage, in its most comprehensive interpretation, 'means all acts of marriage, all the qualities and conditions re-'quired for the celebration of marriage and the marriage contract, 'all causes of nullity, all its obligations, its dissolution "*séparation*

'*de corps*," its causes and effects, in a word, all the consequences 'that may possibly result from marriage, with regard to husband 'and wife, to the children and to successions. Thus, all these 'matters are under the control of the Federal Parliament, and the 'Local Legislature is deprived of all right of legislation on the sub-'ject of marriage.'

And again, others may say: 'No; there is concurrent jurisdic-'tion, and in any case of conflict of legislation, the federal action 'must prevail, and local legislation, with regard to marriage and 'its consequences, shall only be valid when the Federal Parliament 'is silent on the subject.'

And there is a fourth view of the question: 'If divorce is ex-'clusively under the control of the Federal Government because it 'is placed in the category of its attributes, marriage, which is 'mentioned in the same manner, and is, in fact, in juxtaposition to 'it in the project, will have to be submitted to the same rule, be-'cause divorce, in its nature, also forms an essential part of the 'civil code, and if the thesis of a double jurisdiction can be main-'tained with regard to marriage, it must be equally applicable in 'the case of divorce.'

This word, thus placed, creates an immense gap in our civil code. We must not forget that the project of the Conference provides, that whenever a conflict of legislation shall occur between the two parliaments in cases of concurrent jurisdiction; the judges shall give the preference to the laws enacted by the Federal Parliament. It becomes therefore essential that clear explanations should be given, in order that there may be neither ambiguity nor misunderstanding, and that if there are certain matters connected with the questions of marriage or divorce which we would prefer to place under the control of the Federal Parliament, they should be so distinctly defined that no possible misinterpretation can arise.

We are aware that the delegates have acted with irreproachable fair play and sincerity, and while they conceded to us the control of our civil code, they never had any intention either of depriving us of its benefits or of weakening it by federal legislation. But they had so many questions of a paramount

political nature to discuss; they had such a short time to devote to each, that it became impossible to define every question with precision, and to foresee, at the moment, all possible conflicts and difficulties.

Moreover, they could not pretend to be infallible, and it was impossible for them, in a first attempt, to record every point in a rigorous and permanent form. They could only indicate in a general manner the subjects submitted to them, and establish, without absolute detail, the reciprocal attributes of the two legislative authorities.

It was intended that the project should be submitted to Parliament and the press, leaving to them the duty of pointing out anything that may have been forgotten in the examination of such an important work. It could only be after going through such a rigorous ordeal, that the different governments represented by their delegates could correct and define, if such proceeding were necessary; otherwise, the publicity of the project which we are now discussing, would be deprived of its object.

Criminal Law.

CHAPTER XXIV.

(Resolution 29, clause 33). 'The Criminal Law, excepting the constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal matters.'

NOTHING can be more reasonable than this proviso, as the proposed object is unity, and it becomes necessary to advance towards that unity whenever local considerations do not place obstacles in our way.

Our criminal law is nothing more than English criminal law slightly modified by our statutes; and these modifications are, in a

great measure, copied from the gradual changes made from time to time in that branch of law, by the Parliament of Great Britain.

The criminal law of Upper Canada and of the Maritime Provinces, is derived from the criminal law of England, slightly modified by local statutes. English law furnishes in the Courts of all the Provinces (in criminal matters) the requisite precedents. Nothing but English authorities are quoted in such matters.

If, for the reasons given elsewhere, we are desirous of maintaining the operation of our civil code, for the same reasons, we are proud to possess English criminal law, which has governed us since the conquest, and now happily forms part of our institutions.

If the English civil code be frequently obscure; if it rests more on precedents than on principles; if matters of form are frequently considered more important than facts; if fiction governs reality; and if the procedure in the courts of England becomes a tortuous labyrinth in which the mind seems to be lost, and in which science even becomes discouraged, we cannot speak in the same terms of the criminal law of England, in which the exercise of absolute power is of itself criminal; in which the accused may find protection and warranty as well against surprises as against tyranny; in which far from being condemned without a hearing, he is furnished with all possible means of defence, and is warned to beware of his own imprudence and indiscretion.

If English criminal law really has a fault, it is certainly in an exaggeration of the means provided for individual protection. It seems to have a weakness for individuals, and perhaps does not sufficiently protect society against their aggressions.

In France, a man's antecedents frequently lead to his condemnation; his career is taken as it were from the cradle, and it is traced by the police through every phase; the points at which he has stopped and the motives of his visits are laid before him; every act of his whole life is recorded with fidelity. He can even be forced to recollect words unintentionally spoken, and the society in which he has moved. He is asked to explain these different acts of his life, in order to make use of his replies. He is compelled to make avowals, in order that they may be recorded against

him. In such a case, it is society against the individual, and in such an unequal contest, a description of which we have just given, the latter inevitably succumbs.

English criminal law, on the contrary, pays no attention to the past, and fearing that the accused may not be on his guard, he is solemnly warned by the tribunal not to incriminate himself. Doubts are always in his favor, and frequently also the sympathy of the jury. While the prosecuting counsel is obliged to present direct evidence against the accused, and while the former character of the latter, whatever may be the accusation against him, can be of no moral weight in the case, he can, on the other hand, produce evidence of general good conduct, and thus soften, as it were, the harshness and strength of the material evidence adduced against him.

He possesses the right of challenging a large number of jurymen, and he has, as it were, the selection of his judges, among whom, he frequently finds the means of placing friends and men disposed to acquit him, whatever the evidence may be. Such is the respect for individuals, that the least defect in the form of procedure destroys the whole accusation, and sometimes even permits of escape from the gallows, after sentence has been recorded against the criminal.

Although the jury system contains defects and produces inconvenience, by permitting the escape of many guilty parties; taken with *habeas corpus*, it is one of the greatest of all guarantees for individual liberty. These two great principles are justly regarded with pride by the people of England.

That law is ours, as well as it is that of the other provinces, and they perhaps, more than ourselves, insist upon the immunities enjoyed under the English criminal code. Therefore, there can be no danger; on the contrary, there is wisdom, in trusting this question to the Federal Parliament.

The Courts, Appointments and Powers of Legislatures.

CHAPTER XXV.

THE establishment of a General Court of Appeal for the Federated Provinces. (Section 29, clause 31.)

31. 'The General Parliament may also, from time to time, establish additional Courts, and the General Government may appoint Judges and Officers thereof, when the same shall appear necessary or for the public advantage, in order to the due execution of the laws of Parliament.

32. 'All Courts, Judges and officers of the several Provinces shall aid, assist and obey the General Government in the exercise of its rights and powers, and for such purposes shall be held to be Courts, Judges and Officers of the General Government,

33. 'The General Government shall appoint and pay the Judges of the Superior Courts in each Province, and of the County Courts in Upper Canada, and Parliament shall fix their salaries.

35. 'The Judges of the Courts of Lower Canada shall be selected from the Bar of Lower Canada.

37. 'The Judges of the Superior Courts shall hold their offices during good behaviour, and shall be removeable only on the Address of both Houses of Parliament.

45. 'In regard to all subjects over which Jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void so far as they are repugnant to, or inconsistent with, the former.

38. 'For each of the Provinces there shall be an Executive Officer, styled the Lieutenant Governor, who shall be appointed by the Governor General in Council, under the Great Seal of the Federated Provinces, during pleasure: such pleasure not to be exercised before the expiration of the first five years except for cause: such cause to be communicated in writing to the Lieutenant Governor immediately after the exercise of the pleasure as aforesaid, and also by Message to both Houses of Parliament, within the first week of the first session afterwards.

39. 'The Lieutenant Governor of each Province shall be paid by the General Government.

50. 'Any Bill of the Local Legislatures may be reserved for the consideration of the Governor General.

51. 'Any Bill passed by a Local Legislature shall be subject to disallowance by the Governor General within one year after the passing thereof.'

The bearing of all these resolutions is to concentrate the legislative and judicial power in the hands of the Federal Government and Parliament. Their principle is correct, provided that nothing in

it can interfere with the concessions made to the Local Legislatures, or which may absorb their specific attributes.

We could find neither inconvenience nor danger in such a principle, if our laws and institutions were similar to those of the other provinces; but, unfortunately, such is not the case. We have special laws and institutions of our own, which really require special protection.

We freely admit that there were great difficulties to overcome with regard to Lower Canada; that if on the one hand, French Canadians and Catholics exacted protection for their institutions, Protestants, on the other hand—who should have known better—feared that their own institutions might be sacrificed in a Legislature composed of French Canadians and Catholics. As they could not obtain a Legislative Union which neither the Lower Provinces nor ourselves could accept, they desired at least to obtain, in an indirect manner, a Central Government and Parliament, in which they imagined they would find greater protection for themselves and their property; and, in a case of emergency, for their prejudices and antipathies.

We quote from Mr. Galt's speech:—

'It was thought proper to give to the General Government the 'right to establish a general Court of Appeal for the Federated Pro-'vinces. He thought that while there was no express provision 'for the establishment of such a court, many who had studied the 'question would agree, that it was desirable that the general Legis-'lature should have the power of constituting such a court, if it 'saw fit to do so. At present, appeal lay from our courts ulti-'mately to the Queen in Privy Council, and it was not intended to 'deprive the subject of recourse to this ultimate court; but at the 'same time it was well, in assimilating the present systems of law 'for the benefit of all the provinces, that they should have the 'assembled wisdom of the bench brought together in a general 'Court of Appeal, to decide ultimate causes which would, before 'long, doubtless supersede the necessity of going to the enormous 'expense of carrying appeals to England. It was proposed to ask 'the Imperial Government to confer upon the General Govern-

'ment the power of constituting such a court, not, however, with 'the desire to abolish the present right of appeal to England.'

After having alluded to the importance of giving to the General Government the power of selecting the judges in the different provinces, he adds:—

'But, in the case of Lower Canada, where we had a different 'system of law altogether, it was plain that the judges could be 'selected only from among gentlemen conversant with that law, 'and therefore it was provided that the judges should be selected 'from the bars of the respective provinces in which they were to 'act; but in the case of the consolidation of the laws of the seve-'ral Maritime Provinces and of Upper Canada, the choice would 'extend to the bars of all those provinces.'

If we have grouped so many resolutions together at the head of this article, it was with the view of giving their general tendency, and because, as regards the judicial question, they may be considered as corollaries of the same proposition. We shall, at another time, examine several of these resolutions under different aspects, and from different points of view.

With unity as a main object, these tests give additional security to the Lower Canada minority in the results that may be produced by Confederation. We have no objection to this, provided that the protection granted to one class will not be the means of causing injustice to others, and that privileges given cheerfully may not eventually produce disappointment.

We purpose showing that everything in the series of resolutions at the head of this article seems to tend towards the same object:

1*st*. The courts, the judges, and the public officers of the provinces are to assist the General Government, and in the exercise of their rights and attributes, they must obey that power, and become, to all intents and purposes, the courts, the judges, and the officers of that Government.

2*nd*. The Federal Government shall appoint and pay these officers.

3*rd*. That power alone can deprive them of office.

4*th*. When the General Government becomes dissatisfied with

any such officers, although the law may establish that they are amenable to that power as it appoints, pays, and may remove them; new judicial tribunals, new judges and new officers may be appointed, who will in reality be subject to that power, and who may be placed over provincial tribunals perfectly independant of them, and in exclusive possession of the attributes above alluded to. Under no other circumstances could their appointment be possibly justified.

In any question submitted to the concurrent jurisdiction of the Federal Parliament and local Legislatures, the laws of the former shall prevail over those of the latter. Should a conflict occur, we can easily foresee what would be the chances of the latter, judged by men who know nothing of them, and who will be specially appointed for the purpose of giving ascendancy to the laws of the central Parliament.

5th. In order to cap the climax to this judicial edifice, the Federal Parliament reserves the privilege of creating, in case of necessity, a general Court of Appeal, which will be superior to the whole judicial hierarchy, and which may at any time annul all decisions.

How can this provision be reconciled with clause 35th, which declares, 'That the judges of Lower Canada shall be selected from 'the bar of Lower Canada,' because, according to Mr. Galt's words, none but Lower Canada advocates can really understand the laws of Lower Canada?

How can this Court of Appeal, composed of a majority of men ignorant of our laws, decide in cases referred to them? It is intended that they will consult judges from Lower Canada, who form part of the Bench in Appeal, on the model of the House of Lords, which leaves to the *Law Lords* the decision of questions of law. In such a case, it would have been more reasonable to leave the decision to the Court of Appeal for Lower Canada, more competent to undertake the judgment of such exceptional cases.

Either our civil code is left to our Local Legislature, or it is not. If it is, we should not thus surrender the power of handing over the privilege of decision to a tribunal composed of men who do

not understand it, and who would regulate those decisions according to the principles of laws which we have obstinately refused to accept since the days of the conquest.

What seems to us very strange is, that while creating this Supreme Federal Court, and by placing it above the courts of the six provinces, the Privy Council of Her Majesty still remains as a tribunal which can be finally appealed to. The object then, of creating this court, at great expense, must be merely to establish another degree in the judicial scale, because suitors who may be dissatisfied with the decision of a court (declared by the constitution itself to be incompetent) will invariably appeal to the Privy Council for a final decision.

If the privilege were granted to appeal directly to the highest tribunal in London, we may rest assured that they would ignore the Federal Supreme Court, and thus save considerable expense, while they would perhaps obtain a better decision.

The jurists who compose the judicial committee of the Privy Council are profoundly versed in the science of Roman law, which forms the basis of our civil code; and they are in close proximity to the leading French jurists, whom they consult in any case of difficulty. They may err sometimes in giving judgment, but, at least, they give as great a guarantee of science and experience as it is possible to obtain among any class of legists, and, in any case, they must be regarded as composing the supreme tribunal of the realm. It is very true, as Mr. Galt remarked, that we do not immediately constitute this Federal Court of Appeal, but we obtain the power to establish it when deemed necessary. We must not forget the popular proverb:—'*As we make our bed so must we lie on it.*' '*Comme on fait son lit, on se couche.*'

If this tribunal be considered unnecessary, why should we reserve the right of creating it? If the reserve is made, it must be because it may have to be used against us at a future day, under influences which we cannot now foresee, and which we may not then be able to control.'

We can easily understand the thought of the Conference, and we have great confidence in Mr. Galt's sincerity, when he states

that 'there is a great difference between the possession of power 'and the exercise of it.' This Court of Appeals can scarcely exist under a Colonial Confederation, but might be created in a Confederation holding the position of an independent nation. With regard to our civil code, it would not be required, but in the general constitutional questions that may arise in a conflict between the legislation of the federal and that of the local governments, it would be very useful. In such a case it would be much better to state distinctly and clearly what is desired, and to define at the outset the attributes of that great constitutional tribunal, instead of thus trusting vaguely to misapprehensions as to its powers at a future day, and so give rise to difficulty and danger.

But there are many clauses and judicial provisions placed in the way of suitors, that may interfere with our civil code; and there are others which seem to tend towards the same result:—

1*st*. The Lieutenant Governors shall be appointed by the General Government.

2*nd*. They shall be paid by that Government.

3*rd*. They may be removed by the same power.

4*th*. These Lieutenant Governors—mere creatures of the General Government—will have the right of *veto* with respect to all laws passed by the Local Legislatures.

5*th*. They may reserve these laws for the consideration of the General Government.

6*th*. As officials of that same Government, they will be compelled to act with respect to such laws, on the instructions received from the central power.

With all these obstacles, how will the Local Legislature be able to be put into operation, should the General Government be inclined to thwart their legislation? Of course we mean all this in connection with the operation of our civil code. It may be said, in reply to our objections, that these difficulties may never exist, because they will never be entertained in the General Government more than they have been in the opinions of the members of the Conference. But, if the most eminent statesmen of British North America have met together to write a constitution, and that in

the constitution so written or composed, they have deemed it prudent to make certain stipulations and protect certain rights in the future, it must be that they have considered such precautions necessary, otherwise they would have passed over them in order to reach, with greater certainty, that perfect unity which we also would desire, could it be found practicable.

In concluding this lengthy article, we may remark, that if we do object to a federal Court of Appeal so constituted, which would override our civil code, we could have no objection to reserve the power for its creation as a supreme tribunal at a future day, when the circumstances and consequences above described might render it necessary. Neither could we object to it, if constituted solely for the five other provinces of the Confederation, whose civil laws are identically similar.

Uniformity of Civil Law.

CHAPTER XXVI.

33. 'Rendering uniform all or any of the laws relative to the property and civil rights in Upper Canada, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island, and rendering uniform the procedure of all or any of the Courts in these Provinces; but any statute for this purpose shall have no force or authority in any Province until sanctioned by the Legislature thereof.'

THIS is an important clause to all the provinces except Lower Canada. We here find what a degree of protection the project gives to these provinces in relation to their civil laws. All their laws are nearly similar, and yet the Federal Parliament is not to be permitted to complete that assimilation without the consent of the Local Legislatures!

The veto here, instead of coming from above, will come from below, and it will not be the central Parliament which will control local Legislatures, but it will be the Local Legislatures which will control the Federal Legislation.

In this clause the vigilant eye of the representatives of the English Provinces is plainly visible; these provinces, therefore, should not find it strange if Lower Canada should seek for itself, in the project, an equal measure of protection under different forms; nor should they find it more strange because we have the assurance of it in the spirit of liberality shown by their representatives in the Convention.

Emigration and Agriculture,

CHAPTER XXVII.

'Emigration.' Section 35, Clause 29.
'Agriculture.' Section 36, Clause 29.

EMIGRATION and Agriculture are questions of extreme importance to the country; the Conference so well understood this, that it has established, with respect to these subjects, a concurrence of legislation between the Central Parliament and the Local Legislatures. Thus sections four and five of clause 43, place Agriculture and Emigration under the head of Local Legislation.

Here we should have some fear of conflict, if clause 45 did not say: 'In all questions which have been submitted concurrently to the control of the Federal Parliament and the Local Legislatures, and in cases where the Federal Parliament shall have carried a measure againsta Local Legislature, the laws of the latter will be null and void in all cases, where they might conflict with those of the General Parliament.'

To understand the object of these concurrent attributes, it will be as well to read that part of Mr. Galt's speech which comes under the head of 'Emigration and Lands.' The word 'lands' here, doubtless represents the word agriculture in the 36th section of the 29th clause, and in the fourth section of the 43rd

clause of the project. Let us listen at this point to the Minister of Finance:

EMIGRATION AND LANDS.

'With regard to the position they would occupy in the Local 'Legislature, there were two or three questions in which they must 'feel very great interest, and in which they might fear, that hostile 'action might be taken towards them, if such an unwise course 'should be attempted by their French Canadian fellow-subjects. 'He would refer first to the question of Emigration and Lands. 'No doubt here in the Eastern Townships it had been felt by many, 'that possibly, in leaving the lands in the hands of the Local 'Governments, some rules might be made which would restrict the 'occupation of those lands to their French Canadian friends solely. 'So far as his experience went, we had always been delighted to see 'our wild lands settled by French Canadians. They had, like the 'rest of the people, come in and bought the lands they occupied. 'With regard to the public domain, it was clear that no distinction 'could be drawn by the Local Legislatures. It was possible they might 'adopt the unwise policy of putting on a price which would prevent 'any from buying; but, if the land was exposed to sale, it must be 'open to one race as the other. In some respects, he might have 'preferred, not in the interests of Lower Canada, but in the inte- 'rests of the whole country, to have seen them at the disposal of 'the General Government. But circumstances prevented that— 'not the position of Lower Canada, but the great importance 'attached to the public domain by the Upper Canadians, and in 'the case also of Nova Scotia and New Brunswick by their respec- 'tive governments and people, who were determined to have control 'of their own lands; though he thought the general interest 'might have been promoted, if we could have gone to Europe and 'put one comprehensive scheme of colonization and emigration 'before the world at large. That was prevented now, and all we 'could hope for, was that such wise measures might be adopted by 'the Local Legislatures as would have the same results, while it was 'necessary to leave in the hands of the Local Parliaments and 'Governments the power of determining the rates or terms on

'which lands might be obtained by emigrants when they reached 'us, or when the natural increase of our own population required 'our young men to take up lands in the back country. He did not 'think it should be apprehended that the Local Governments would 'adopt any policy which would check that which was manifestly 'for the interest of the community at large. Whatever policy were 'adopted, whether a wise or a foolish one, must be a policy, apply-'ing equally to all. No distinction could be drawn, with reference 'to nationality or creed among those who went upon the Crown 'domain to buy lands. He did hope and trust that Lower Canada 'would set an example of liberality, in regard to the disposal of her 'lands, which he was satisfied was her true policy—and especially 'in regard to her mineral lands, which were now exciting so much 'attention,—and he hoped it would be the case that Lower Canada, in 'seeking to dispose of her lands, would look rather to the advant-'age of having an industrious population settled upon them, than 'to the direct pecuniary benefit she might get from their sale.'

We may be sure that these are not Mr. Galt's own fears that he expressed on that solemn occasion, but rather those of the population to whom he spoke; for in all his relations with us, that eminent man must have learnt to know us better. He knows that on every occasion, we have carried toleration and generosity to its utmost limits; he knows that fanaticism and prejudice have never enjoyed the right of citizenship among us; if they have been found in our country, and if they have thrust themselves upon the national soil, he may rest assured that they are not indigenous to that soil. Were the French Canadians to be in a majority to-morrow in the Local Legislature, we would not find them adopting the exclusive policy of which they have seen so many sad examples elsewhere.

In asking to be allowed to develope their own resources, according to their natural force and expansion, they do not desire to restrain the liberty of others; and as the supreme interest of all is the settlement of the country, they will never foolishly place taxes on the sale of public lands to such a degree as to force their own people to go and seek their fortune and livelihood in a strange land.

There is then no danger, as Mr. Galt has observed, that they will, by such a suicidal policy, drive away men of other creeds and other origins; for a similar erroneous policy would drive away those of their own creed and of their own origin. But Mr. Galt has not said a word of the concurrent Legislation of which the project of the constitution speaks in regard to emigration and agriculture. He only tells us, that it would be desirable that they should organize in Europe an emigration to the British Provinces on a vast scale. Is it with that object that the Federal Parliament reserves the right of legislating upon emigration and agriculture? and, in that concurrent power, does it reserve also the right of fixing the price and conditions of the sale of lands? This is an important point to clear up, for conflicts on this subject would be regrettable, and, in any case, to avoid them, it would be wise to define with care the attributes of the two Legislatures in relation to these same questions.

Appointment and Salaries of Judges.

CHAPTER XXVIII.

33. 'The General Government shall appoint and pay the Judges of the Superior Courts in the different provinces, and of the County Courts in Upper Canada, and the Federal Parliament shall fix their salaries.'

IF local legislation is otherwise protected, and if some amendments, such as we have indicated in our last articles, might be made in the project of constitution, we could see no inconvenience to Lower Canada arising from the judges being nominated and paid by the Federal Government; for it is evident, according to that same text of the project, that if any judge be guilty of flagrant dereliction of duty, he may be dismissed; such dereliction as has not been seen since the Union,—though it has been

our fate to witness many strange things during these last 25 years of social and political existence,—and consequently, nothing would induce the judges to give an undue preference to federal over Local Legislation.

One of the guarantees for Lower Canada is the obligation upon the Central Government to take the judges from Lower Canada. This is a species of compromise between the two authorities—that the one shall pay and the other shall furnish them. If the Local Government had both paid and provided the judges, the Federal Government might perhaps have had some apprehensions in respect to the legislation of the Central Parliament; the same way as if the Federal Government had both furnished and paid the judges, the Local Legislature would have had some ground for fears in respect to the integrity of their own laws.

But beyond these considerations, the Conference seems to have wished to establish an equilibrium between the two legislative and governmental authorities. They had another and a higher interest—that was the social and scientific value of the judicial tribunals. They feared that, in leaving the choice of the high functionaries of justice at the disposal of the Local Governments, the intellectual and moral level of our tribunals would have succumbed under the influence of intrigue, and they justly thought that the General Government would, on the whole, choose better, and make that choice among the most eminent men of our bar, without being swayed by small local coteries, in fact, without paying any attention to their recommendations.

Lieutenant-Gobernors.

CHAPTER XXIX.

38. 'Each Province shall have an Executive officer, styled "Lieutenant Governor," who will be appointed by the Governor General in Council, etc.'

THIS plan will probably be the one most discussed in the debate which is about to open in a few days. Some desire that the Lieutenant Governors should be chosen by the Local Legislatures; others, that they be chosen by the Sovereign, as in the case of the present governors of provinces; others again, that they be elected by the people.

We may say in the first place, that the election of Lieutenant Governors by the Legislature is simply absurd; for, if they were elected by the members, they would always be dependent upon them, and would not be sufficiently free to resist the aggressions of those who had elected them. The Governor himself forms one of the three bodies which compose the Legislature; he is as essential as the other two, for without his concurrence no law can be passed by them. It is then necessary that he should be independent of them in the same degree that they are independent of him, and that he should be as free to refuse and sanction as themselves. It is necessary that he should hold the right of *veto*, a right inherent in the nature of his legislative existence. But if he were to be their creature, he would cease to be their equal, and the utility as the reason for his 'rôle' would no longer exist.

Thus, the only three rational modes, upon which opinions differ, are: the choice by the General Government, as the Conference desire it; by the Sovereign; and by the election of the people.

It is easy to understand the object of the nomination of governors by the Sovereign, in the colonial condition of British North America. These men are the immediate representatives and guardians of Imperial sovereignty. But that would rationally cease to be necessary from the moment that, by another political

organization, the necessity for local representation of the Crown ceases, and that we can concentrate in a single person the character and attributes of Imperial sovereignty, from the moment that, by a single representation, the arm of the Sovereign can reach every point of the domain of the empire.

The only argument against this order of things is, that it tends to diminish the number of chances for the advancement of certain men in the country, but the argument is worth nothing to anybody but them; the personal interests of individuals can weigh but little against the destinies of a whole people.

The object of this concentration of the administrative power is sufficiently evident. The Conference desired by that means, to simplify the relations of the Sovereign, with all Her domains situated in North America; they also wished by this concentration to render the executive action more spontaneous and more efficacious—on great occasions and where decisive action is necessary—they wished also, for the future, to substitute the sovereignty of the Federal Government for Imperial sovereignty, in order to maintain in the new empire that direct action, but tempered always by those constitutional checks, by means of which the Government of the Mother Country has been able to maintain its sovereignty over the whole extent of its colonial possessions.

Some have also spoken of the honor the colonies would derive from being represented by men born within their limits. But this consideration would be personal only, in the case of those who should have the good fortune to be chosen, but would have no value in the consideration of the great question of which we were just speaking; that is to say, in relation to governors named by the Imperial Government.

Those who would wish the governors to be elected by the people follow another order of ideas. They are even opposed to monarchical institutions.

Republicans rather than Democrats, they prefer the elective principle, pushed to its most extreme and exaggerated limits, to the really democratic constitution of Great Britain, which gives to

that people a more immediate, constant and efficacious control over the Government.

They want elective governors, because elective governors are a direct step towards the establishment of a republic. But, for those who aspire to another state of things—for those who would escape the demagogical water-spout in the midst of which the Northern, Southern and Central American Republics are convulsively struggling; for those who would keep beyond the sphere of influence of the Great Republic which is now, after eighty years' experience, already decrepit and worm-eaten; for those who are not annexationists; for those who cherish the noble thought of founding a new empire upon bases more stable and upon principles more in harmony with the institutions, the manners and the sentiments of the Lower Canadian people; for those who do not wish to see their institutions and their language, of which they are so proud, swallowed up in the immense abyss where everything disappears, and to the surface of which only ascends the fetid scum of material interests and moral corruption; for those who desire not to be taxed to exhaustion, to pay their share of five hundred millions of dollars of annual tax and of the three billions of accumulated debt in the United States; in short, for those who do not desire to see their children perish by hundreds of thousands in the miasmatic marshes of Virginia and the other Southern States, or spilling their blood in streams in the fratricidal combats which have been going on there for the last four years; for people who do not desire any part or share in such things as these, the principle of elective governors can have no charm.

That which they do desire, is, that in the projected institutions, there should be established good guarantees for personal liberty, national liberty and the permanent and active control of the people who pay taxes, over the administration of public affairs.

Now, with regard to this direct, prompt and permanent action of the people, we should also have the local representatives and the federal representatives, without whose will, governments, whether local or central, could not expend a single cent of the

public money. We should have it further, in the control that these same representatives of the people would exercise over the selection of the Councillors of the Crown.

Parties are necessary under representative institutions. They only do harm when they go beyond their functions. What are the political institutions that have existed from the time of the ancient republics of Greece and Rome down to our own day? Where are the political institutions under which parties and ideas of every kind, could move more at their ease than under the constitution of Great Britain, and that which we have borrowed from it? And after saying this much, we need scarcely add, that we are not for elective governors.

Local Legislatures.

CHAPTER XXX.

41. 'The Local Government and Legislature of each Province shall be constructed in such manner as the existing Legislature of each such Province shall provide.'
42. 'The Local Legislature shall have power to alter or amend their constitution from time to time.'

THE several provinces will, therefore, establish their respective legislatures and governments on a basis which they may themselves select. In addition to this, they shall have the power, at pleasure, of amending or changing the constitutions thus established. The only conditions to which they will be submitted, are those laid down by Clauses 48, 49, 50, and 51. We will give our attention to these clauses on another occasion.

These two clauses involve the consideration of two different questions of order; that relating to local administrative and legislative organization, and the expenditure to be rendered necessary by

the working of the whole system. With regard to the machinery to be employed in the Local Legislatures and Governments, we will immediately lay down the fundamental principle to be established. These local institutions are intended to control the public funds through the representatives of the people; to have the initiation of money measures through the Crown with a double responsibility to the Crown and to the people. If we go beyond this, we must have recourse to hypotheses. Will the provinces agree upon a uniform system of Government and Legislature, and will *we* decide upon having one or two branches in our Local Legislature? Will the departmental system be divided into two, three, four, five, or six branches, and how will these branches be styled? How many members will we have in each branch of our Legislature, if we have a Legislative Council? Will the members of the Upper House be elected by the people or nominated by the Crown? How long will be their term of office, if elected by the people? Shall they be compelled to show property qualification? and what will that qualification be? For what term will the members of the Lower House be elected? Will the length of sessions and the date of their opening be determined upon? And, finally, will candidates for the lower branch of the Local Legislatures be required to possess property qualification?

All these questions can be put without the possibility of a solution, because we do not now know how the different provinces will settle them.

If economy be aimed at by the provinces of the Confederation, as each will have a stated revenue, and as they will not be much inclined to resort to direct taxation for the purpose of maintaining an expensive Government and Legislature, it is probable that they will decide upon having only one House, composed of a small number of members; that the term of sessions will be fixed, and of short duration; and that the indemnity to members will be very small in amount.

A session of 30 to 40 days, under such conditions, would be comparatively inexpensive. Nothing can prevent this limitation to the length of the sessions of the Local Legislature, because very

few measures submitted to that body can be supposed to create protracted debates, and it would be easy to regulate the procedure in a manner which would secure the prompt passing of measures; provided always, that public and private interests would not suffer thereby.

Another condition might be, that measures still on the roll for consideration should stand over in the same stage till the ensuing session. It would, perhaps, be difficult to reduce the number of members in the Local Legislature below that of the present Legislative Assembly of Lower Canada, but that number would be sufficient to satisfy all requirements. If we are well informed, competent judges have estimated the surplus of expenditure over income, in the complicated system of local and general governments and legislatures at $400,000. This is a large sum, but if the sacrifice can secure, as we believe it will, for British North America, peace, happiness, harmony, prosperity and national greatness, we are certain that such a sacrifice would be willingly made by the people of the different provinces. The only objections will be offered by those who are in favor of a Legislative Union, for the same reasons which induce us to reject such a union.

Education.

CHAPTER XXXI.

6. 'Education; saving the rights and privileges which the Protestant or Catholic minority in both Canadas may possess as to their Denominational Schools at the time when the Union goes into operation.' ..(43rd paragraph, 6th Section.)

THE Local Legislatures are thus entrusted with the control of education, certain acquired rights being specially excepted. This is a concession of very great importance, and without it, con-

federation would be impracticable, because education is society itself in a state of infancy. It comprises in its meaning and import manners, feelings, tendencies, and the works of generations still unborn. In the difficulty which arose in the debates of the Conference, with the view of deciding whether the rights of parents to instruct their children should prevail, or whether the child might be taken away forcibly from its father and mother, to be instructed under a radical system, where the name of God and sacred symbols are not invoked; the victory, we are happy to say, was gained in the interests of the parents.

This question of education was considered so important by the delegates, that Mr. Galt considered it to be his duty to allude to it twice in his Sherbrooke speech:

'He would now endeavor to speak somewhat fully as to one of 'the most important questions, perhaps the most important, that 'could be confided to the Legislature—the question of education. 'This was a question in which, in Lower Canada, they must all 'feel the greatest interest, and in respect to which more apprehen-'sion might be supposed to exist in the minds, at any rate, of the 'Protestant population, than in regard to anything else connected 'with the whole scheme of federation. It must be clear that a 'measure would not be favorably entertained by the minority of 'Lower Canada, which would place the education of their children 'and the provision for their schools wholly in the hands of a ma-'jority of a different faith. It was clear that in confiding the 'general subject of education to the Local Legislatures it was abso-'lutely necessary it should be accompanied with such restrictions 'as would prevent injustice, in any respect, from being done to 'the minority. Now this applied to Lower Canada, but it also 'applied, with equal force, to Upper Canada and the other pro-'vinces, for in Lower Canada there was a Protestant minority, and 'in the other provinces a Roman Catholic minority. The same 'privileges belonged to the one of right here as belonged to the 'other of right elsewhere. There could be no greater injustice to 'a population than to compel them to have their children educated 'in a manner contrary to their own religious belief. It had been

'stipulated that the question was to be made subject to the rights 'and privileges which the minorities might have as to their separate 'and denominational schools. There had been grave difficulties 'surrounding the separate school question in Upper Canada, but 'they were all settled now, and with regard to the separate school 'system of Lower Canada, he was authorized by his colleagues to 'say, that it was the determination of the Government to bring 'down a measure for the amendment of the school laws before the 'Confederation was allowed to go into force.

* * * * * * * *

'It was clear that injustice could not be done to an important class 'in the country, such as the Protestants of Lower Canada, or the 'Roman Catholics of Upper Canada, without sowing the seeds of 'discord in the community, to an extent which would bear fatal 'fruit in the course of a very few years. The question of educa-'tion was put in generally,—the clause covering both superior and 'common school education, although the two were to a certain extent 'distinct.'

And elsewhere he says: 'He would take this opportunity of 'saying, and it was due to his French Canadian colleagues in the 'Government that he should thus publicly make the statement, 'that so far as the whole of them were concerned—Sir Etienne 'Taché, Mr. Cartier, Mr. Chapais and Mr. Langevin—throughout 'the whole of the negotiations, there was not a single instance 'where there was evidence on their part of the slightest disposition 'to withhold from the British of Lower Canada anything that they 'claimed for their French Canadian countrymen. They acted wisely 'in taking the course they did, for certainly it encouraged himself 'and others to stand up for the rights of their French Canadian 'friends. The opponents of the measure had tried to excite ap-'prehensions in the minds of the British of Lower Canada on the 'one hand, and in the minds of the French Canadians on the 'other, by representing to one and to the other that they were to 'be sacrificed. This, in fact, was the best evidence that the 'measure had been wisely framed, and that it was not to give 'power or dominance to one over the other.'

The publication of the project of the Conference created a stir among the Protestant population of Lower Canada. Some contended that there should be amendments to the law which places that minority as regards the Catholic majority on the same footing as the Catholic minority of Upper Canada with the Protestant majority of that section; some again claim that a superintendent of public instruction should be appointed for the Protestant minority, while others consider that their superior educational institutions are entitled to endowment. If the present school law does not sufficiently protect the Protestant minority of Lower Canada, the Government has performed its duty by promising amendments, which will afford additional protection; but the establishment of two Bureaus of Public Instruction would be an insult to common sense, and a material impossibility, unless it were intended to expend in salaries and office contingencies a sum which could be more usefully appropriated for the purposes of public instruction.

We must not forget also, that the concession of this principle in Lower Canada, would necessarily involve its repetition in Upper Canada, because in that section of the province the Catholics are more numerous than the Protestants of Lower Canada, the figures being,—

Catholics, Upper Canada.....	358,141
Protestants, Lower Canada.....	167,940

Professor Dawson has publicly admitted that the Hon. Mr Chauveau, Superintendent of Public Instruction, has always conducted himself towards Protestants with the most perfect justice and impartiality; but, as an argument, he expressed his opinion that possibly in the future, Mr. Chauveau's successor might not act in the same spirit of justice and impartiality.

He is strangely mistaken. Liberality cannot be exclusively attributed to Mr. Chauveau; it is an inherent element in the character of the race of which he belongs. In order to be convinced of this fact, it is only necessary to read the history of our legislation, from the granting of our Constitution in 1791, to the present day. Is it not the case that the Lower Canada House of Assembly, long before the union, granted to Dissenting Protestants the civil rights

which, up to that time, had only been enjoyed by Roman Catholics and members of the Church of England? Is it not equally true that Jewish disabilities were abolished in Lower Canada twenty years before the question was agitated for the first time in the Parliament of Great Britain?

With such facts before us, our case is eloquently pleaded, and surely Protestants cannot have any suspicion of our liberality, nor can their apprehensions be justifiable.

They need not fear; the teachings of the past will guide us in the future, and we shall strive to surpass in that respect, anything that may have been done by our ancestors. We desire that a law should be passed, which neither the Federal nor Local Legislature could control, by which minorities would be universally protected, and that any acts of the Superintendent of Public Instruction, which might be considered unjust in their object, would be properly dealt with, according to their merits, by the judicial tribunals of the country, and such acts would thus be always certain to meet with the punishment they would deserve.

Moreover, the population of Lower Canada is so distributed in certain districts, that if Protestants are in a minority in some localities, Catholics are in others, and consequently a common interest must necessarily guide the whole population. Experience and the law teach us that the local functionaries in charge of the school system are more powerful for evil and injustice, than the Chief Superintendent of Public Instruction, because they exercise a constant and immediate control over education, the teachers, the support and the management of common schools.

The endowment of Superior Protestant Educational Institutions, is as impracticable as the appointment of two superintendents of public instruction. Such a proceeding would necessitate grants by the State to Catholic Institutions of the same character, and eventually the revenue of the public domain would be totally absorbed by such a system. It is perfectly absurd to pretend at the present day, that the State should endow such institutions, when we find that the Sulpicians of Montreal, build churches, support at heavy cost the Catholic religion and give gratuitous instruction

to upwards of ten thousand children; when the Seminary of Quebec gives a classical education to upwards of five hundred pupils, and at considerable sacrifice, maintains on a splendid footing the Laval University, which was constructed twelve years ago on the promontory of Quebec. These institutions were in possession long before the conquest, of property which they do not hold from the Crown. Under the proposed system, claims would be multiplied as often as new institutions would be brought into existence; for instance, with greater reason the Catholics of Upper Canada might say: 'the comparatively recent endowment of the University of 'Toronto, has been the means of procuring for that institution 'an annual revenue that now exceeds twenty thousand pounds;' we should have an institution similarly endowed, if equity and justice are to prevail.

The Protestants of Lower Canada have certainly no reason to complain of the division of public grants for educational purposes, because, they have always had the lion's share, and but a few days ago Mr. Chauveau, in *Le Journal de l'Instruction Publique*, proved by figures, the correctness of which cannot be questioned, that they receive for their superior educational institutions much more in proportion to the number of their pupils, than their fellow-citizens of the Roman Catholic religion. As a proof of the liberality of the latter, they have never even complained of this unjust division.

Right of Pardon and Reprieve.

CHAPTER XXXII.

44. 'The power of respiting, reprieving, and pardoning prisoners convicted of crimes, and of commuting and remitting of sentences in whole or in part, which belongs of right to the Crown, shall be administered by the Lieutenant Governor of each Province in Council, subject to any instructions he may, from time to time, receive from the general Government, and subject to any provisions that may be made in this behalf by the General Parliament.'

THIS provision changes the condition of the existing law with regard to the prerogative of granting pardons, commuting punishments and delaying executions.

This prerogative of mercy, after the judicial tribunals have pronounced sentence, belongs naturally to the Sovereign, and is specially delegated to her representatives in those distant parts of the empire, where, without this extension of the arm, the sword of mercy could not reach those about to be struck down by the sword of justice.

Here it is different. The Conference, while recognizing the source and principle of that power, have set aside the principle of delegation, and have placed the Governors General precisely in the position of the Sovereign Herself, who, then, if we may so speak, loses that prerogative through the whole extent of Her North American colonial empire.

The Executive Chief of the General Government, called the Governor General or Viceroy, surrounded by his Council, will be, instead of the Sovereign, invested with the power of regulating the prerogative of pardon, but cannot delegate it to any one else, because he will not possess it any more than the Sovereign he will represent, and who will have renounced it in granting this new constitution.

And further, the Federal Parliament will have the power of making the laws which will affect the exercise of that prerogative. That power did not exist either in the Constitutional Act of 1791 or in that of 1841; and in Canada, as in every other colony of

Great Britain, the representatives of the Sovereign have never, up to this time, exercised the prerogative of pardon, except by a special delegation, which is cited with its existing conditions in the invariable instructions which are addressed to them by the colonial minister, in the name of Her Majesty.

It is true that the Sovereign may give Her instructions to Her representative in the Federal Government, and that the Ministry would have to conform to them, or resign their offices. But there is little chance of conflicts arising out of that question; for if the Government of the empire, after mature reflection, should cede the prerogative of pardon to Lieutenant Governors, who at the same time would cease to hold their positions in virtue of that prerogative, the power of regulating it being given to the General Government of the Confederation, that would be the most conclusive proof that there is no desire to interfere or to seek any protection for the principle of the Imperial prerogative, except in the *veto*, which is left to the Sovereign in respect of the whole of the legislation of the General Government.

The Imperial Government, by the mouth of the Colonial Secretary, speaks thus as to the prerogative of pardon:—

'It appears to her Majesty's Government that this duty belongs to the representative of the Sovereign, and could not with propriety be devolved upon the Lieutenant Governors, who will, under the present scheme, be appointed, not directly by the Crown, but by the Central Government of the United Provinces.'

To us this question:—From whence shall the pardoning power emanate? appears one of minor importance; and if the Imperial Government should decide that this prerogative must continue to be exercised by delegation in the person of the direct representative of the Sovereign, the integrity and efficacity of the proposed system would not be materially interfered with. But it is as well to indicate how we have understood the idea which prevailed in the minds of the delegates while framing this clause. They evidently desired, in the first place, that unity and dispatch should be secured in the exercise of the prerogative of pardon, and next, the establishing, in the order of things, for all time to come,

of a principle that could be found when a colonial system had ceased to exist.

According to that principle, the Federal Government, whether colonial or national, will not delegate the prerogative of pardon; but what may be considered almost equivalent, they will nominate the Lieutenant Governors; and what is practically equal to delegation, they will dictate to them the conditions upon which they shall exercise the prerogative of pardon, absolute or limited, as well as that of reprieve.

Conflict of Laws.

CHAPTER XXXIII.

45. 'In regard to all subjects over which jurisdiction belongs to both the General and Local Legislatures, the laws of the General Parliament shall control and supersede those made by the Local Legislature, and the latter shall be void so far as they are repugnant to, or inconsistent with the former.'

THE above principle is logical in its application, if we are to have concurrent legislation.

We have already indicated how it will operate in certain cases. The Imperial Government seems to have foreseen in the following words of the Colonial Minister, the inconveniences which might result from a concurrence of attributes and a possible conflict of legislation. Mr. Cardwell writes:

'The point of principal importance to the practical well-working 'of the scheme, is the accurate determination of the limits between 'the authority of the central and that of the local Legislatures, in 'their relation to each other. It has not been possible to exclude 'from the resolutions some provisions which appear to be less con 'sistent than might, perhaps, have been desired with the simplicity

'and unity of the system. But, upon the whole, it appears to Her 'Majesty's Government that precautions have been taken which 'are obviously intended to secure to the Central Government the 'means of effective action throughout the several provinces, and 'to guard against those evils which must inevitably arise, if any 'doubt were permitted to exist as to the respective limits of 'central and local authority. They are glad to observe that, 'although large powers of legislation are intended to be vested in 'local bodies, yet the principle of central control has been 'steadily kept in view. The importance of this principle cannot 'be over-rated. Its maintenance is essential to the practical 'efficiency of the system and to its harmonious operation, both in 'the General Government and the Governments of the severa 'provinces.'

In reading the above, it is very easy to see that the Imperial Government would have preferred a Legislative Union to a Confederation, because it would have given more compactness, more unity, more strength, to our political system, and more spontaneity and simultaneousness in its action. But the statesmen of the Mother Country have understood, as well as ourselves, the difficulty of our position; the absolute necessity of making important concessions, the one to the other, in our numerous distinct interests; of recognizing, with a large measure of equity and liberality, the existing social elements, with their divergences, to give full play to local aspirations, and to make allowance for the prejudices of race and religion. To their honor be it spoken, they have recognized the whole extent of the gigantic task to be accomplished, and the full value of the success to be obtained.

But nevertheless it is clearly evident that concurrent legislation is full of danger for the future; that is plainly laid down even in the clause that we are now discussing, since, to obviate it, central legislation has invariably been made to predominate over local legislation. Will it be impossible to avoid the points of contact likely to be produced by concurrent legislation, or to define them with such precision that these conflicts would be impossible or nearly so? Without harmony the system would be

worth nothing, and would soon destroy itself; and the harmony of the system cannot be found exclusively in the predominant power of the Government and of the Federal Parliament. It is necessary that this harmony should also exist in the inferior machinery and be felt throughout the whole system. While contemplating with admiration the vast wheels which give motion to those gigantic steamers sailing so proudly over the ocean, rising with such boldness over formidable waves, who can help thinking that the least derangement of some small piece, and in appearance, the least important of the interior machinery, may bring the whole to a stand still, and put the ship and crew in peril? In fact, will not the elements upon which the local institutions will be based, be reproduced in all their vivacity in the Government and in the Federal Parliament, and this local power which it has been their object to compress, will react dangerously on the whole system?

At one time it may be Lower Canada that will be punishing its Ministry and its members for having wounded Lower Canadian feelings and striking at its interests; at another time it may be Upper Canada, or, perhaps, the Atlantic Provinces that may make similar complaints.

This should not be, and to avoid it, our eminent statesmen must put their heads together to find a better solution to the problem.

French and English Languages.

CHAPTER XXXIV.

46. 'Both the English and French languages may be employed in the General Parliament and in its proceedings, and in the Local Legislature of Lower Canada, and also in the Federal Courts and in the Courts of Lower Canada.'

NOBODY is ignorant of the fact that the Constitutional Act of 1840 banished the French language from the Legislature, and

that it was not till 1845 that it was restored to us by a Special Act of the Imperial Legislature at the request of a Government which, repelled by Lower Canada, hoped by this concession to acquire public favor. From that time, the two languages, as they ought to be, have been placed precisely upon the same footing, and the French text of our laws has been equally legal with the English text. The project of the Constitution carries out this just policy in the Federal Parliament, where the French Canadians will not be comparatively so numerous, and in this respect, we are infinitely better treated than the men of our origin in the American Union, where Federal and Local Legislation are exclusively English. It is true that we had a right to this privilege, but between the existence of a right and the fact of possessing it, there is often a wide distance, and when the first is cordially and spontaneously conceded to you, without discussion, without obstacle and without reticence, you feel that you have to do with sincere friends and honorable allies.

Money and other Bills, and the Right of Veto.

CHAPTER XXXV.

48. 'All Bills for appropriating any part of the Public Revenue, or for imposing any new tax or impost, shall originate in the House of Commons or House of Assembly, as the case may be.

49. 'The House of Commons or House of Assembly shall not originate 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 not first recommended by Message of the Governor General or the Lieutenant Governor, as the case may be, during the Session in which such Vote, Resolution, Address or Bill is passed.

50. 'Any Bill of the General Parliament may be reserved in the usual manner for Her Majesty's Assent, and any Bill of the Local Legislatures may, in like manner, be reserved for the consideration of the Governor General.

51. 'Any Bill passed by the General Parliament shall be subject to disallowance by Her Majesty within two years, as in the case of Bills passed by the Legislatures of the said Provinces hitherto; and, in like manner, any Bill passed by a Local Legislature shall be subject to disallowance by the Governor General within one year after the passing thereof.'

WE said in a recent article that the provinces should choose for themselves their mode of local, administrative and legislative existence, and that as to their liberty of action in that respect, there existed only certain conditions, which would be made known at a later period.

The first of these conditions is, that any project of law relating to taxation and the appropriation of the public revenue, should originate in the Legislative Assembly, whether there be one or two Houses. Doubtless, nobody will complain of such a condition, which is the very essence of the British Constitution, and which is based upon the fundamental principle, that the people cannot be taxed nor their money be expended without their free consent; and further to establish its prerogative in this respect, it has itself, by its representatives, the initiation of money measures and of taxation.

The same principle will necessarily prevail in the Federal Parliament, where the Commons will have exclusively the initiation of money measures and taxes of whatever kind they may be.

The second condition is, that whether in the Federal Commons or in the Local Legislative Assemblies they shall not vote Resolutions, Addresses, or pass Bills without these being preceded by a Message from the head of the Federal Executive or from the Lieutenant Governors, &c. &c.

This is another essentially British principle, and which has its right of existence in ministerial responsibility and in common sense. In fact, the ministers are, by virtue of the law, the guardians of the public means. They are the sole administrators of it, and their title Minister signifies nothing else. They only can say whether the state can or should tax itself, or incur the expenditure which is demanded from it. This is a principle of protection for the people themselves, and that they should take

care not to abandon for another, which would leave them dependent on the caprice of individuals ignorant of the real state of their affairs.

The Conference have forgotten to speak of the right of *veto*. Perhaps it is necessarily implied in the project; still it is better that it should be explicitly mentioned, for it is by that point alone, that the Chief of the Executive, whether it be Federal or Provincial, can cause his legislative existence to be felt.

In order that his sanction may be worth anything, it is necessary that he should have the right of accepting or refusing at pleasure.

The *veto* is not, so to say, much practised in our days by the Sovereign, because it is an extreme measure, the exercise of which demands great prudence and exceptional reasons. But it is precisely to provide for exceptional circumstances, that it exists under a responsible ministry, and has been found necessary ever since its origin, and has been maintained in the British Constitution.

With respect to general legislation, that of which the Government has the initiation, it would amount to little in practice, because this legislation, proceeding from the men who would surround the Chief of the State, whom they would constitutionally advise, it would only proceed from the latter, or would be so undertaken with ministerial sanction.

The times exist no longer when the monarch can intrigue with his legislators against the measures of his ministers, and the constitutional anomaly that existed in the reign of George III. is now no longer possible.

Legislative motion resembles a circular movement round the circumference of the constitutional circle to arrive precisely at its point of departure; if it does not arrive there, it is because the people do not wish it, or that it has not sufficient maturity to come victorious out of all the trials that it has to submit to on its road.

Clauses 50 and 51 of the project maintain, in respect to Federal Bills, the powers of reserve and veto to Her Majesty. And we have nothing to say against this, for it is a principle which ha

existed at all periods of our constitutional history, and in that of all English Colonies. It is one of the points of contact by which the Chief of a British State makes us feel the exercise of his Imperial sovereignty. Thus nobody protests against it, but objections have been raised, that this right of reserve and veto should be given to the Executive Chief of the Federal Government on bills passed by the local legislatures.

We can easily understand the motive of the Convention in transferring this power from the hands of Her Majesty to those of Her direct representative.

That motive is still unity; it is still the necessity of centralization, without which it seems to be impossible to found a durable empire by the side of the great neighboring republic. But on the other hand, if by this provision, instead of assisting national unity, we ran a risk of putting it in danger, would it not be better to leave these matters as they are?

We know that some direct reasons, apart from those that we have given, have determined the decision of the Convention. It was asked then: What is the practice followed in London, in determining the exercise of the veto on colonial laws? It is done by a simple official in the bureau, who examines the bill and decides its fate; it is on his advice that the Sovereign accepts or rejects it. But when a bill shall have been reserved for the sanction or disapproval of the Governor General,—as the exercise of that sanction or disapproval could only be made on the advice of the Ministry,—the latter would run no risk, except in extreme cases, of counselling the exercise of the veto, because it is evident that public opinion would have been already consulted in the passing of the law by the Local Legislature, and would find itself again represented in the Federal Parliament by a phalanx capable, if it desired to do so, of rendering all government impossible.

This is true, but precisely because it is true, it is dangerous, and calculated to produce stoppages in the whole mechanism.

Up to this time, there have been no complaints of this prerogative of disapproval being in the hands of the Sovereign, or of the use which has been made of it, probably because it has ever

been exercised with equity and moderation; perhaps, also, because it would have been useless to undertake an impossibility,—but from the moment that parties would understand that that power is virtually and practically in the hands of our Federal statesmen, cases might arise, when it is desired to succeed with some object, and local feelings might be excited against them, to shake them in their position and bring them down. This will be the inevitable result of the system. This may be the consequence, but it is not the main cause of apprehension in the public mind.

We have no fear of conflicts, but we fear for the independence of the legislative action of the provinces in the measure of the attributes which specifically devolve upon them by the terms of the project. It is then urgent that our Ministers should perfectly elucidate this grave question, and we expect that great work a their hands.

Mines, Minerals, &c., vested in Local Governments.

CHAPTER XXXVI.

57. 'All lands, mines, minerals and royalties vested in Her Majesty in the Provinces of Upper Canada, Lower Canada, Nova Scotia, New Brunswick and Prince Edward Island for the use of such Provinces, shall belong to the Local Government of the territory in which the same are so situate; subject to any trusts that may exist in respect to any of such lands or to any interest of other persons in respect of the same.'

57. 'All sums due from purchasers or lessees of such lands, mines or minerals at the time of the Union, shall also belong to the Local Governments.'

58. 'All assets connected with such portions of the public debt of any Province as are assumed by the Local Governments, shall also belong to those Governments respectively.'

TO understand the full meaning of these clauses, it is important to have before our eyes the obligations that they impose, with the advantages to be derived from them.

The separation of the provincial administration and of the federal administration would naturally create two distinct kinds of revenue, and also two distinct kinds of expenditure. What we have to establish for the moment is, in the first place, the amount of revenue, and the cost of the administration of Lower Canada, as offered to us by the scheme of Confederation, and to ascertain if it should follow that there would be practicable economy without interfering with the developement of our resources, of our local reforms, of our institutions and, generally, of our prosperity, that we are amply protected for the future, and that there is nothing which may cause recourse to be had to anything so extreme as direct taxation. Let us begin by considering the cost of the expenditure.

According to calculations based on information obtained, in nearly every case, from official sources, while those relative to the legislature and the government have been based on probabilities, experience, and on the knowledge of matters and things in general; we arrive at the following results:—

EXPENDITURE.

Governmental Administration and Legislation	$ 150,000
Administration of Justice	100,000
Penitentiaries	70,000
Schools	160,000
Lunatic Asylums	90,000
Literary Institutions	5,900
Hospitals and other Charitable Institutions	27,390
Arts	3,500
Agriculture	4,000
Repairs of Public Buildings, &c	15,000
Colonization Roads	50,000
Other Roads	15,000
Culler's Office	35,000
Public Works	30,000
Contingency Office	30,000
Other Contingencies	32,000
Slides	15,000
Surveying	30,000

Crown Lands Department	57,000
Other Expenses, not enumerated	180,000
Total	$1,099,790

REVENUE.

Timber, &c	$ 105,000
Lands	146,000
Other Local Revenues	300,000
Our part of the Federal Revenue for local matters (80 cents per head)	888,531
Total	$1,439,531
Expenditure	1,099,790
Surplus of Revenue over Expenditure	$ 339,741

But the amount of the public debts which the provinces will be required to remit to the Confederation being ascertained, and the amount being far from covering all the public debt of Canada, it remains to be established what portion of the whole amount of such indebtedness should fall to the share of Lower Canada, and also the means by which the annual interest may be paid.

Here, so far as debit and credit goes, we have only probabilities, for, notwithstanding all our efforts, we have been unable to obtain the figures with rigorous exactness; these can only be obtained after the debate on the constitutions of the provinces, and the repartition, between the two Canadas, of their debts and local revenues.

However, we find in Mr. Galt's remarkable speech the amount of the local debt and revenue, taken collectively, in the two Canadas; and from those figures we can deduce, approximatively, our share of that debt and revenue. The Finance Minister has ascertained, by official data, that $67,263,994 is the net amount of the debt of Canada, and that $62,500,000 is the portion of that debt which is to be transferred to the Confederation, and the local debt of both Canadas is, consequently, ascertained to be $4,763,994.

The local expenditure of the two Canadas, taken together, is

$2,021,979, and would be $2,260,149, comprising the interest on $4,763,994; for the local revenue, $1,297,043, by which figures we may establish the portion of Federal revenue allowed to the two Canadas, $2,005,403—in all, $3,302,446.

We have thus a surplus of revenue, over expenditure, of $1,042,297.

We are not over-estimating, in taking for Lower Canada the half of that debt of $4,763,994, that is to say, $2,381,997.

By such a division we should have to pay an annual interest on this debt, which would amount to $119,035. This would bring our total expenditure to $1,218,825.

We would thus have a surplus of $221,096. But we have above estimated the revenue of Lower Canada at $551,000, not taking into account the $888,531, our portion of the general revenue.

As we assume half the debt, we cannot be accused of exaggeration if we also take into account half the local revenue, $648,521.

The difference between the two amounts being $97,521; if we add this to that of $1,439,531, we have for the local revenue of Lower Canada, $1,537,052; and for the expenditure, $1,099,790, the amount stated above; and $119,035, our part of the interest of the debt; in all, $1,218,825.

The revenue thus exceeds the expenditure by $318,227.

This a satisfactory result, and is enough to assure us against fears for the future.

But if it be objected that we have exaggerated the revenue, we simply reply, that we have also very much over-estimated the amount of the debt, and, consequently, the expenditure.

Let us not forget that if we assume certain special debts, we receive, at the same time, in compensation, by the 58th Clause of the scheme, anything that may be produced by the works for which such debts were contracted. Among these is the Municipal Loan Fund of Lower Canada. We will thus have the amount produced by this fund.

According to these calculations, Upper Canada has for a local revenue, the half of the actual local revenue, that is to say, $648,521, and $1,116,872, her part of the general revenue; in all, $1,765,393.

We are not in possession of the data to establish in detail the amount of the expenditure in that section, but Mr. Galt has proved that the collective local expenditure for the two Canadas, is equal to $2.260,149. The portion of Upper Canada cannot, therefore, be in any case, less than the half of the said sum, of $1,130,074. This will leave her an excess, for public works and other objects, of $635,319.

But, as the Upper Canadians have other ideas than we have on many subjects, it is impossible to speak correctly of the amount of their local expenses. One thing is certain, that the colonization roads, for example, their hospitals and their other charitable institutions, and at the same time their penitentiaries and lunatic asylums will be self-sustaining by means of local taxes or voluntary subscriptions.

It is sufficient to know, that the calculation of the Convention amply covers the local matters of all the provinces, if they are guided, as doubtless they will be, by a spirit of wise economy.

In case the provinces should desire to expend more than their local revenues, they would have to resort to direct taxation, and as direct taxes are unpopular everywhere, but particularly in Lower Canada, we may, as it was well observed by Mr. Galt, leave in this respect the '*surveillance*' of the public expenditure to the watchful and jealous eye of the people.

The Finance Minister has also fixed the local revenues and the federal grants for the local objects of the different provinces which intend to enter into Confederation:—

LOCAL REVENUES.

Canada	$1,297,043
Nova Scotia	107,000
New Brunswick	89,000
Island of Prince Edward	32,000
Newfoundland	5,000
Total	$1,530,043

FEDERAL GRANTS FOR LOCAL OBJECTS.

Canada	$2,006,121
Nova Scotia	264,000
New Brunswick	246,000
Island of Prince Edward	153,728
Newfoundland	367,000
Total	$3,056,849

AMOUNT OF LOCAL EXPENDITURE.

Canada	$2,260,149
Nova Scotia	667,000
New Brunswick	424,047
Island of Prince Edward	124,016
Newfoundland	479,000
Total	$3,954,212

By adding together the local revenues and the federal grants for local purposes, we will have $4,586,892; from which we must deduct for expenses $3,954,212; this leaves a surplus for local purposes of $632,680.

In dividing the two Canadas for the purposes of expenditure and local revenue, we have the following result:—

REVENUE.

Upper Canada	$1,765,393
Lower Canada	1,537,052
Nova Scotia	371,000
New Brunswick	353,000
Island of Prince Edward	185,728
Newfoundland	374,000
Total	$4,586,173

This last result differs by $719 from that of Mr. Galt, who estimates at $2,006,121 the amount of the federal grants to both Canadas, taken together, for local purposes; and that taking the numbers of the population for a basis, we fix it at $2,005,403. This difference is of little consequence in the general results:

EXPENDITURE.

Upper Canada, approximatively	$1,130,074
Lower Canada	1,218,825
Nova Scotia	667,000
New Brunswick	424,047
Island of Prince Edward	124,816
Newfoundland	479,212
Total	$4,043,974

At the commencement of this article we established the amount of the expenditure of Lower Canada, not merely the actual local expense for local objects, such as that furnished by Mr. Galt, but on our future matters, which would make a difference of something approaching to $88,750.

Not having the data for Upper Canada, as we have already stated, we had to take for our guidance the half of the amount of the actual collective expenditure of the two Canadas for the same local objects.

These amounts prove indisputably that the provinces may take action as suits their convenience in their local revenues, and that in this respect there is nothing to cause uneasiness.

Finance.

CHAPTER XXXVII.

60. 'The General Government shall assume all the Debts and Liabilities of each Province.'

61. 'The Debt of Canada, not specially assumed by Upper and Lower Canada respectively, shall not exceed, at the time of Union, $62,500,000; Nova Scotia shall enter the Union with a debt not exceeding $8,000,000; and New Brunswick with a debt not exceeding $7,000,000.'

62. 'In case Nova Scotia or New Brunswick do not incur liabilities beyond those for which their Governments are now bound, and which shall

make their debts at the date of Union less than $8,000,000, and $7,000,000 respectively, they shall be entitled to interest at five per cent. on the amount not so incurred, in like manner as is hereinafter provided for Newfoundland and Prince Edward Island; the foregoing resolution being in no respect intended to limit the powers given to the respective Governments of those Provinces, by Legislative authority, but only to limit the maximum amount of charge to be assumed by the General Government; provided always, that the powers so conferred by the respective Legislatures shall be exercised within five years from this date, or the same shall then lapse.'

63. 'Newfoundland and Prince Edward Island, not having incurred Debts equal to those of the other Provinces, shall be entitled to receive, by half-yearly payments, in advance, from the General Government, the Interest at five per cent. on the difference between the actual amount of their respective Debts at the time of the Union, and the average amount of indebtedness per head of the Population of Canada, Nova Scotia and New Brunswick.'

64. 'In consideration of the transfer to the General Parliament of the powers of Taxation, an annual grant in aid of each Province shall be made, equal to eighty cents per head of the population, as established by the Census of 1861; the population of Newfoundland being esimated at 130,000. Such aid shall be in full settlement of all future demands upon the General Government for local purposes, and shall be paid half-yearly in advance to each Province.'

65. 'The position of New Brunswick being such as to entail large immediate charges upon her local revenues, it is agreed that for the period of ten years, from the time when the Union takes effect, an additional allowance of $63,000 per annum shall be made to that Province. But so long as the liability of that Province remains under $7,000,000, a deduction equal to the interest on such deficiency shall be made from the $63,000.''

66. 'In consideration of the surrender to the General Government by Newfoundland of all its rights in Mines and Minerals, and of all the ungranted and unoccupied Lands of the Crown, it is agreed that the sum of $150,000 shall each year be paid to that Province, by semi-annual payments; provided that that Colony shall retain the right of opening, constructing and controlling Roads and Bridges through any of the said Lands, subject to any Laws which the General Parliament may pass in respect of the same.'

CLAUSE 61 rests on a principle of perfect equity. To be convinced of this, it is sufficient to know the motives which led to it. Let us commence with figures. The debts of the different provinces were as follows, on 1st January, 1864:

Canada	$67,203,994
Nova Scotia	4,858,547
New Brunswick	5,702,991
Newfoundland	946,000
Island of Prince Edward	240,673
Total	$79,012,205

AND THE POPULATION:

Upper Canada	1,396,091
Lower Canada	1,110,664
Nova Scotia	330,857
New Brunswick	252,047
Newfoundland	130,000
Island of Prince Edward	80,757
Total	3,300,416

These provinces were therefore indebted in the following proportions per head of their population:

Canada	$26 38
Nova Scotia	14 38
New Brunswick	23 02
Newfoundland	7 27
Island of Prince Edward	2 97
Which gives, on an average, for the Confederation.	23 94

Thus, by adding together the united debts of all the provinces, a flagrant injustice would have been committed as regards the provinces least indebted; Canada, by this arrangement, would have gained $2.89 per head; Nova Scotia would have lost $9.56; New Brunswick, 92 cents; Newfoundland, $16.67; and the Island of Prince Edward, $20.97.

In order to induce all the Maritime Provinces to hand over all their revenue to the General Government, and to accept a proportion at so much per head, a sum much greater than they could be called upon to pay at the time when the subject of union was broached, it became absolutely necessary to establish a system of compensation.

Mr. Galt has undertaken to shew the principle upon which this system is based, and the pivot upon which the whole mechanism will revolve. He gives his opinions and explains these matters in the following words much better than we could:

'Now, in the scheme of Confederation, it was proposed that 'there should be a certain fixed rate at which each province should

'have the right of charging its debt against the Confederation, and 'for that purpose the debt of Canada was placed at $62,500,000, 'which was something like five millions less than the nominal 'amount of the debt. The mode in which that reduction was made 'was this: There were certain liabilities of Canada contracted for 'local purposes, and certain assets connected with those liabilities. 'He referred more particularly to the Municipal Loan Fund, and 'some similar matters which were more local than general. It had 'not been thought desirable that a transference of those securities 'should be made to the General Government. It was better that 'each province should assume that portion of its debt which was 'particularly local, and take with it those securities which it held 'for its redemption. And in that way there was established for the 'debt of Canada an amount equal per head to the amounts con- 'tributed or about to be contributed by the two provinces of Nova 'Scotia and New Brunswick. If any of these provinces had been 'in debt to an amount largely exceeding that of the others per 'head, the matter would have been in a different position. But it 'was found on examination that, while the debt of Canada might 'be reduced by the mode he had stated to $62,500,000,—as nearly 'as possible $25 per head,—Nova Scotia, in addition to her debt, 'had incurred certain liabilities for the completion of the railway 'system within that province, for which she had undertaken 'engagements amounting to three millions or $25 per head also— 'while New Brunswick, for the construction of her railways, had 'engagements incurred and liabilities maturing, which amounted to '$1,300,000, bringing up her debts to seven millions, a fraction per 'head slightly above that of Nova Scotia and Canada. Thus, by 'assuming the local liabilities and assets, we were enabled to put the 'debt of Canada at the same rate per head as those of Nova Scotia 'and New Brunswick, and therefore, as regarded the three larger 'provinces, the assumption of their debts by the General Govern- 'ment did not offer any difficulty whatever. In the case of New- 'foundland and Prince Edward Island it was different. Those 'provinces, from their insular position, had not been required to 'incur the same large obligations for public works. They possessed,

'fortunately for themselves, easy access to all their settlements by 'water, or by very short distances of land carriage, and consequently 'had not been called on to construct canals, or to introduce a railway 'system. Accordingly, the debts of Newfoundland and Prince 'Edward Island were found to be much less, in proportion to their 'population than those of the others. To place them on a par 'with Canada, Nova Scotia and New Brunswick, it therefore became 'necessary to give them an indemnity for the amount of debt which 'they had not incurred; because, in assuming their revenues, we 'called upon them to contribute to the payment of the interest on 'the debt which we had not incurred, and we could not fairly 'expect them to do so, unless they were in some measure indemnified 'for it. And it was found that, in taking this course, we were 'enabled to get over one great difficulty which had met us, which 'was, that those particular provinces possessed no local revenues, 'and that in charging them with the administration of their Local 'Governments and taking from them the revenue from customs and 'excise, we should leave the Governments of Newfoundland and 'Prince Edward Island without any means whatever of discharging 'their liabilities. With regard to Newfoundland, he might remark 'that the people in that colony being, in regard to agriculture, 'altogether consumers, and not producers; because they were a fish-'ing and maritime population, the amount of dutiable goods they con-'sumed was about double per head what it was here. They would, 'therefore, in the shape of customs duties, be contributing to the 'Confederation a larger proportion than properly belonged to them, 'and accordingly it was arranged that for the amount of debt which 'they had not incurred, up to $25 per head, they should be allowed 'interest, for the purpose of meeting their local payments, and 'providing for their local wants.'

These lucid and convincing remarks of the Finance Minister explain the paragraphs 61, 62 and 63 of the scheme. They show us why the debt of Canada is established at $62,500,000, the debt of Nova Scotia at $8,000,000, and that of New Brunswick at $7,000,000; why it will be necessary that the Confederation should pay to the two latter provinces an interest of 5 per cent. on the differ-

ence between their real indebtedness of $8,000,000 and $7,000,000, respectively. They will moreover show, why we shall have to pay to Newfoundland and the Island of Prince Edward an interest of 5 per cent. on the respective amounts necessary to bring their debts to $25 per head of their populations.

It is evident, after these explanations given by Mr. Galt, that the debts of Nova Scotia and New Brunswick will reach respectively the sums of $8,000,000 and $7,000,000 when the Confederation shall have been accomplished, and thus the latter will have nothing to pay for this purpose.

The population of Newfoundland being 130,000, $25 per head would establish its debt at $3,250,000, and it would thus be placed on a level with the population of Canada, Nova Scotia, and New Brunswick, with regard to their respective figures of population.

But as that province owes $946,000, we must deduct this amount from the $3,250,000; this would give a result of $2,304,000, on which the Federal Government will have to pay to Newfoundland an annual interest of 5 per centum, or $115,200.

In the same manner as the population of Prince Edward Island is 80,748, by multiplying this number by 25, the amount of the debt per head of the three larger provinces, we find the result to be 2,018,675, and 1,778,002, after deducting from the former number 240,673, the figure of the actual debt of that province.

The Confederation will thus have to pay annually interest at five per cent. on the latter amount, or $88,900.

Paragraph 64 is much easier understood, because it provides that each province, taking as a fundamental basis for all future time the Census of 1861, shall receive from the date of the adoption of the scheme 80 cents per head of its population.

The amounts to which these provinces will be entitled, in virtue of this clause, will be distributed as follows:

Upper Canada	$1,116,872
Lower Canada	888,531
Nova Scotia	264,685
New Brunswick	201,637
Newfoundland	104,000
Prince Edward Island	64,505

But as Newfoundland gives up to the Confederation all rights of property in its soil, which is neither sold to, nor occupied by settlers, a sum of $150,000 will be paid over annually by the General Government, and that province will therefore receive $369,200 as a consideration for this transfer, divided as follows: $104,000 as interest on the difference between its actual debt and the figure, which would bring it to $25 per head of its population; $115,200 the annual grant at 80 cents per head of its population, and $150,000 as a consideration for the annual value of its territory ceded to the Confederation.

Prince Edward Island will receive annually from Federal sources $153,405, that is to say, $88,900 interest on the difference between its actual debt and the figure, which would establish the rate of $25 per head on its population, and $64,505 representing the grant by the Federal Government of 80 cents per head.

It is thus evident that the two provinces most favored in the scheme are New Brunswick and Newfoundland, because New Brunswick (clause 65) will receive annually from the Federal revenue $63,000 during ten years, in all $630,000 per annum, and Newfoundland (clause 66) $150,000 annually, in perpetuity, as a compensation for its domain ceded to the General Government.

Without this concession, New Brunswick, having undertaken extensive public works, could not possibly give up its general revenue, and form part of the Confederation. The reason fully explains the motive of the concession.

Newfoundland, with a local revenue of $5,000, could not possibly meet the requirements of its Local Government and Legislature without the federal grant of $150,000.

But what are those trifling sacrifices compared with the immense advantages of a Union of all the Provinces of British North America, and the indispensable possession of the nearest point on this continent to Europe, of the key of the Gulf of St. Lawrence, and the foremost bulwark of the nation about to be created?

Moreover, we must not lose sight of the fact that the provinces with which we form an alliance will give up to the general revenue, for local equivalents, more than they will receive; and, secondly,

that their present revenues will more than suffice to meet their local and general requirements, and that by such an arrangement we shall not, by entering into the union, make a pecuniary sacrifice in favor of the contracting parties. We produce the following figures to prove this fact :—

	Revenue, 1863.	Expenditure, 1863.	Difference, 1863.
Nova Scotia - - - -	$1,185,629	$1,072,274	$113,355
New Brunswick) - - -	899,991	884,613	15,378
Newfoundland (1862) -	480,000	479,420	1,420
Prince Edward Island -	197,386	171,718	25,666
Maritime Provinces -	$2,763,004	$2,608,025	$155,819

These figures cover the expenditure, both for local and general purposes, to be undertaken by the Confederation.

Lower Canada, in 1863, was certainly not in as favorable a position, because at that date there was a large deficit; but, in the twelve months of 1864, there has been an increase of revenue of $1,500,000. Nova Scotia and New Brunswick have each succeeded in obtaining an increase of $100,000, in all $1,700,000—from which we must deduct the deficit of 1863, namely $827,512, leaving a surplus of of $872,488, as clearly shown by the following statement submitted by Mr. Galt :—

1864.

Total Revenue of all the Colonies - - -	$14,223,320
Total Expenditure " " - - -	13,350,832
Estimated Surplus - - - - - - - - - -	$ 872,488

We think we have sufficiently proved that Confederation, in a pecuniary sense, entails no sacrifice upon any of the provinces, but, on the contrary, in every respect, will prove of immense advantage to all those entering upon the proposed union.

The Tariff.

CHAPTER XXXVIII.

THE question of the Tariff is one of the most difficult to deal with; it is, at any rate, one of those upon which the adversaries of Confederation have most commented, both in Nova Scotia and in New Brunswick.

We give here an average of the Tariffs of the different provinces:—

Canada	20	per cent.
Nova Scotia	10	"
New Brunswick	15½	"
Newfoundland	11	"
Prince Edward Island	10	"

Mr. Galt thus explains it:

'That brought him to a very important point, as to whether 'Confederation would produce increased taxation, of which apprehensions were entertained. In the first place, the existing taxation in all the provinces would have provided more than one 'million dollars over and above the public demand; but at the 'same time it was quite true that in a Confederation they would 'have to incur certain liabilities, such as for the Intercolonial 'Railway, and for the completion of works now in progress in the 'Lower Provinces. It must be plain that as the revenue raised 'by the colonies under present tariffs was more than sufficient, if 'we were to raise the tariffs of all the provinces to that of Canada, 'we should have much more revenue than we required. In the 'case of the Lower Provinces, the average tariff was about 12½ per 'cent.; and where they now collected duties to about two and a 'half million dollars, under a higher tariff like that of Canada, at 'least three million dollars would be raised.

'Therefore, to make adequate provision for all the wants of the 'country, they need not bring up their tariffs, but we might reduce ours; and in the raising of duties it would be practicable to

'find a medium of taxation between the averages of 10 and 20 per 'cent., which would be sufficient to meet the wants of the country.'

The question is so much the more easy to regulate, although difficult to determine in its probable results, from the circumstance, that there is a surplus of revenue over the whole extent of the Confederation, and consequently it will be possible to bring the highest tariffs down to the level of the lowest. If the different provincial tariffs were based upon precisely the same principle; if the taxed articles were everywhere of the same kind, and if there was even some affinity—if not the same degree of impost between articles of the same nature in all the provincial tariffs,—the task would be comparatively easy. But it is not so. Some articles of importation which are taxed in one province, are not taxed in another; other articles which are liable here to mixed duties, are there submitted to a fixed duty or to an *ad valorem* duty. There are again duties which are liable to deductions between one province and another, and which would cease altogether under Confederation. These would be of no importance except among the Maritime Provinces themselves, since our connection with them up to this date has amounted to very little.

This balance would probably be of little importance to the general revenue, but must not, however, be omitted in adjusting the tariff of the Confederation.

We are threatened with the loss of the Reciprocity Treaty. How and up to what point, will this act of the American Congress affect our tariff? It is impossible to answer this question with any degree of precision, because notwithstanding the abrogation of the Reciprocity Treaty, there are certain products that for our own interest we should continue to admit free, such as the agricultural products of the West, and the raw material necessary for our manufactures. Still it is not less true, that the abrogation of that Treaty, which will oblige us to tax a great number of products, will have the effect of considerably augmenting our revenue, and will enable us to lower the average of our tariff.

The following table, which gives us the value of articles taxable

and non-taxable imported from the United States, clearly proves what we *have advanced*:—

	Taxable merchandize.	Coin and precious Metals.	Other merchandize not taxable.
1861.....	$8,346,636	$ 863,308	$11,859,447
1862.....	6,128,783	2,530,297	16,514,077
1863.....	3,974,396	4,651,679	14,483,287
	$18,449,812	$8,045,284	$42,856,811

Thus it appears that in three years there was an importation of $69,351,907, of which only $18,449,812 worth of taxable articles, and a value of $50,902,095 worth of merchandize was admitted free. If we deduct from this last amount $8,045,284 for the silver imported, (coined and not coined,) not taxable under any circumstances, there would still remain $42,856,811, or an annual average of $14,285,637 worth of merchandize which could be taxed, but which now are admitted free.

But besides that, we should feel the necessity of admitting free a certain portion of those articles represented by the figures $14,285,637, and it is certain that the imposition of duties upon these articles would have the effect of diminishing the importation of them to a certain extent, and consequently it is impossible that we can calculate exactly, in advance, what the American imports would produce under the action of a tariff, or what reduction we might consequently effect in the general tariff, so as to place it on a level with the average of the tariffs of the Maritime Provinces, without diminishing the equilibrium which has been already established between the total receipts and expenditure of Confederation.

What we do know, and enough for our present purpose to know, is, that we shall have an increase of revenue by the abrogation of the Reciprocity Treaty to a considerable degree, and consequently a possibility of lowering our tariff to the level of the average of the tariffs of the Atlantic Provinces, and of making

good the slight deficiencies created by the abolition of the intercolonial tariffs under Confederation.

But after all, supposing they should execute considerable works in the Lower Provinces, and that to pay for them, it became necessary to raise the average of their tariffs, they could have no reason to complain; for even with that augmentation, they could not possibly have obtained such works without Confederation, and in giving them these works we should give them commercial existence and prosperity, which would permit them to progress more easily under a tariff a little heavier than they formerly did under a lighter tariff.

But let us suppose even that the Reciprocity Treaty be maintained, whether in its present state or with modifications, the margin allowed in the budget under the general revenue, after paying all local and federal expenses, as Mr. Galt has established by indisputable figures; is sufficient with or without these promises of increase, to enable the General Parliament to lower considerably the average of the collective tariff.

'The Intercolonial Railway.'

CHAPTER XXXIX.

68. 'The General Government shall secure, without delay, the completion of the Intercolonial Railway from Rivière du Loup, through New Brunswick, to Truro in Nova Scotia.'

IF in the examination which we have made of the project of the Conference, and the estimate we have formed of the motives which determined the programme of the present Government in the Session of 1864, we have arrived at the conviction that the Union of all the Provinces of British North America has become a necessity; we need not undertake to prove the utility of the

Intercolonial Railway; for on the very threshold of the Conference, the construction, and the immediate construction, of that great way of intercommunication was insisted upon as an indispensable and inflexible condition of the union.

They were right; for without that railroad, the union would have existed only in words, and would have had no existence in things. It would neither have existed in a political, commercial nor military sense, and what would have been the use of an alliance between people who possessed no interests in common? This iron way was then not only the strongest bond of the future union, but it was the strongest one to keep together the parts of the great nation that we are trying to build up.

But there are other and more immediate considerations which operate in favor of this great enterprise. Lord Durham said, in 1839: 'The establishment of a good way of communication be-' tween Halifax and Quebec would produce between the different ' Provinces relations, the effect of which would be to render a ' General Union absolutely necessary.' Several explorations have established the practicability of a railroad over the whole route.

Lord Durham desired a railroad to render the union necessary, and the Convention want it, in order to make the union possible, because events which have progressed so rapidly, and have developed conditions so unforeseen at the period when that statesman presided over the destinies of British North America, have developed the necessity of the union without the stimulant of a railroad, to such a point that it is now the union itself which has determined the necessity of that same road.

Before the period of the new alliance, that is to say, before all parties in Canada had acquired the conviction that the political union of the whole of the provinces had become indispensable from every point of view, there were to be found none truly devoted to the project of a railroad between Quebec and Halifax, except the denizens of Quebec and of the Provinces of Nova Scotia and New Brunswick.

This is easily understood, for then, we were in close commercial relations with the United States.

Their railroads were our railroads, their seaports were our seaports; the natural products of the two peoples crossed each other in their movements to and fro, without clashing at the custom-houses, and the commercial understanding and harmony that prevailed on both sides of the frontier was so perfect, that our foreign merchandize came to us through their vast territory with as little obstacle as their own exportations met with. But the sanguinary battles that have taken place between the North and South, during the last four years, have developed other ideas and other sentiments among our neighbours, and instead of opening the way more widely to commercial relations between them and us, they are narrowing the space each day and are even preparing to place between us impassable barriers. In a little while the Reciprocity Treaty will probably exist no longer, their railroads and their seaports will be no longer our railroads and our seaports, and, perhaps, * * * * But no, let us hope, at least, that providence has reserved for us another and a better fate.

It is important, then—nay, indispensable to us, if we would sell our products, and receive in exchange those which we require from foreign countries, that we should be able to communicate directly with the ocean by seaports of our own that would be open every day in the year!

We have, indeed, the river St. Lawrence and our great lakes, with our canals, completing the most magnificent system of interior navigation which exists in the world; but nature has sealed them inexorably during five months of the year. And if, for any cause whatever, they close upon us those American outlets which let out our products and by which our supplies arrive, where is the man, whether he dwells on the shores of the Georgian Bay, or the banks of the Ottawa or of the Richelieu, or in the forests of the District of Quebec, who will not say that he is in want of a railroad to Halifax, that that railway is everything to him, and that he ought to contribute something towards it?

It is true that it will more immediately benefit the District of Quebec and the Maritime Provinces, but this is the inevitable consequence of their geographical position.

But if this is a reason why other parts of Canada should object to it, no other public undertaking would be possible; wharves and railway stations may attract greater advantages to their localities than places situated at a distance from them, but that does not hinder the latter from concurring in their construction, for without them, how could their products reach a market? These are elementary notions in political economy which have acquired the character of axioms and that it would be absurd to establish by figures. It would, for example, be no use to tell the lumber merchant that it would not serve him to fell all the forests in Canada if he could not have his magnificent products conveyed to the ocean. This is why the Convention decreed so unanimously and so spontaneously the construction of the railroad from Quebec to Halifax.

Conclusion.

CHAPTER XL.

THIS article closes our examination of the project of the Quebec Conference. Happy we shall certainly be, if our labor, which has cost us many evenings, may be useful in any way in the important debate which is soon to open. In any case, the reader may rest assured, that we have kept strictly to the engagement contracted by us at the commencement, to keep clear of partisan views, and so discuss the question of our future destinies without passion and perfectly independent of all men of whatever shade of political opinion.