

Lorne Hanson
John L.M. Thomson

DEGREE CONFERRED

1905

Dep
Cred
T 384

.....
THE RELATION OF IMPERIAL
TO COLONIAL GOVERNMENT.
.....
M. A. ESSAY., 1905.
.....

THE UNIVERSITY OF MONTANA
LIBRARY

75803

THE RELATION OF THE IMPERIAL
TO COLONIAL GOVERNMENT.

"Not clinging to some ancient saw;
Not master'd by some modern term;
Not swift nor slow to change, but firm;
And in its season bring the law."

The recent war in South Africa stimulated discussion on Imperial federation. Those who advocate the measure claim that it would be beneficial to both Great Britain and her colonies, especially to the latter; that it would secure a balance of interests and definite co-operation in war. This implies that the system which rules the Empire is inadequate to the requirements; that it does not secure, under the present circumstances, due consideration for the welfare of all British subjects alike; in brief, that there is some lack of cohesion, harmony or efficiency in the group of legislative institutions by which the Empire is governed. This demands earnest consideration of these institutions and particularly of the relation between the Imperial and colonial governments. It is that thought which has prompted me to an examination of the present subject: to give a short description of the system which rules the Empire, with special emphasis upon the governmental relation of the mother country to the colonies. This calls for a definite aim and I will endeavor to show that there are cohesion, harmony, and efficiency in the government of the Empire, secured by the present relation of the Imperial parliament to the legislatures of the colonies. What that relation will be in the future is a different though related question and will be touched on slightly after I have given a description of the present relation, in government, between the colonies and Great Britain.



As children in body and mind resemble the parent, so the governments of the colonies resemble in constitution, legislation, and administration that of the mother country, and the bond of sympathy providing for mutual welfare which exists in one case is found in the other. The child can become almost independent on reaching a certain age or stage of growth and development, say that of responsibility; yet he is always bound by certain ties to the parent; and this is true of a colony having responsible government. Such a colony has all the interests and privileges which the term responsible represents, yet it is always subject to Imperial control. Therefore it is necessary to point out to what extent the home government controls such colonial institutions and to what extent the colonies have independent action. It will be found that these relations aim at securing the best interests of each part of the Empire subject to the welfare of the whole.

A weighty factor to this end lies in the crown; its influence permeates all forces controlling the affairs of the Empire. In the British Isles that influence is of a more direct nature than in the colonies; the sovereign is only represented in the latter, but the effect of the Crown is none the less felt. The position and influence of the sovereign in the mother country must first be noticed.

Before the revolution of 1688, the position of the sovereign was more of an absolute nature than after that event; he selected his ministers not from the majority in parliament--his councillors were not responsible to that institution. But the revolution placed the sovereign and his advisers in proper relationship to the Lords and Commons; the ministers became responsible, the sovereign irresponsible, and the ultimate power was with parliament. That is, now, 'the king can do no wrong;' his personal advisers are alone responsible for any

any executive acts of the sovereign. If he cannot agree with his advisers, he can dismiss them, and invite others to his council; and if he cannot obtain advisers to agree with him and accept responsibility, he must either make concession or appeal to the people. If they return a verdict against the will of the sovereign, he must give in to their wishes. That is, though the sovereign is irresponsible for all acts of government, yet the royal functions which are connected with his official position are regulated by law, or constitutional precept, and they must be performed by him for the good of the people only, and not to satisfy his own will.

From the preceding it might be inferred that the sovereign is a mere dependent of political party. That is not so. He may propose a measure and share in its discussion. The ministers have a right to discuss in private before placing their conclusions before him in council for his approval. And the sovereign is free to accept or reject such advice. This places him in the best position to prevent abuses; he can observe and check selfish and unworthy aims, and exert towards his ministers for the benefit of the public a strong influence for good, capable of uprooting party or narrow tendencies. He has every chance of obtaining the best information: his position is constant; he has at his disposal the thought and conclusions of the wisest in the land; he has no party motive, his one aim is the welfare of the Empire. Of the Imperial political system, the Crown is the resultant and controlling force.

The sovereign is represented in each colony by a governor. The person chosen for this position is recommended by the secretary of state for the colonies to the sovereign for his consent; provided, that the approval of the prime minister is obtained, which is especially required in filling that office in the more important colonies.

The governors are the political bonds that connect the colonies with Great Britain. Their effect may be compared with the function of the protoplasmic threads of a certain class of colonial protozoa: all the small cells are bound together by cementing material and threads of protoplasm. It is difficult to decide whether the group is one animal or a collection of individual animals: each cell performs the life functions breathing, feeling, eating, and in that respect there is independent existence; but there are those bonds between them consisting of substance which is the essential of life. That last fact inclines to the opinion of the unity of the whole group -- a single animal. Many Scientists uphold that view. -- The governors secure cohesion in the group of political institutions of the Empire.

Without delaying to defend the opinion as to the advisability of calling volvox a single animal, I would like to emphasize a little more the position and influence of a governor. They are those of a constitutional monarch. His ministers take upon themselves the responsibility of his political acts: he is responsible to only the supreme power which gave him the authority. His advisers must represent the majority in the popular assembly. A refusal on his part to follow their advice means their resignation and an invitation, by the governor, to others to take the responsibility of his executive acts. If he fails to obtain such advisers, unless he recedes from his attitude, an appeal must be made to the people. This settles the difficulty. That is, in local affairs, the will of the colony must prevail. The advice of ministers is followed in most cases, but the special duty of the governor is to supervise, to preserve an impartial attitude towards political parties, to see that the best interests of the colony are secured, subject of course to the welfare of the whole Empire. From his lofty position he has

a good view of affairs; he is not blinded by prejudice or self interest; and the superior qualities of knowledge, wisdom, and tact for which he is selected enable him to pass just and proper judgment upon matters placed before him for his consideration and consent.

As regards the management of the internal affairs of his government, the governor is like a constitutional monarch acting in harmony with his councillors, interfering with their line of action, if at all, only as a friend and impartial adviser. But whenever any question is urged concerning Imperial interests, his functions as an independent officer are called into play. He must see to it that there shall be no loss to the Empire. In this duty he is not sure of support from his advisers; they might consult the interests of the colony, or of their own ambition. He may often have to act against their will, either by exercising his power of veto on enactments or by placing the matter for decision before the home government. In such matters the governor stands alone; there is no one to assist him or share his responsibility. The Imperial government looks solely to him.

But there are certain constitutional principles concerning the office of governor, which secure and strengthen the value of his position and influence, and deserve special notice. He holds office at the pleasure of the Crown, but his period of service is usually limited to six years. This preserves impartiality of conduct in the governor by preventing him from forming fixed relations with the colony. His impartiality is further secured by this rule. "He is prohibited from receiving presents, pecuniary or valuable, from the inhabitants of the colony, or any class of them, during the continuance of his office; and from giving such presents; and this rule has to be equally observed on leaving his office." "Whether they are made directly to himself, or in trust for him, or to some mem-

ber of his family, so that he may have the enjoyment of them is obviously immaterial." It may be added "that they (the rules) rest on no consideration affecting the honor of gentlemen selected by the Crown to fill situations of this high importance, but on the necessity of preserving them in the eyes of the public, free from all suspicion." The governor must have positively no party spirit: anything of that kind is in direct violation of the very essence of his duty. He is not a weight to tip the scale of politics; he is at the head of affairs to observe and to preserve balance. It is the paramount duty of the king's representative to obey the law and to have as care that every act of legislation or administration coming within his official notice is transacted strictly in conformity with the law. In addition, it must be noticed that the person selected to be a colonial governor is invariably of a superior quality: he is intellectual; his early training has been attended to with scrupulous care; study of constitutional law and experience in connection with the governments of the minor dependencies of the Empire make him specially fitted for his position. And then, moving in the highest society of the older countries, travel, and acquaintance with leading men of the nations are all conducive to culture: these are the privileges enjoyed by those from among whom a governor is usually selected.

The preceding constitutional principles concerning his duties and functions, and his superior qualities as a man are what give value to the office of a governor. No executive functionary could be better suited to fulfil the duties which fall to the lot of a governor of a colony. For example: to constitute and appoint all judges, commissioners, justices of the peace, and other necessary officers and ministers; upon sufficient cause, to remove or suspend from office any person holding any office under the Crown in the colony, so far as the same may

be lawfully done. "To exercise all powers lawfully belonging to the king in respect of the summoning, proroguing, or dissolving the parliament" of the colony. Does not the governor secure and preserve efficiency in the government of the Empire? "It is his duty also to set a high social example and to interest himself not only in the general progress of the colony, but as far as possible, in the personal welfare and prosperity of the colonists engaged in the great battle of colonial life. And he generally does in these matters. He makes periodical progress through the colony over which he rules, and is hospitably entertained in the centres of population." "He is free to constitute himself in an especial manner the patron of these larger and higher interests, as of education and of moral and material progress in all its branches, which unlike the contests of party, unite, instead of dividing the members of the body politic".

To illustrate further the influence of a governor in the welfare of a colony extracts may be quoted from the speech of Earl Grey, delivered at Ottawa last month in reply to an address of welcome by the city council. "The way in which you have received us is the proof of your knowledge that our beloved sovereign takes the deepest and most lively interest in the well being of Canada, and in everything that is calculated to promote the happiness and prosperity of her people. His majesty remembers with the greatest pleasure his visit to Canada in 1860, when he laid the foundation stone of your stately Parliament Buildings, which are the pride of every citizen of Ottawa, and of every visitor, and his majesty has more recently learned from the Prince of Wales, and with the keenest satisfaction, the story of the remarkable developments that have taken place, and are still in progress, in every portion of your wide Dominion.

"It will be my proud and fortunate privilege to forward to his Majesty the King your confident assurances that you are enjoying the prosperity which is the result not only of your own energies, but of the free and liberal conditions under which you live.

"It will also be my proud duty to inform his Majesty the King that you are able to give your testimony to the glad and hopeful fact that racial and religious prejudices no longer exist in your broad Dominion, and that the energies and aspirations of your people are being directed in the path of moral, social, and intellectual progress. It will, I am certain, be a source of the greatest satisfaction to our sovereign to know that his French Canadian and other subjects in the Dominion are in hearty co-operation in working out together the magnificent destiny which awaits this country, and in making available for the uses of mankind the immense resources with which the country has been endowed by a bountiful Providence.

"You say in your address that all signs point to a time of national expansion and to a great and brilliant future, and I thank you for so readily assuming that no efforts on my part will be wanting in assisting the early realization of your anticipations, which are not less rational than inspiring."

The governor goes on to describe the boundless resources and magnificence of Canada, then he adds: "But there is one asset which you possess even more important than those to which I have referred, than those of area, riches, mystery, scenery, and climate, namely that which is represented by your national character. If you do not jealously guard the sacred fire of that asset, the others to which I have referred will be as dross and as the crumbling clay.

"If on the other hand, you keep, as your address informs me you will keep, the character of your people, high, strenuous, imaginative, heroidal and imperial, no one can venture to set a limit to the degree of the influence which will be exercised on the future of mankind by the great Canadian nation, composed as it is of all that is best in England, Scotland, and Ireland, and France, and privileged as it is to be a factor, and a factor of ever increasing importance, of that British Empire, representing already 400,000,000 beings, which is the greatest and most beneficent organization that has ever attempted to be the instrument of God on this earth.

"There is no reason, gentlemen, why the sons of Canada, if they are worthy of their fathers and of the country to which they belong, there is no reason why they should not, in the life time of your children, by reason of their number and of their character, exercise an all powerful and, in time to come, perhaps a controlling influence on the development of the majesty and destiny of the Empire, whose standard is righteousness and whose path is duty." Does not the governor secure and preserve harmony in the government of the Empire?

He is the medium through which the Imperial government controls colonial legislation. He either exercises directly his power to veto an act at variance with Imperial law and interests, or he reserves the bill for the king in council. In the old country the exercise of the power to veto has fallen into disuse, but that is not the case as regards the colonies. No colonial legislative body is competent to pass a law which is opposed to any Imperial statute intended to apply to that colony. Neither may a colonial legislature exceed the bounds of its assigned jurisdiction or limited powers. Should the limits of such authority be exceeded, it becomes the duty of the king or his representative to veto or disallow the illegal or unconstitutional enactment.

Again, in addition to this prohibitory attitude towards certain legislative measures of a colony, the Crown takes up the position of a tutor towards it in the earlier stages of its political existence. While the colonists are gradually attaining to a knowledge of the practical business of legislation in their limited sphere, the mature experience and enlarged political insight of statesmen who guide public affairs in the mother country should be utilized to the benefit of their fellow subjects in the colonies. This will often call for the guidance of Imperial statesmanship to correct and regulate immature and unwise efforts of legislation such as have occasionally proceeded from colonial legislatures before they had attained to sufficient knowledge and experience to enable them to discharge their responsible duties aright. The governor is the medium of that oversight and correction.

But in the case of a colony having responsible government, the governor has seldom to exercise the right of veto. He has as a general rule refrained from thwarting the local legislature, except in cases specified in the royal instructions to the governor which almost exclusively refer to matters of Imperial and not of mere local concern. However, it lies with the governor whether he will consent to a bill or not: whether to grant or withhold the royal assent, or to reserve any particular bill for the king in council. To illustrate the principle involved the following may be taken: a bill to create a supreme court for the Dominion of Canada was introduced in 1875 into the Canadian Parliament, and the ministers intended to prohibit any further appeals to her Majesty's privy council. They were notified, however, that the bill would not receive the royal sanction unless it preserved to the Crown its rights to hear appeals of all British subjects who might desire to appeal to the highest court in the Empire-- to the Queen in council. Accordingly, a proviso to that effect was inserted in the bill and it received the royal assent. The governor

the bill and it received the royal assent. The governor secures and preserves efficiency and harmony in the government of the Empire; he is a shield to the rights of the colonists.

Also, in the administration of the internal affairs of a colony, the Crown sometimes interferes. This happens seldom, and only in extreme cases; the home government is thoroughly in earnest granting to the colonists the management of their own affairs. But the Crown is justified in assisting a colony in the following cases: in questions of an imperial nature; in the interpretation of Imperial statutes; to decide, on appeal to the secretary of state for the colonies, between the members of the body politic in the colony concerning their respective rights and privileges; to offer suggestions to the colonial legislatures for the public benefit, which would otherwise escape their notice.

Interference on the part of the Imperial government in the affairs of a colony was more common a short while ago than now. Then, the colonies were younger and had not the experience nor means of conducting their affairs efficiently: also, many statesmen and the people of the old country looked upon a colony as a sort of prize to be made use of for their own special benefit. They passed laws restricting the commercial relations of the colonies with foreign nations, and this policy was carried to such an extent that the interests of the colonies were continually sacrificed. A revenue was raised in the colonies for use by the Imperial government: this was the cause of the secession of the American states from British rule. There was a blind selfish fear in those days at home that the dependencies would break away unless kept in check by certain burdens laid upon them; unless their dependence was kept before them in the form of navigation laws, customs duties, and a general preferential sacrifice to old country interests. But a strong sense of justice and a manly independence stimulated

and developed in the minds of the colonists by the view of broad plains, dense forests, lofty mountains, and boundless resources of wealth, and above all by the social equality among the freedom loving pioneers, forced on the attention of the home government their ability and readiness to accept and to use successfully the privilege of a greater measure of local self government. And now, though the colonial possessions of the British Crown are subject at all periods of their existence to the legislative control of the Imperial parliament, yet in practise, especially in the case of colonies enjoying representative institutions and responsible government, the mother country has conceded the largest possible measure of local independence and exerts its supreme authority only in cases of necessity or whenever Imperial interests are at stake.

Even that last restriction, in the case of some colonies, has been removed, and they can legislate with regard to trade and commerce regardless of the interests of the mother country. On account of the growing importance of Canada, exceptional privileges have been granted her in fiscal and commercial matters, wherein the interests of Canada, exceptional are concerned with freedom to adopt whatever policy might be approved by the local legislature irrespective of the opinions or policy of the Imperial parliament.

As an example of Imperial control in matters of administration the following may be taken: One of the conditions of the union of British Columbia with the Dominion of Canada was that the federal parliament should construct a railway from the eastern provinces to the coast. The Dominion government were slow to start the project, the provincial legislature became impatient, they appealed to the Imperial authorities to secure the fulfilment of the contract; and the trouble was quietly smoothed over. On the date of the completion of this

great transcontinental line, Queen Victoria's congratulations were cabled to the people of Canada. The home relations provide efficiency and harmony in the government of the realm.

Again, the Imperial government has supreme control in the Empire as regards treaties. This is in accordance with international law, and is a matter of necessity. It would imperil the safety of the Empire to allow colonies to enter into treaties indiscriminately; it would lead to a violation of the agreements between the Empire and foreign nations and also tend to interfere with the best interests of other parts of the Empire.

But, as in other political matters, many concessions and privileges have been granted to the colonies, which modify and make acceptable the fact of Imperial supremacy. They are an acknowledgement of the justice of the claims of the colonies and of their ability and good faith in the management of local affairs. Reference can be made to the way in which the different parts of Australasia secured the privilege of making commercial treaties with each other. Representatives met, they discussed the question in its various phases, and an appeal was forwarded to the home authorities to grant the requests. The matter received due consideration by the Imperial government and these colonies were given permission to form commercial treaties among themselves at their own discretion; provided generally that such legislation be not detrimental to the commerce of Great Britain. And the case of Canada may be taken. This restrictive policy was abandoned, not long ago by the mother country, and the Dominion parliament was permitted to adopt whatever form of commercial legislation they might consider to be bestsuited to Canadian interests wholly irrespective of the policy of Great Britain.

But the principle of Imperial supremacy remains, and some of the elements composing that relationship may be pointed

out. In general, separate colonial governments have no right to correspond officially with each other unless through his Majesty's secretary of state for the colonies, or by direct permission given by the home government. No treaty extends to a colony unless that colony is named definitely in the articles and in order that the colony may secure the privileges of the agreement there must be a further convention on its behalf. The treaties of commerce and navigation now in force between Great Britain and independent foreign powers have been made expressly applicable to the British colonies, except in the case of a few nations. No treaty with a foreign power shall include or extend to any British colony which may desire to be exempted from the operation of the same. Also, the responsibility of determining what is the true construction of a treaty made by his majesty with any foreign power must be remain with the Imperial government, who can alone decide how far Great Britain should insist upon the strict enforcement of treaty rights, whatever opinion may be entertained upon the subject in any colony specially concerned therein. Complaints of the non-observance by foreigners of treaty stipulations should be addressed by his Majesty's government to the foreign power in question.

With regard to the formation of treaties, Canada, being the leading colony, has most latitude given to her interests and action, and Australia comes next in the consideration paid to her wishes. It may be added that the policy of the home government is to grant more concessions and privileges to the colonies as they grow in importance, subject always however, to the paramount necessity of securing the onward march of what is best for the Empire at large.

It has been said by some that Great Britain could at any time make a treaty which would be detrimental to Canada,

say, and that there should be definite, authorized means whereby a colony could have its interests considered by the home government, forgetting that there are such means and hinting at Imperial federation. To meet that statement, though some have argued to the contrary, it can be affirmed and confirmed that within late years, at least, since Imperial statesmen have attained ~~the~~^{to} cosmopolitan views on such matters, they have sought not merely the welfare of the people in the two little islands forming the centre, but as earnestly the progress of the hundreds of millions across the seas. The men steering the progress of the greatest empire that has ever existed have a broad, clear vision of and sympathy with its power and glory. They study the future. They foresee the thousand million industrious, refined and happy people that are to populate the vast and many lands of the Empire. The natural advantages, climate, soil, mines, combined with the energetic and intelligent character of the colonist inhabitants are bound to perpetuate and perfect that civilization which is the embodiment of the best and highest in science, art, law, and character. The men around the throne are not local politicians; they are Imperial statesmen. Would they pursue a policy in violation of their vision and of their duty to civilization? It might almost be said that the colonies would be safe with their guidance alone.

, Recent history attests to the fact of the interest which the Imperial leaders have taken in the progress of the colonies. Whenever a colonyⁱⁿ any financial, judicial, or political difficulty the most energetic and careful assistance is readily given by those at the centre, who are in every way capable of giving a wise and correct judgement upon material supplied by the colonists. But these statements are not meant to detract from the honor due to colonial statesmen: they are splendid men and it can be justly said that they have done their

part well. Still, their attention is directed mostly to local affairs and interests: their sympathy is apt to be not so broad as that of the Imperial statesmen, and consequently in broad questions embracing many collateral issues, the Imperial statesmen are in a better position to render a judgement more in accordance with the necessary balance of interests.

Nor is it to be inferred that those living in the colonies have no sympathy with the welfare of the Empire at large. Every intelligent Canadian and Australian can understand and appreciate the multitude of social, judicial, and political advantages enjoyed by those gathered together under the old flag which has "braved a thousand years the battle and the breeze," and is feared and honored by the nations of the earth.

It is a privilege of which the colonist is justly proud to be allowed to lay claim to the tried wisdom and patriotism of great men in the mother country. He frankly acknowledges that the primary condition of all legislation by subordinate and provincial assemblies throughout the British Empire is that it shall not be at variance with the law of Great Britain. He recognizes the fact that it is the right and the duty of the Crown to disallow any act which is opposed to this principle: that it is the office and the duty of the local judiciary in the colony in the first instance, and ultimately of his Majesty's Imperial Privy Council, upon an action or suit at law, duly brought before such a tribunal to declare a colonial statute either in whole or in part to be void as being in excess of the jurisdiction allotted to the legislature by which the same was enacted, or opposed to some imperial law in force in the colony; or, on the other hand, by a similar judgement to confirm and approve of the legality of the enactment, the validity of which has been called in question. The colonist

has a feeling of security and safety knowing that the sovereign as ~~the~~ fountain of justice is constitutionally empowered to receive petitions and appeals from all his colonies and possessions abroad, upon whatever conditions may be defined by the authority of the Crown in council.

Such petitions or appeals are referred to the consideration of the judicial committee of that body; and it is upon their report that the sovereign gives decision. The reference may be made either upon an appeal from an inferior colonial court or on a petition or claim of right, or on a petition praying for the redress of a grievance that is not within the prescribed jurisdiction of other courts or departments of state, but which the Crown is willing to entertain. This appellate jurisdiction of the king in council is retained for the benefit of the colonies not for that of the mother country. It secures to every British subject a right to claim redress of grievances from the throne. It supplies a remedy for particular cases not falling within the jurisdiction of ordinary courts of justice; it removes causes from local influences; it affords a means of maintaining uniformity of British law; it enables suitors to obtain a decision in the last resort from the highest judicial authority and legal capacity in the realm. It is true that in a colony which possesses an efficient court of appeal it may be seldom necessary to have recourse to this superior tribunal. But its controlling power, though seldom invoked, is felt by every judge in the Empire, because he knows that his decisions might possibly be submitted to it. Under such circumstances, it is not surprising that British colonists have uniformly shown a strong desire to preserve the right of appeal from colonial courts to the king in council. "While ample powers have been granted by Imperial parliament to every colonial legislature to establish, to abolish, and to reconstitute courts of judicature, and to provide for the adminis-

tration of justice in the colony, the right of appeal to the privy council continues everywhere to be maintained and is usually regarded with profound respect and appreciation." Is not the foregoing an expression of the cohesion, efficiency and harmony in the system which rules the Empire?

Another principle which strengthens the cohesion in the government of the Empire is the prerogative of the Crown to grant honors and titles. It has the effect of securing loyalty in the colonies; it is the acknowledgement by the highest functionary in the state of position in the social scale based on personal worth and distinguished service. The fact that the highest officers of the colonies are acknowledged by the sovereign as being of superior quality in ability and character tends to promote loyalty among the colonists to the Crown and an interest in the welfare of the Empire at large; it tends to lift them from the circle of local claims to the higher, broader plane of Imperial interests.

To be in harmony with the foregoing principle it is essential that the honors conferred should be by the spontaneous action of the sovereign and not necessarily by the interest or influence of others. However, as in all other Imperial matters, the sovereign must secure the will and responsibility of his ministers; and it is the privilege of the prime minister to tender recommendations to the sovereign with regard to conferring honors. Also, this prerogative of the Crown may be exercised indirectly by expressed delegation to a governor general or viceroy as the king's representative.

In addition it should be noticed that the governor general of a colony has the privilege of exerting an influence in arranging the table of precedence. This is a necessity: the conditions of society in a colony are generally quite different from those in the mother country, and it would be a source of

grievance if the sovereign had fixed regulations of precedence to apply to Great Britain and the colonies alike. For example, the sovereign has the right to confer precedence upon dignitaries of the established Church of England, but in South Australia the adherents of that church were very many in the minority compared with those belonging to other denominations, and so the legislature of that colony were prompted to disapprove of precedence being allowed to ecclesiastical functionaries. The governor of course did not consent to their bill, but reserved it for the Queen's pleasure thereon. A refusal to make such a decided change in the table of precedence, especially since the dignitaries of the church were concerned, was given; but upon further appeal, her Majesty granted consent to the desired change, provided that it should not apply to the churchmen then in office. This case established a precedent to the effect that any suggestion to amend the table of precedence in force in a colony, whether emanating from the governor with the advice of his executive council, or from either or both of the houses of parliament in the colony would always be most attentively considered with a disposition to accede as far as possible to alterations proposed.

It has been claimed by a few that a self governing colony should not be interfered with in this matter of establishing an order of rank and dignity. Now it seems to me that such a position is narrow in view and weak in principle. The Crown is the symbol of the civilization of the British Empire: it stands for the "self knowledge, self reverence, self control" of the people; it is the emblem of the highest forms of science, art, liberty, and character. Should not the Crown, therefore, be the source of acknowledgement of true worth and distinguished service? Is it not a means of preserving harmony in the government of the Empire?

The Crown is also the fountain of mercy. Queen Victoria issued the following instructions to the governor of each self governing colony: "As he shall see occasion in our name and on our behalf, when any crime has been committed within our said colony or for which the offender may be tried therein, to grant a pardon to any accomplice in such crime who shall give such information as shall lead to the conviction of the principal offender, or one of such offenders if more than one; and further, to grant to any offender convicted in any court or before any judge or other magistrate, within our said colony, a pardon, either free, or subject to lawful conditions; or any respite of the execution of the sentence passed on such offender, for such period as to our governor may seem fit, and to remit any fines or forfeitures due or accrued to us in respect thereof:

provided always, that our said governor shall in no case except where the offence has been of a political nature unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall absent himself or be removed from our said colony."

The principles in connection with the exercise of the prerogative of mercy to which a governor conforms in the most of cases are: ^{the act of pardoning a sentenced criminal is one of pure clemency;} it is in no respect judicial." The governor is expected to consider the notes of the judge who tried the case, and if necessary may summon the judge for consultation. He shall consult his executive council, but he is to decide either to extend or withhold a pardon or reprieve, according to his own deliberate judgement. When the governor decides in opposition to his ministers he shall make a note of the case in the minutes of the executive. When authorized by his Majesty's government to proclaim a pardon to certain political offenders, he can do so.

The above arrangement for extending pardon and mitigation of punishment applies to the self governing colonies in

general, but a concession has been granted to Canada on account of her importance as a colony and the broad jurisdiction of the Dominion government in other matters. In all cases of a merely local nature, the advice of the Canadian Ministers in respect of the prerogative of pardon shall not only be taken but shall prevail; but in all cases of an Imperial nature, or which affect a country or place beyond the jurisdiction of the Dominion the governor general shall after receiving the advice of his executive decide upon his own deliberate judgement. And in such a case, if he wishes, the governor may put the matter before the secretary of state for the colonies to obtain the opinion of his Majesty's government.

But what is the significance of such action by the representative of the Crown? He is the expression of the gentler spirit of the law in a two fold way. The exalted position of the governor, his impartiality and superiority to party motive make him the true source of mercy towards those in the colony who have done wrong; and this is a protection to his ministers since it places them to a great extent beyond suspicion of having advised through improper motives. On the other hand, the honor of the colony and of the whole Empire is preserved when such an officer of the Crown grants, by a well considered and enlightened judgement, a pardon to an offender in a country or place beyond the jurisdiction of the colony. Is not the governor an efficient means of providing and preserving peace, order, and happiness in the colony?

The cohesion in the system by which the Empire is governed is further shown in the relation of the Imperial to colonial governments in matters of war. The authority of the Crown in this respect is supreme: in a British colony the sovereign is the constitutional head of all armed forces. This supremacy of the Crown must remain inviolate. In every colony the governor represents the sovereign in the exercise of this prerogative; but

in such matters he must act in strict accordance with the instructions from his Majesty's government. The governor's commission usually elects him to the position of commander-in-chief of all local forces raised within the colony, and his relation to his Majesty's regular army or navy depends on special election by the home government. If there is a military officer holding supreme command in the colony he controls all military operations though he must act in co-operation with the governor, and in certain things to acknowledge his superior authority. The relation between the representative of the sovereign and this specialist in military affairs is definitely arranged in his Majesty's official regulations concerning such matters.

Not long ago, the people in the old country had to bear almost the whole burden of the military expenses of the Empire. But the injustice of this state of affairs appealed to Imperial and colonial statesmen alike, and the policy now is that self governing colonies shall bear the responsibility of self defence. This secures the development in the colonies of a "proper spirit of self reliance and a willingness to share in the responsibility of maintaining intact their free institutions and their national existence."

Throughout the colonies generally much has been done for the organization and training of local military forces and the provision of ships of war to maintain efficient protection from foreign aggression. "More than this, both in Canada and in Australia, a spirit of loyalty and of patriotism has increased rather than diminished since the necessity for local self defence has been imposed on these flourishing communities." It was Canadian soldiers that repelled the attacks of Fenians from across the line and repressed the rebellion in the North West Territories. Also the part in the colonies are to take in the progress, welfare and defence of the Empire was shown in the patriotic action of Canada and of Australia in the recent war in

South Africa. These colonies supplied and maintained forces whose loyalty, ability and valor were unexcelled by the veteran soldiers of the mother land. Does not that ring out harmony in the legislative forces of the Empire?

It now remains to discuss briefly the significance of the expression colonial self government, with the purpose of bringing more into relief the relation of the Imperial to colonial government. In an initial paragraph it has been stated that the governments of the colonies resemble that of the mother country in constitution, legislation and administration. As a matter of fact this system of colonial government is nothing more than an economical device for applying the principle of British government to an extended territory. It would be very inconvenient for the different parts of the Empire to send members to one great parliament; the expense would be considerable and then the mass of business for the whole Empire would be too much altogether for one gathering of representatives. This objection would not only apply to the popular house, but more so to the second or upper chamber. And it is an easy thing to imagine the sovereign and his executive council completely overwhelmed by the unabating and unmerciful storm of business. The insurmountable difficulties in such an arrangement are time and distance: the remedy is specialization or division of labor. Hence, groups of representatives remain in that part of the Empire to which they represent; they are associated with a group of reliable men who form an upper chamber: the sovereign is represented by a governor selected for his wisdom and reliability; and the king in council by the governor and his ministers chosen from the party in majority in the popular assembly and upper chamber. Instead of by one great cumbrous parliament the Empire is governed by a number of small ones grouped around the central or Imperial one; each has in a general way, the same work to perform; all are bound together by the representatives of the sovereign, the governors general, and by a common cause-- the welfare of

the parts they govern and of the whole Empire. Is not efficiency the underlying principle? Is not there union of like parts-- cohesion?

Hence each colonial government controls the domestic or internal concerns of the colony. In all matters of domestic policy the colony is governed according to the well understood wishes of its inhabitants expressed through their representatives in the legislature; and it is in conformity with the royal instructions for the guidance of governors under this British system of government, which state that the control of all ~~parties~~ departments of the public is practically placed in the hands of persons commanding the confidence of a representative legislature. The colonists know what is best for themselves, and therefore, in accordance with the principle of British freedom, conduct their own affairs.

In the case of a number of colonies forming a confederation, like the provinces of the Dominion of Canada, each province has a government and there is a central parliament controlling the affairs which concern the Dominion at large. It has been stated throughout the discussion that Canada enjoys a greater measure of self government than other colonies. This means that the Imperial Parliament has delegated to the central government of the federation some of the authority which is exercised by the home government over individual colonies. The governor general holds the same relation to each province and the Dominion that the king has to each colony and the Empire. The provincial government has control over the affairs which belong particularly to the province: the Dominion parliament supervises the actions of the provincial legislatures and controls the affairs which concern the federation as a whole. The relation between this central government and those of the provinces was settled by agreement among the colonies perform-

forming the federation and sanctioned by the Imperial parliament; each within its own jurisdiction is supreme.

Now without entering into particular matters which fall within the jurisdiction of a provincial legislature or a federal parliament, I would like to point out another means by which the cohesion, efficiency and harmony of the government of the Empire is strengthened and preserved in a practical way. It is the office of High Commissioner. An able and reliable statesman is chosen by each of the leading British colonies to take up his residence in London, and to look after the interests of the colony that he represents. His plane of action is quite extended; he has oversight of the interests of his colony in matters of commerce, finance, immigration, and transacts business in a general way with the Imperial government. The High Commissioner of Canada has assigned to him the three branches; finance, immigration, diplomacy: he can discuss with the Imperial authorities territorial questions and questions of national defence." But it is worthy of special emphasis that the High Commissioner is selected for his ability, reliability and experience in the affairs of the colony; his department is concerning the interests of the part of the Empire which he represents; his office is recognized by the Imperial authorities, and he is responsible to his own legislature alone. The duties of the High Commissioner are conducive to cohesion, efficiency, harmony.

But the particular system of government does not supply everything requisite for an efficient management of the affairs of a great Empire. Imagine every British subject displeased by a South Sea Islander: would our political system keep an Empire together and in harmony? There must be in the people a love of knowledge, of truth; a deep sense of justice; a reverence for law; a mutual forbearance, a magnanimous unselfishness; a loyalty rooted in a genuine appreciation of the advantages and privileges enjoyed by every subject of the Empire. And these

are the qualities predominant in the character of the British people, in the colonist as well as in the old countryman. A true representative of them, Tennyson, gives voice to the spirit of the nation in the following:

"Love thou thy land, with love far brought
From out the storied past, and used
Within the present, but transfused
Through future time by power of thought.

"True love turn'd round on fixed poles,
Love, that endures not sordid ends,
For English natures, freemen, friends,
Thy brothers and immortal souls."

It is that spirit of which the system ruling the Empire is but the expression. The duties of the sovereign and his representatives, the freedom enjoyed in the colonies and the assistance and concessions given by the mother country to them, and their devotion to her, are but the great spirit of the nation in action, and promote in the ruling system efficiency, union, harmony.

But what will be the relation of the Imperial to colonial government in the future? The poet says:

"Meet is it changes should control
Our being, lest we rust in ease.
We all are changed by still degrees,
All but the basis of the soul.

* * * * *

"Ev'n now we hear with inward strife,
 A motion toiling in the gloom--
 The Spirit of the years to come,
 Yearning to mix himself with Life."

Even now we hear discussion on Imperial federation, and I would like to touch slightly on the subject.

The policy of the mother country is to grant concessions as required by the colonies, when they are able and willing to use such in the right way. But the time has not come for the mother country to concede Imperial legislation to her dependencies. The colonies are too young: they are very busy in the school of local politics; too busy preparing for the responsibility and larger share of self control that is to come. There is a great deal of work for them to get through with yet, before they will be justified in claiming a position in the higher and broader class of Imperial politics. When the school days are over and all local work, well and regularly done, then the colonies may claim positions in the higher class of legislation.

Canada, for example, is the leading colony, but still there is a very great deal of local work to be done. It would not be wise for Canadian statesmen to specialize in Imperial politics at present: their plane of study, and their duty is in the colony, and it is beyond their power to master both branches under present circumstances. The people of Canada have the greatest measure of self government: the mother country has removed every restriction to their progress, and has granted every concession beneficial to them. Canadians are loyal and true to Great Britain, but at present they are intensely interested in the growth and development of a young country, and if Imperial confederation were offered to them, they would consider the matter seriously and not accept

it. They have sufficient Imperial representation in the governor general and the High Commissioner.

But after a while, perhaps not very long, when the boundless resources of Canada are made use of by a greater population, when there are more railways and ships and military forces; when political life has become more uniform and settled-- then, the Dominion will ask for, and be given a share in Imperial legislation. The High Commissioner will take his seat in an Imperial council.

"To morrow yet would reap to-day,
As we bear blossom of the dead;
Earn well the thrifty months, nor wed
Raw Haste, half sister to delay.

"So let the change which comes be free
To ingroove itself with that which flies,
And work, a joint of state, that plies
Its office, moved with sympathy."

And as for Britain--

"Grave mother of majestic works,
From her isle-altar gazing down,
Who, God like, grasps the triple forks,
And, king like, wears the crown.

"Her open eyes desire the truth.
The wisdom of a thousand years
Is in them. May perpetual youth
Keep dry their light from tears;

"That her fair form may stand and shine,
Make bright our days and light our dreams,
Turning to scorn with lips divine
The falsehood of extremes!"

* * * * *
* * * * *
* * * * *
* * * * *
* * * * *
* * * * *