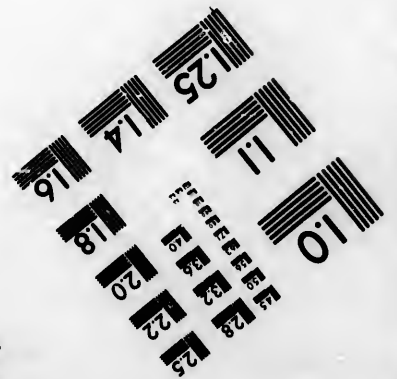
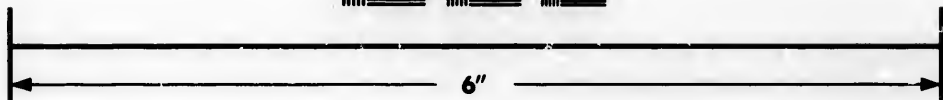
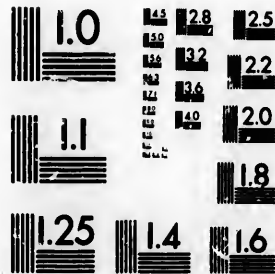


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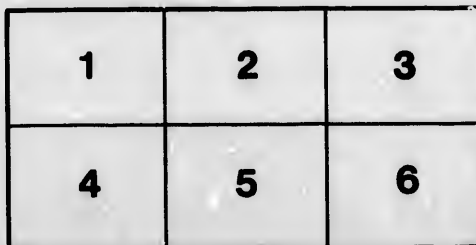
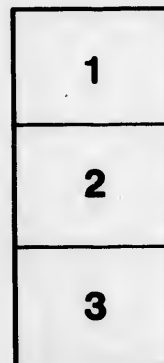
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THE PROPOSED CONSTITUTION FOR BRITISH NORTH AMERICA.¹

A UNION of the provinces of British North America under a new constitu-

¹ Report of Resolutions adopted at a Conference of Delegates, from the Provinces of Canada, Nova Scotia, and New Brunswick, and the Colonies of Newfoundland and Prince Edward Island, held at the city of Quebec, 10th October, 1864, as the basis of a proposed Confederation of those Provinces and Colonies.

tion, is a subject of which it may be said, not as a hackneyed phrase, but in earnest, that its importance needs no exaggeration. Perhaps, in most minds, it derives a part of its interest from the tacit conviction that it is a step towards a further change.

No further change, however, is contemplated, professedly at least, by the

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framers of the document, but the reverse. One of their assigned motives for adopting the particular constitution which they select, is the desire of "perpetuating the connexion of the colonies with the "mother country." And, in fact, the scheme which they have proposed is based on the continuance of the connexion, and, if it was removed, would necessarily fall to the ground. For no Executive government is provided but that which "is vested in the Sovereign "of the United Kingdom of Great Britain "and Ireland." It is true that this government is "to be administered "according to the well-understood principles of the British constitution;" in plain English, that the name of the Crown or its representative is to be a mere mask, under which the real power is to be exercised by the heads of the dominant party in the colonies: but, as will appear hereafter, the mask is indispensable. Its removal would reveal what few would care to embrace.

We do not propose here to discuss the political connexion of the colonies in general, or that of the North American colonies in particular, with the mother country. But, before the connexion is solemnly ratified anew, and the future prosperity of a great community built upon that foundation, let the question be fairly and manfully looked in the face. These colonies are separated from us by three thousand miles of ocean. They are inaccessible for the purposes of military co-operation during nearly half the year. They are brought into intimate relations, diplomatic and commercial, with the communities of a different continent from ours. Their fundamental institutions—the principle of social and political equality, the absence of hereditary rank, of primogeniture and entails, their free churches and common schools,—are essentially those of the New, not those of the Old World. They are so far from being identified with us in commercial interest that they impose protective duties on our goods. At the present moment, both the mother-country and the colony are brought by the connexion into gratuitous peril: for

the angry Americans, though they have no desire for Canada as a territorial acquisition, are tempted to pick quarrels with us by its opportuneness as a battlefield; while the Canadians would be perfectly safe if they were not involved in the danger of a collision between us and the Americans. The hope of a Canadian force, able fairly to share with us the burden of defence, must by this time have passed away. The Canadians will not bear the taxation requisite for a regular army; and, in a country where the people are so thinly scattered and so much occupied, an effective militia or volunteer force is almost out of the question. On the other hand, supposing the political connexion to be dissolved, all the effective ties of kinship would remain; nor does there seem to be any objection to our abrogating, as against Canadians, all the legal and political disabilities of aliens, so that a Canadian coming to reside in England might be at once, in every respect, an English citizen. Under these circumstances, does not true wisdom, with which sound sentiment is never at variance, dictate the friendly and cautious termination of the present connexion? This is the question which it is the duty—the hard duty, no doubt—of those who have the destinies of the two communities in their keeping now to determine; and to determine with reference to the real interests of those concerned, not under the influence of mere tradition, mere phrases, or such empty fancies as the notion of *prestige*. Does the "*prestige*" of having the defence of Canada on our hands at this moment form a safeguard, in the opinion of any human being, against the danger which is present to every one's mind, and the occurrence of which was easily foreseen from the commencement of the great volcanic eruption in the adjoining States?

To proceed to the projected constitution. The first clause proposes a *federal* union of the colonies; and the next clause speaks of the *federation* of the British North American Provinces. But the third clause avows the desire, in framing the scheme of Government, "to

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"follow the model of the British constitution, so far as circumstances will permit." Now the British constitution is not the constitution of a federal union, or of a federation, but of a kingdom. There is a good deal of local government exercised under the authority of the sovereign power; but Great Britain is, nevertheless, a kingdom and not a federation. If, therefore, the framers of the Canadian constitution really intend to create a federation, the model which they have chosen for their constitution would seem inapplicable to their case.¹

The fact, however, seems to be, that they intend to create not a federation, but a kingdom, and practically to extinguish the independent existence of the several provinces. The governors of the provinces, instead of being elected like those of the American States, are to be appointed by the Central Government; the Central Government is to have the power of disallowing any Bills which the local legislature may pass: and though the powers bestowed on those legislatures are considerable, they are not very materially greater, in their practical scope, and regard being had to this central power of disallowance, than those delegated to local authorities in the United Kingdom. But the apprehension of some sentiment of independence in the several provinces, based, perhaps, on certain peculiarities of interest, leads the framers of the constitution to stop short in their work, and, instead of avowing and carrying out the design of an incorporating union, to adopt the phraseology, and, to some extent, the actual structure of a federation. They hope, no doubt, that the course of events will practically decide the ambiguity in favour of the incorporating union. So did the statesmen who formed the constitution of the United States. And the result is, that a large portion of the Southern people (those not immediately interested in slavery) are fighting like demons for State independence, not

¹ They would do well to read the opening chapter of Mr. Freeman's *History of Federal Governments*, where the character of such Governments is thoroughly explained.

without the sympathy of a considerable minority at the North, while the majority of the Northerners are struggling to put them down as rebels.

The sentiment of provincial independence among the several provinces of British North America is at this moment merged in the desire of combining against the common danger, which their unwise exhibition of antipathy to the Americans, and their improvident encouragement of Southern refugees, have contributed to create. But, when the danger is overpast, divergent interests may reappear, and the sentiment of independence may revive. This will probably be the case, especially in the French and Catholic province. The framers of the constitution, therefore, ought not to evade the difficulty of deciding clearly between a federation and a Kingdom, and thus to leave the object of the citizens' ultimate allegiance in ambiguity, in the confidence, based on the present state of feeling, that all will hereafter settle itself in the right way.

If we look not to the mere tendency of the hour, but to the permanent interests of these colonies, there is, perhaps, not a little to be said in favour of a real federation, as a constitution for communities occupying a vast extent of territory, with necessarily a good many varieties of interest, and probably of character, but in need of mutual protection against enemies without, and of internal tranquillity and free trade. This arrangement combines independence, emulation, comparative experience, all that is valuable (or rather invaluable) in numerous centres of civilization, with all that can be rationally desired in a consolidated empire. It is not, like an empire, suited for the purposes of aggression, because, happily, a group of states have seldom a common interest in an aggressive enterprise, but historical experience shows that it is well suited for the purposes of defence; for the four great federations, the Achaean, the Swiss, that of the United Provinces, and that of the American colonies, all had their origin in memorable defences; and, if the

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Achæan League was not positively successful in repulsing the overwhelming power which assailed it, it was successful compared with the great monarchies of the time—even the Macedonian—and enjoyed before it full a period of happiness and glory.¹ The tendency of the Teutonic race, as the stronger and more independent, has been, both in the old world and the new, towards federal government, though in the old world the tendency has been a good deal thwarted by the pressure of military necessities; while the tendency of the weaker Celt has been, and seems to be almost incurably, towards the centralization from which he derives collective strength, or rather force, at the expense of all the higher objects of human association. A federal union also most easily admits of the peaceful extension of territory, a prospect which of course opens before the North American Confederation as well as before the United States. Finally, it leaves everything more open and susceptible of modification; an advantage not apt to be appreciated by the framers of constitutions, but, nevertheless, a considerable one in the case of a continent which is still in course of settlement, and the final divisions and arrangement of which cannot at present be certainly foreseen. It would be somewhat rash, at least, to assert positively that Nature will finally ratify the political accident which has cut off from the rest of the continent the long ribbon of territory stretching from Nova Scotia to the British Colonies on the Northern Pacific.

¹ "How practically efficient the federal principle was in maintaining the strength and freedom of the nation is best shown by the bitter hatred which it crused, first in the Macedonian kings, and then in the Roman senate. It was no contemptible political system against which so many kings and consuls successively conspired; it was no weak bond which the subtlest of all diplomatic senates expended so many intrigues and stratagems to unloose."—Freeman's *History of Federal Governments*, vol. i. (on the *Greek Federations*), p. 710. And see the quotation from Justin in the note. Kent absurdly includes the Amphictyonic League among his instances of the weakness of Federations.

Hamilton, the principal framer of the Washingtonian constitution, was a man of great ability, and of great though honourable ambition, who had been accustomed through the Revolution to act upon an ample scene. He aspired to found a great national Government, the rival of the great national Governments of Europe, in the administration of which a first-rate statesman might find full scope for his capacity. He did not know, and could hardly be expected to know, that as civilization advances the importance and dignity of government, the function of which is compulsion, diminish, while those of voluntary association and spontaneous action increase. Nor, as the position selected for his national capital shows, did he anticipate the extension of the United States beyond the limits hitherto assigned by nature to a centralized nation. His destined capital, the "city of magnificent distances," stands a ghastly and ridiculous monument of his mistake. That his political structure was conceived in error is a fact not so palpable, yet, perhaps, not less certain. There is nothing in the world so sound as American society, with its intimate union of all classes, its general diffusion of property, its common schools, and its free religion. The danger of communism, or of anything like a war of classes, is never felt; and even strikes were almost unknown till the Legal Tender Act multiplied them by causing a frightful derangement of prices. The local institutions also, in which the people administer their own affairs, or elect officers to act under the eye of the constituency and in conjunction with it, are perfectly healthy, and form, in themselves and by their effect in training the political character of the people, the sheet-anchor of the constitution.¹ But the central institutions are full of faction and corruption. In a busy community, which, happily for itself, has no idle class of hereditary

¹ The municipality of New York is very corrupt; but New York with its great Irish and German mob is quite an exceptional case, though regarded by newspaper correspondents and their readers as the type of America.

proprietors, the most respectable citizens, under ordinary circumstances, when there is no great question on foot and no great call for patriotic exertion, are too much occupied in their own commercial and domestic concerns to be candidates for an office which would oblige them to reside at the capital. Their places are taken by a class of professional politicians, needy men for the most part, who too often go to Washington to make the fortunes which others are making through industry, by the trade of political intrigue. The character and habits of these men, the machinery of caucuses and wire-pulling by which their system is carried on, and the general tone of the newspaper press which ministers to their competition for place, still further repel the best men from the political sphere. It is not astonishing that those who come in contact only with the politicians of America, or with what emanates from the politicians, should form, as they are apt to do, a ludicrously unjust estimate of the American people.

The framers of the scheme before us style their work a copy of the British constitution; but, as a plan of a central government for a federation, it may be called rather a copy of the constitution of the United States. Ottawa, as a factitious capital, is the exact counterpart of Washington; and at Ottawa, as at Washington, we shall too probably see the least worthy citizens of the Federation collected together, during several months in each year, without even the tempering and restraining influences which the mixed society of a real capital affords, an unadulterated element of professional politicians, devoting their whole time to the undivided work of corruption and intrigue.

If the Federation is to have a central government and a capital, the question should at all events be considered whether it is not desirable to place the capital in a city, such as Montreal, where there will be some social interests and influences, to temper the pursuits of which Willard's Hotel and the boarding-houses at Washington are the

classic scene. Even the amenities of Washington debate might be a little controlled by the presence of a more enlarged and cultivated circle in the gallery.

A writer, himself a colonist, and one who has had considerable experience in colonial politics, lays it down as one of a series of axioms for the guidance of colonial legislators, "that it is a fallacy to assume that there will be found in the colonies, as in England, a class of statesmen sufficiently above the influence of sordid motives to take the management of public affairs from public spirit and patriotic motives alone; or that men who, by securing the votes of the majority of a colonial legislature, can obtain the handling of the colonial revenue, and the dispensing of the patronage of office, in addition to the distinction which it confers, will scruple at any sacrifice of the public interests which may be necessary to secure those objects." If there is any truth in this somewhat plain-spoken summary of a colonist's political experience, it betokens no vice or malady in colonial society, but, on the contrary, a general prevalence of industry, and an equal diffusion of wealth. It does, however, make it desirable, before instituting a great central government with a vast amount of patronage, and an unlimited command of money, to pause and inquire, whether under the existing conditions of colonial society competent and disinterested candidates for the places in that government are likely to be found. If they are not, it might be a sounder, though a less imposing policy, to be content with a simple federation for the purpose of mutual protection, confining the Federal Assembly to purely federal functions, giving its members as little patronage as possible, and assigning to them only the power of calling for the necessary contingents from the different States in place of the power of raising taxes by their own authority, and expending them with their own hands.

These reflections press upon us with peculiar force when we observe the

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amenities of the General Parliament in relation to public works:—"Lines of steam or 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 federal provinces and other countries;" "telegraph communication and the incorporation of telegraph companies." All these, and the patronage connected with them, together with an unlimited power of borrowing money, as well as of raising it by taxation, are to be assigned to that particular class of men who in America and the colonies seek their fortune in political life. And their powers are extended by a sweeping provision to "all such works as shall, although lying wholly within any province, be specially declared by the Acts authorizing them to be for the general advantage." Either the Canadian press is extremely calumnious, or the apprehensions which on perusing these clauses reason suggests will not be dispelled by reference to experience. The members of the British House of Lords are not needy men, and their virtue is fortified by every safeguard which their own position or the sensitiveness of public opinion can afford; yet they and the county members used the political power entrusted to them in extorting "compensation" and other advantages from railway companies to an extent which reminded the world of feudal barons levying black mail on passengers along the Rhine; while the history of the Galway contract is a pretty strong proof that "lines of steam or other ships," as well as land communications, may produce political combinations not exclusively directed to the promotion of the public service. The apprehension that provincial intelligence and the interest of the companies will not suffice to secure connexion between lines of railroad without the control of a central authority, seems to be unfounded; since even the independent nations of Europe have managed to arrange an international system of railways, of which no great complaint is

made; and the service between London and Paris is as speedy and convenient as though the line of road and packets had been laid down by an European Congress. Federal fortifications, and other military or naval defences, are, in truth, the only kind of public works which it is obviously necessary to place in federal hands.

The advocates of a simple federation will probably be met by objections derived from the present state of affairs in Germany and the United States: but the first of these examples is, in truth, irrelevant, while the moral of the second, if it be closely looked into, is the opposite of that which, at first sight, it may appear to be. In the case of Germany, the federation is completely overridden and in effect destroyed by the domineering influence of two great military monarchies, the territories of one of which, Austria, are mainly situated outside of the confederacy, and form the fulcrum of a force external to federal interests, though exerted with tyrannical effect in the federal councils. There is no reason to believe that, abstracted from these alien elements, the federal compact fails to answer the purpose of its institution. As to the American Confederation, it may be thought, on a superficial view, that the present disruption is caused by the looseness of the tie; and such evidently is the prevalent notion among the Americans themselves, who are at this moment bent upon the abolition of State rights, and the exaltation of the Central Legislature and Government. But the fact is the very reverse. Had the United States been a simple federation, with a federal council limited in its functions to strictly federal subjects, Slavery, the subject on which they have split, never would have been a national question; nor would it have given rise to a struggle between national parties, culminating in a national election. Humanity can hardly deplore anything which has led practically to the destruction of slavery; but the moral to be deduced by the framers of

constitutions from that which has taken place in the United States is that, where divergent interests or tendencies in relation to questions other than those of peace and war exist among the members of a confederacy, despotic coercion being out of the question in an association formed on the principle of freedom, the safeguard against disruption is to be sought in local independence rather than in centralization—in the elasticity rather than in the tightness of the federal bond.

The framers express their desire to follow the model of the British constitution so far as their circumstances will permit. Their circumstances are those of an American community, which, like the other Anglo-Saxon communities of America, has left behind it, in its passage over the ocean, the ceremonies of the feudal system—hereditary aristocracy, primogeniture, entails, and the Established Church—institutions peculiarly characteristic of the structure of British society, to which, under the general law connecting the political system of a nation with its social state, the British constitution is adapted. The Established Church has been deliberately rejected by the Canadians; and aristocracy, the introduction of which was distinctly provided for by Mr. Pitt's Canadian Act, has been, if not deliberately rejected, decisively repelled by the nature of the case. In no form has the hereditary principle, so essential to the orthodox creed of British constitutionalists, found its way into the colonies; for the impotence of the hereditary sovereign, who receives at a distance the nominal homage of a self-governed dependency, is delegated to a representative on the spot; and this representative is not hereditary, but the nominee of those who represent the majority in the British Parliament for the time being.

The new North American Parliament is to consist of two Houses. The Upper House is called the Legislative Council; the Lower House is called the House of Commons—a relative term, in itself unmeaning, to which the authors of the

scheme would probably think it too adventurous to give a meaning by calling the Upper House a House of Lords.

The members of the Legislative Council are to hold their seats for life, and are to be nominated by the Executive. This arrangement certainly avoids the objection to which a double chamber in a popular government is generally liable as a futile attempt to make the sovereign people put a check upon itself, which is apt to result rather in a dissipation of the sense of responsibility than in the imposition of a real restraint upon the action of the Lower House. But, on the other hand, it is one the nature and consequences of which ought to be fairly looked in the face before it is irrevocably adopted. It involves, as was before hinted, an important, though indirect, and, perhaps, unconscious fulfilment of the wish expressed by the framers to perpetuate the connexion of the dependency with the mother country. The absolute nomination of a whole branch of the Legislature by the Executive may, perhaps, be endured while the power is exercised by the representative of a monarch, and in the monarch's name. But such a power, exercised by the Executive nakedly and without disguise, would scarcely be tolerated by any community accustomed to responsible government and attached to popular liberty. If the governor-general should ever be withdrawn, this part of the constitution remaining as it was, nobody could step into his place but a king.

The members of the Council are required to have a continuing qualification of four thousand dollars; and (except in the case of Prince Edward Island and Newfoundland) it is to be in real property. The political distinction between real and personal property was, of course, intelligible enough in feudal times, and as connected with feudal duties and services; and it is not surprising that it should be found remaining, together with other traces of feudalism, in the semi-feudal constitution of England. But with reference to modern institutions it would seem to be obsolete,

and devoid of meaning. Real property no longer discharges any duties to the State which are not discharged equally by personal property; and the holder of a sum in railway stock, or (still more palpably) the holder of a sum in the public funds, has just as great a stake in the welfare of the country, and offers as sufficient a guarantee in every way for his integrity and patriotism, as the holder of an equal sum in land. Even in England this fact has been perceived, and not only have we accepted chattel interests in land as property qualifications, but the recent projects of parliamentary reform have contemplated the admission of stock and deposits likewise. And assuredly it is not on the ground of special certainty or stability that, in a colony like Canada, political distinctions in favour of real property ought to be drawn: for there are few places, we apprehend, where the value of land and houses is more uncertain and variable. The value of real property in Toronto, for example, has fluctuated enormously within the last twenty years. Any kind of stock or funds would, in truth, have been a far more solid possession. But there seems to be a notion that because land itself is stable, property in it, though it may be the wildest of all possible speculations, is stable also: a mere illusion, as we need scarcely observe.

The object, however, of this peculiar provision is no doubt to be explained simply by the desire of imitating the British constitution. It is an attempt on the part of the framers to create a territorial aristocracy, so far as their circumstances will permit. Perhaps they are scarcely aware how adverse those circumstances are, or how truly their instinct guided them when they refrained from styling their Legislative Council a House of Lords. In England we have a social and proprietary order of men really eminent for wealth as the holders of large, entailed, and in many cases ancestral, estates. Out of this number the bulk of our peers are chosen; and they have a real qualification as members of a great plutocracy (for that is the true designation of the

body), independent of their mere nomination by a Minister of the Crown. In a colony such as Canada, no such proprietary or social order exists; no set of men there are really eminent for wealth; no property is ancestral or entailed; and the riches even of the wealthiest are but the creation of the day, which in the strange vicissitudes of colonial trade may again vanish on the morrow. The highest property qualification which the framers of the Constitution venture to name is for their purpose almost a nullity. Twenty thousand a year strictly entailed is wealth if it is not merit. Four thousand dollars a year is neither wealth nor merit. The qualification of persons who have no higher territorial position than this will rest upon the minister's nomination, and upon that alone.

It is constantly said by the advocates of the House of Lords that it is a representative institution; and this statement is true in a very important, though not in the most popular sense. The members of the House of Lords do represent, and most effectually represent, the interests of the great class of landlords, upon the support of which, as well as on their personal wealth and position, their authority is based. In a colony there is no such class, and therefore the strength derived by the House of Lords from its virtually representative character would be entirely wanting to the Legislative Council.

It will perhaps be said that in the case of a House not hereditary, but consisting entirely of members nominated for life, there will at all events be no "tenth-transmitters of a foolish force;" and that personal merit will supply the place of territorial and social distinction. But, unless a complete change comes over the political spirit of these communities, the chief seat of power, and the scene of the great party struggles, will always be in the popular branch of the Legislature, and a minister will not be able to afford the removal of his most effective supporters into the Upper House. The most he will be able to afford to that calm repository will probably be respectable mediocrity and

superannuation ; and, if a more powerful man sometimes demands a nomination as the price of support at a political crisis, this will not materially mend the matter. Cromwell, as Protector, finding his Parliament difficult to manage, thought to alleviate the difficulty by creating an Upper House of nominees, into which, to give it respectability, he was obliged to transfer his most eminent supporters. The consequence was, that the Lower House became utterly uncontrollable, and the Parliament broke up in a storm.

"The elective constitution of the Upper House," says Mr. Thring, in his recent pamphlet on Colonial Reform, "is a matter of necessity. No other way can be devised of preventing gratings between the two Houses, that may retard, and at last put out of gear, the whole machinery of government. No system of nomination will create a House of Peers, with its traditions, its experience, and its ancient prestige." It is believed that, where nominee councils have been tried in the colonies, the result of the experiment attests the truth of Mr. Thring's position.

The property qualification of the members of the Council, as was said, is to be continuous : on its failure (an incident too common amidst the changes and chances of colonial life) the member is to forfeit his seat and his position. The constitution provides that, if any question arises as to the qualification of a councillor, it shall be determined by the Council ; and it is not very likely that those who sail in the same somewhat fragile bark will be extreme to mark the failure of their colleague's qualification, unless it be in a time of great party excitement. Otherwise it is hard to imagine a severer test of a man's veracity and integrity than a law threatening him with what would be in fact a penal degradation upon his ceasing to make a return of his income above a certain amount. Our own property qualification for the House of Commons was relinquished, it is believed, partly on the ground that the qualifications tendered were sometimes of a merely colourable kind.

There seems good reason to doubt whether Providence, in ordering the course of man's political development, has willed that aristocracy should be extended to the New World, which appears to present on the one hand none of the conditions historically known as essential to the existence of such an institution ; and, on the other hand, none of the political exigencies which, in the progress of a feudal monarchy in Europe towards constitutional liberty, the action of the nobility, as an intermediate power between the king and the people, unquestionably supplied. And, if this institution is really alien to these communities, it will be, when infused into their veins, a political and social poison, which nature may perhaps expel by an effort as violent and terrible as that by which the poison of slavery is now being thrown off. It behoves the legislator, therefore, before he takes any step in this direction, to cast all prejudice and everything that is merely of the hour aside, and deliberately to assure himself that his work will be permanently good.

There lies before us a pile—literally a pile—of documents, embodying the recent constitutions of European notions framed in mistaken and unseasonable imitation of the institutions which political circumstances of a very peculiar kind have established in this country, and the balance of which a national temperament almost equally peculiar enables our people to preserve. Europe is covered with the wreck of these imitations, and, what is still more deplorable, with the wreck of political faith. After ages will moralize on the hallucination under which an exceptional and transitional state of things, marking the last phase in the existence of an old feudal monarchy, has been regarded, and confidently propagated, as the normal and final state of man. The result in each case is that affairs have come or are coming to a dead-lock, through which a way is violently made, according to the relative magnitude of the political forces entangled in it, either by popular revolution or military usurpation. In the case of British North America, if an

Executive with a nominee senate is placed in opposition to a popular assembly, the Executive having no standing army, the chances are that when the nominee senate has become sufficiently obstructive and corrupt to provoke general hatred, the Government will be overturned.

It has been hinted that the arrangement of two chambers in a popular government is futile as an attempt to make the sovereign people, whose will is inevitably supreme, place a check upon itself. It is perfectly true that this arrangement is in fashion, and that in some of the States of America, where there was not originally a second chamber, it has been adopted after experience of the other plan. But the virtue of the double chamber really lies, it is apprehended, not in its being double, but in the different periods for which the members of the two Houses are elected. While this is the case, though the whole Legislature is an emanation of the will of the people, and will be so, contrive what machinery you will, it is not an emanation from their momentary passion. The surest way to secure this vital object is to avoid general elections. In the early period of our constitution the King and his Council were the Government: the Parliament was summoned only to confer with them on special subjects, and to grant them supplies in special exigencies; and general elections were then natural and harmless. Now, the Parliament is the Government, the Cabinet being in fact a standing committee of its members; and the system which exposes the whole Government to the liability of being changed in an hour under the influence of a transient gust of national opinion is a manifest evil. The mischief is completed by the practice of penal dissolutions. Both practices are faithfully adopted into the British American constitution.

Government by party, according to the English model, is also distinctly contemplated; for a rather *naïve* provision is made that the claims of the Opposition shall not be overlooked in the first appointment of members to the Legislative Council. The parties of

England are great historical parties, and embody real principles; or rather, the Liberal party represents the modern and Protestant element of the nation in its protracted and wavering effort to throw off the remains of the feudal system, and place society and religion on a rational foundation. This both lends stability to the parties and to the governments which they produce, and saves their conflict from degenerating into a merely fictitious or mercenary struggle for place and power. In colonies there are no historical parties, nor, as the feudal principles on which the Tory party rests have never obtained a footing, is there any difference of principle, on which a real party division can be based. The so-called parties are consequently mere cabals, and, if a titho of what the colonial journals say is to be believed, cabals, not only of the most fictitious, but of the most mercenary kind. The governments which emanate from these are for the same reason totally devoid of stability; and if any really great questions were concerned the consequences would be disastrous. In the United States, in like manner, the parties were devoid of significance and dignity till the question of slavery, long suppressed and excluded from legislative discussion, forced itself into the foreground, when the struggle of factions for office merged at once in a civil war. The frequent changes of government, which characterize all the British colonies, were prevented in the case of the United States by the existence of an Executive emanating from the popular will, independently of the Legislature, and powerful enough to carry on the administration for its four years of office by its own authority, even in the teeth of an adverse majority in Congress.

The executive government is, in words before quoted, "vested in the sovereign of the United Kingdom of Great Britain and Ireland," and is "to be administered according to the well-understood principles of the British constitution, by the sovereign personally, or by the representative of the sovereign duly authorized."

The authors of this solemn declaration know perfectly well that they would never permit the representative of the British sovereign, much less the sovereign personally, to perform a single act of government. In England, their original seat, these constitutional fictions, tacitly interpreted by practice, are comparatively unobjectionable. They are analogous to the legal fictions by which the spirit of our old law was liberalized, when prejudice would not permit an alteration of its consecrated forms. But when they are transplanted, and embodied in the written enactments of a new constitution, they become at once degrading and injurious. Put the reality in place of the figment in the case before us—say, in plain and honest terms, that an executive power of limits undefined by the constitution, together with the power of nominating the Upper House of the Legislature, shall be vested in the leader of the party having the majority for the time being, whose acts shall be called those of the Crown—and the whole arrangement will assume a very different complexion. Politics are not so opposite in their nature to any other department of human action as to admit of the advantageous or even the innocuous use of hypocrisy and self-delusion.

And this brings us to the last point we have here to mention. The powers of the North American Parliament are expressed to be conferred with a due reservation of the "sovereignty of England." It has become necessary without further delay to ascertain in what, practically speaking, this sovereignty consists. We have referred to the pamphlet on Colonial Reform, by Mr. Thring, which comes into our hands while we are writing these remarks. Mr. Thring is, if we may venture to say so, under the full influence of the natural but delusive metaphor which has so deeply infected common ideas and general legislation respecting the colonies. Because England is in a poetical sense the mother of her colony, he, like other writers, thinks it necessary to provide a political apparatus for nursing and weaning the child; the truth being

that the English constituencies which make up the "mother country" are quite incapable of discharging maternal functions towards colonists far removed from the range of their observation and interest, and at least as intelligent and as fitted for self-government as themselves. But he distinctly sees that, so much having been recently conceded to the colonies, it must be settled what the mother country has retained for herself, and what authority she is to enjoy in return for the heavy expense and still more onerous danger of the connexion. His view of colonial independence is liberal enough, but among the powers which he reserves as essential to the sovereignty of the mother country is that of regulating commerce between the different colonies and other parts of Her Majesty's dominions. This he justly deems requisite "in order to prevent the imposition of improper duties on imports and exports, in contravention of free trade and common sense." That a British dependency claiming to be an integral part of the empire, and requiring to be defended as such by British arms, should impose protective duties on British goods, is surely not only injurious to the Imperial Government, but ignominious. Yet this Canada does, and she laughs all complaints to scorn. Assuredly a complete resettlement of the North American colonies ought not to be ratified without an express engagement, one way or the other, on this point.

Mr. Thring would also take security for the provision by the colony of a reasonable quota of men and money in case of war. He exercises his charity in finding an excuse for the absence in the present resolutions of any proposition to that effect. Hope is inextinguishable. We are now in the fifth year of the American civil war. We have been coaxing and scolding Canada, and she has been making the most gallant and satisfactory professions all the time. Mr. Thring can easily learn whether she has now, or whether there is any practical prospect of her having, a single man or gun ready to take the field.

GOLDWIN SMITH.

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