

Charters
of our
Freedom

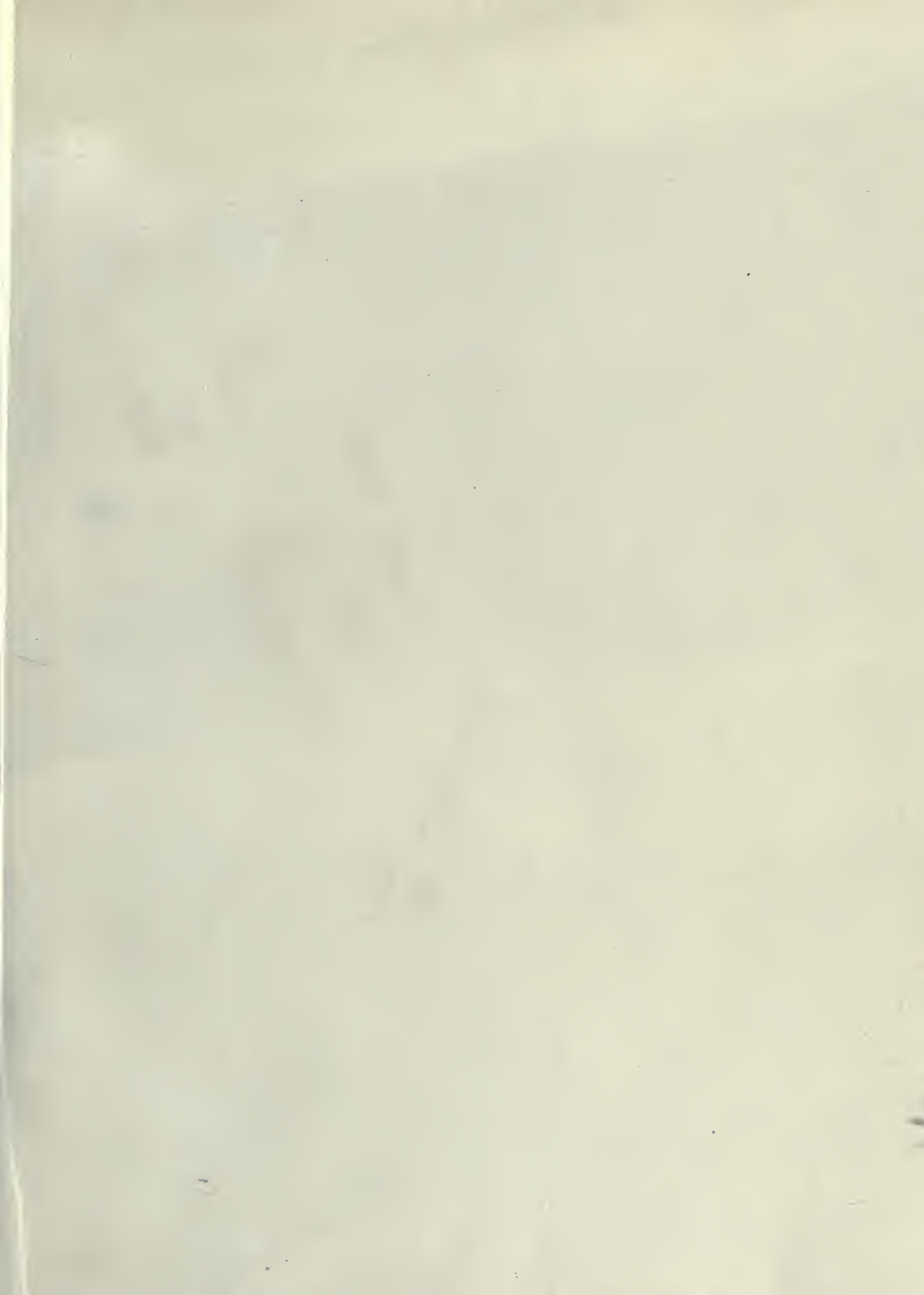
Trotter







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Charters of our Freedom

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Foreword



DOWN THROUGH the centuries the progress of mankind towards political and economic freedom has been painfully slow and tortuous. Individual liberty and freedom as we know it has been purchased at a tremendous sacrifice of blood and treasure. To Canadians born early in the twentieth century liberty seemed like an imperishable thing, and yet we have learned that individual freedom is something that can be lost to us even as other democratic peoples have lost it.

To understand the manner and form of our government, to know something about the mighty forces, impulses, and movements that moulded our way of life, we must have a knowledge of events and conditions that created them. In the eternal struggle for liberty certain bulwarks stand out like beacons in a darkened world.

Dr. Trotter has, in this volume, assembled in an admirable manner the important documents upon which British constitutional government is based. His introductory notes and annotations are clear and lucid. From Magna Carta to the Atlantic Charter, he has selected the most outstanding documents—those which marked definite steps forward, and he has given the text of the pertinent parts. These are linked together with interesting narrative, telling of the conditions which led up to each document, and the important results achieved.

Embracing as it does such important documents as Magna Carta, the Bill of Rights, the British North America Act, and the Statute of Westminster, *Charters of our Freedom* should be the prized possession of every Canadian. Each Canadian high-school student should have a copy of this book; every school should use it as a reference text; and every Canadian man and woman should read it—the record of our liberty and how it was achieved.

The Canadian Citizenship Council collaborated in the preparation of this volume and hopes that it may be a valuable aid in promoting better understanding of our privileges and responsibilities.

C. H. BLAKENY,

HONORARY CHAIRMAN,
CANADIAN CITIZENSHIP COUNCIL.

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Charters of our Freedom

i

The Nature of Freedom



WHAT IS FREEDOM?

FREEDOM is a common word, but it is often used without a clear understanding of what it means. It means many things. Some men find an inner freedom of the individual soul, and retain it however hard the conditions under which they live, or whatever evil may befall their bodies. But the freedom about which we talk in this book is something different. It is freedom in relation to government and law. It has two sides, civil liberty and political liberty.

Civil liberty, or liberty of the person, means one's opportunity to live his own life free from arbitrary or illegal interference by government, or by other persons, with his movement, conduct, and opinion. Enjoyment of such freedom by the members of a community can never be complete, for the very laws that safeguard the individual's liberties can do so only by placing restrictions on all persons to prevent them from conduct harmful to one another. Law guards the liberties of each of us by limiting the liberty of all. It must restrain even the rulers themselves in the exercise of their authority over their subjects.

Political liberty means the opportunity to share in government either directly or by helping to choose representatives who make the laws and carry them into effect. It means opportunity for the people to control those who govern them and to change the government by lawful methods.

Experience has shown that without political liberty, civil liberty is in danger. Whenever in history men have failed to limit the power of their rulers, that power has grown at the expense of the governed. Whenever governments have gained unlimited power they have become tyrannies.

CANADIAN FREEDOM

AS CANADIANS we are proud of our freedom. But freedom is not ours alone. In many ways it is shared with all free peoples. We share it most closely with those nations whose political institutions have the same English roots as ours.

Except for Great Britain itself all these nations are comparatively young. The United States has been a nation little more than a century and a half. It broke away from the British connection when only some of the important stages in the growth of British freedom had been accomplished. Canada is the oldest of the overseas partners in the British Commonwealth, but its national history is less than half as long as that of the United States. The other Dominions are still younger. These young nations and certain others have made their own contributions to the growth of freedom, but its roots lie in the past before any of them were born.

Our Canadian civilization has drawn its ideals, as it has drawn its men and women, from many lands and many peoples. Important elements of our thinking can be traced as far back as the ancient Hebrews and Greeks of the eastern Mediterranean world. Some basic ideas of government and law we owe to the ancient Greeks and Romans. The origins of our political system, however, are to be found in the England of the Middle Ages, where events began to shape the machinery of government under which we enjoy our present freedom.

Constitutional development in England from that time is of special importance to the modern world. When by and by most other nations lost what freedom they had enjoyed and fell under the sway of tyrannical rulers, England kept on her path towards larger, not lesser, freedom. As the British Empire grew, the political institutions and ideas that had developed in England were transplanted to many colonies, from which there has grown the present-day British Empire-Commonwealth, the most widespread political association of peoples that history has ever known. In this great association the United Kingdom and the Dominions are partner nations. It includes also many other peoples at various stages of political development. For these others also the recognized goal is freedom that shall include political liberty as well as civil liberty. In many parts of the dependent Empire, in spite of difficulties, much progress has been made towards this goal in the past and is being made today.

The heritage of English freedom is not confined to the peoples of the British Commonwealth and Empire. Much of it is shared by the United States, which grew from colonies that received their heritage of freedom in early days when they were part of the British Empire. Many other nations also have looked to the British Constitution as an example in building their own systems of government.

To-day, in the united effort of many peoples, welded by war into the United Nations to build a more free and more secure world, the Commonwealth of British Nations holds a place of unique influence and responsibility. In defending our freedom Canadians have become linked more strongly than ever with all the British peoples and with all other peoples who cherish freedom and whose hearts are strong in its defence.

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Magna Carta
and the Origin of Our Liberties





King John Sets His Seal to Magna Carta

HOW MAGNA CARTA CAME TO BE

WRITTEN more than seven hundred years ago, MAGNA CARTA is the most famous document in the long history of the growth of English freedom.

A century and a half had passed since William the Conqueror had crossed the Channel and won the English crown. Since then his Norman French followers and their descendants had mingled their blood with the older English stock and a new English people was being born from the mixture. The political skill of the Norman French had already done much to establish more effective law and order throughout the land. The rights of individuals and their obligations to one another under the feudal system became more definite. At the same time the royal government was growing more efficient and more powerful.

King John's reign made it obvious to all classes of the people that in his hands the monarchy was not only strong, it was also despotic. John abused his power and wronged his subjects. He failed disastrously to defend England's interests abroad.

The great men of the kingdom determined to make him recognize the rights of his subjects. The people stood with them. The King must yield to such a threat of revolt. How was he to be dealt with? It had long been the custom at a King's coronation for him to take a coronation oath promising to rule well and justly. In the reign of Henry I this had been supplemented by a coronation charter recognizing in more definite terms the rights of various classes of people. This charter had been renewed by his successors Stephen and Henry II. It now furnished a useful example in dealing with King John.

The leaders who opposed the King met him on June 15, 1215, at Runnymede, a meadow by the River Thames near Windsor. There they insisted on his accepting a detailed statement of the rights of the Church, the Barons, and the Commons. He had to yield to their demand and set his seal to the document. It was then put in the form of a charter. Copies of this were made on parchment and sealed with the King's great seal, and sent throughout the land in order that it might be publicly read by royal order in every county.

This document is known as Magna Carta, or sometimes as the Great Charter of Liberties. It deals mainly with feudal matters and therefore its provisions cannot all be fully understood without special research. Never-

theless it makes interesting reading. The text given here is an old official translation from the original Latin, with the modern numbering of the articles added for convenient reference. Some of the difficult terms are explained by insertions between the lines.

The most famous articles are 12 and 14, which deal with certain taxation and with the means of obtaining consent thereto ; 39 and 40, which promise lawful trial of accused persons and justice to all without delay ; and 61, which provides for an elected committee of twenty-five barons to deal with the King over any violation of the charter by him and, if necessary, to lead his people in force against him to compel him to respect the law. The method set forth in this sixty-first article was merely a temporary proposal, but it shows how strong was the purpose of John's opponents to find some way to make the King keep the law.

Magna Carta (1215 A. D.)

John, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Aquitaine, and Earl of Anjou: To the Archbishops, Bishops, Abbots, Earls, Barons, Justiciaries, Foresters, Sheriffs, Reeves, Ministers, and all Bailiffs and others, his faithful subjects, Greeting. Know ye that, in the presence of God, and for the health of Our soul, and the souls of Our ancestors and heirs, to the honour of God, and the exaltation of Holy Church, and *amendment* of Our kingdom, by the advice of Our reverend betterment Fathers, Stephen, Archbishop of Canterbury, Primate of all England and Cardinal of the Holy Roman Church; Henry, Archbishop of Dublin; William of London; Peter of Winchester, Jocelin of Bath and Glastonbury, Hugh of Lincoln, Walter of Worcester, William of Coventry, Benedict of Rochester, Bishops; and Master Pandulph, the Pope's sub-deacon and familiar; Brother Aymeric, Master of the Knights of the Temple in England; and the noble persons, William Marshal, Earl of Pembroke; William, Earl of Salisbury; William, Earl of Warren; William, Earl of Arundel; Alan de Galloway, Constable of Scotland; Warin Fitz-Gerald, Hubert de Burgh, Seneschal of Poictou, Peter Fitz-Herbert, Hugo de Neville, Matthew Fitz-Herbert, Thomas Basset, Alan Basset, Philip Daubeney, Robert de Roppelay, John Marshal, John Fitz-Hugh, and others, Our *liegemen*.
faithful men

1. We have, in the first place, granted to God, and by this Our present Charter confirmed for Us and Our heirs for ever — That the English Church shall be free and enjoy all her rights in their *integrity* and her liberties *untouched*. And that We will this so to be observed appears from the fact that We of Our *mere* and free will, before the outbreak of the dissensions between Us and Our Barons, granted, confirmed, and procured to be confirmed by Pope Innocent III, the freedom of elections which is considered most important and necessary to the English Church, which Charter We will both keep Ourself and will it to be so kept by Our heirs for ever. We have also granted to all the free men of Our Kingdom, for Us and Our heirs for ever, all the liberties underwritten, to have and to hold to them and their heirs of Us and Our heirs.

2. If any of Our Earls, Barons, or others who hold [their lands] of Us *in chief* by Knight's service, shall die, and at the time of his death his heir shall be of full age and owe a *relief*, he shall have his inheritance by ancient relief; to wit, the heir or heirs of an Earl of an entire Earl's Barony, £100; the heir or heirs of a Baron of an entire Barony, £100; the heir or heirs of a Knight of an entire Knight's *fee*, 100s. at the most; and he that oweth less shall give less, according to the ancient custom of fees.

3. If, however, the heir of any such shall be under age and in *ward*, he shall, when he comes of age, have his inheritance without relief or fine.

4. The guardian of the land of any such heir so under age shall take therefrom reasonable *issues*, *customs*, and services only, and that without destruction and waste of men or property ; and if We shall have committed the custody of any such land to the Sheriff or any other person who ought to be answerable to Us for the issues thereof, and he commit destruction or waste upon the wardlands, We will take an *emend* from him, and the land shall be committed to two lawful and discreet men of that *fee*, who shall be answerable for the *issues* to Us or to whomsoever We shall have assigned them. And if We shall give or sell the *wardship* of any such land to any one, and he commit destruction or waste upon it, he shall lose the *wardship*, which shall be committed to two lawful and discreet men of that *fee*, who shall, in like manner, be answerable unto Us as hath been aforesaid.

5. But the guardian, so long as he shall have the custody of the land, shall keep up and maintain the houses, parks, fish ponds, pools, mills and other things pertaining thereto, out of the *issues* of the same, and shall restore the whole to the heir when he comes of age, stocked with ploughs and *wainage* according as the season may require and the issues of the land can reasonably bear.

6. Heirs shall be married without *disparagement*, to which end the marriage shall be made known to the heir's nearest of kin before it be *contracted*.

7. A widow, after the death of her husband, shall immediately and without difficulty have her marriage portion and inheritance, nor shall she give anything for her marriage portion, *dower*,
share of her husband's property
or inheritance which her husband and herself held on the day of his death; and she may remain in her husband's house for forty days after his death, within which time her *dower* shall be *assigned*
share of her husband's property legally transferred
to her.

8. No widow shall be *distraigned* to marry so long as she has
compelled
a mind to live without a husband; provided, however, that she give security that she will not marry without Our assent if she *holds of Us*, or that of the Lord of whom she *holds*, if she *hold*
is Our tenant is a tenant is a tenant
of another.

9. Neither We nor Our bailiffs shall seize any land or rent for any debt so long as the debtor's *chattels* are sufficient to discharge
movable possessions
the same; nor shall the debtor's *sureties* be *distraigned* so long as
guarantors have their possessions taken
the chief debtor hath sufficient to pay the debt, and if he fail in payment thereof, not having wherewithal to discharge it, then the sureties shall *answer* it, and, if they will, shall hold the debtor's
pay
lands and rents until satisfaction of the debt which they have paid for him be made them, unless the chief debtor can show himself to be quit thereof against them.

10. If any one shall have borrowed money from the Jews, more or less, and die before the debt be satisfied, no interest shall be taken upon such debt so long as the heir be under age, of whom-

soever he may *hold*; and if the debt shall fall into Our hands We will only take the *chattel* mentioned in the *charter*.
be a tenant
principal agreement

11. And if any one die indebted to the Jews his wife shall have her *dower* and pay nothing of that debt; and if the children of the said deceased be left under age they shall have necessaries provided for them *according to the condition* of the deceased, and the debt shall be paid out of the residue, saving the lord's service; and so shall it be done with regard to debts owed to other persons than Jews.
legal share of his property
corresponding to the holding

12. No *scutage* or *aid* shall be imposed in Our kingdom unless by common *counsel* thereof, except to ransom Our person, make Our eldest son a knight, and once to marry Our eldest daughter, and for this a reasonable *aid* only shall be paid. So shall it be with regard to aids from the City of London.
"shield money" in lieu of military service or special feudal payment
consent
special payment

13. And the City of London shall have all her ancient liberties and free customs, both by land and water. Moreover We will and grant that all other cities, boroughs, towns, and ports shall have all their liberties and free customs.

14. And for obtaining the common *counsel* of the kingdom concerning the assessment of *aids* other than in the three cases aforesaid or of *scutage*, We will cause to be summoned, severally by Our letters, the Archbishops, Bishops, Abbots, Earls and great Barons; and in addition We will also cause to be summoned, generally, by Our sheriffs and bailiffs, all those who hold of *Us* in
consent
special payments
payment in place of military service
their estates

chief, to meet at a certain day, to wit, at the end of forty days at least, and at a certain place; and in all letters of such summons We will explain the cause thereof, and the summons being thus made the business shall proceed on the day appointed, according to the advice of those who shall be present, notwithstanding that the whole number of persons summoned shall not have come.

15. We will not, for the future, grant permission to any man to levy an *aid* upon his freemen, except to ransom his person, make his eldest son a knight, and once to marry his eldest daughter, for which a reasonable aid only shall be levied.

16. No man shall be *distrained* to perform more service for a knight's *fee* or other free *tenement* than is due therefrom.

17. *Common pleas* shall not follow Our Court, but be holden in some certain place.

18. *Recognisance of Novel Disseisin, Mort d' Ancestor, and Darrein Presentment* shall be taken in their *proper* counties only, and in this wise; — We Ourself, or, if We be absent from the realm, Our Chief Justiciary, shall send two *justiciaries* through each county four times a year, who, together with four knights elected out of each shire by the *people* thereof, shall hold the said *assizes* on the day and in the place aforesaid.

19. And if the said assizes cannot be held on the day appointed, so many of the knights and freeholders as shall have been present thereat on that day shall remain as will be sufficient for the admin-

istration of justice, according as the business to be done be greater or less.

20. A free man shall not be *amerced* for a small *fault*, but according to the measure thereof, and for a great crime according to its magnitude, *in proportion to his degree*; and in like manner a merchant *in proportion to his merchandise*, and a villein *in proportion to his wainage* if he should fall under Our mercy; and none of the said *ameracements* shall be imposed unless by the oath of honest men of the *venue*.

21. Earls and Barons shall only be *amerced* by their *peers* in proportion to the measure of the offence.

22. No *clerk* shall be *amerced* for his *lay tenement*, except after the manner of the other persons aforesaid, and not according to the value of his *ecclesiastical benefice*.

23. Neither shall any *vill* or person be *distraigned* to make bridges over rivers, but they who are bound to do so by ancient custom and law.

24. No sheriff, constable, coroners, or other Our bailiffs shall *hold pleas of Our Crown*.

25. All counties, *hundreds*, *tithings*, and *wapentakes* shall stand at the old *farms*, without any increased rent, except *Our demesne manors*.

26. If any one die holding a *lay fee* of Us, and the sheriff or Our bailiff show Our letters patent of summons touching the

debt due to Us from the deceased, it shall be lawful to such sheriff or bailiff to *attach* and register the *chattels* of the deceased found in the lay fee to the value of that debt, by *view of* lawful men, so that nothing be removed therefrom until Our whole debt be paid; and the residue shall be given up to the executors to carry out the will of the deceased. And if there be nothing due from him to Us, all his *chattels* shall remain to the deceased, saving to his wife and children their reasonable shares.

27. If any free man shall die *intestate* his *chattels* shall be distributed by the hands of his nearest kinsfolk and friends by *view of* the Church, saving to every one the debts due to him from the deceased.

28. No constable or other Our bailiff shall take *corn* or other *chattels* of any man without immediate payment for the same, unless he hath a voluntary *respite* of payment from the seller.

29. No constable shall *distrain* any knight to give money for *castle-guard*, if he will perform it either in his proper person or by some other fit man, if he himself be prevented from so doing by reasonable cause; and, if We lead or send him into the army, he shall be quit of *castle-guard* for the time he shall remain in the army by Our command.

30. No sheriff or other Our bailiff, or any other man, shall take the horses or carts of any free man for *carriage* except with his consent.

31. Neither shall We or Our bailiffs take another man's timber for Our castles or other uses, unless with the consent of the owner thereof.

32. We will only retain the lands of persons convicted of *felony* for a year and a day, after which they shall be restored to the Lords of the *fees*.
acts involving forfeiture of estates
feudal estates

33. From henceforth all *weirs* shall be entirely removed from the Thames and Medway, and throughout England, except upon the sea coast.
fish-weirs

34. The writ called "Praeceptum" shall not, for the future, issue to any one of any *tenement* whereby a freeman may *lose his court*.
concerning holding lose his rights in his feudal court

35. There shall be one measure of wine throughout Our kingdom, and one of ale, and one measure of *corn*, to wit, the London quarter, and one breadth of dyed cloth, *russetts*, and *haberjects*, to wit, two ells within the *lists*. And as with measures so shall it be also with weights.
grain homespun cloths lining for coats of mail
selvages

36. From henceforth nothing shall be given for a writ of *inquisition upon life or limbs*, but it shall be granted gratis, and shall not be denied.
a court trial instead of trial by combat
to insure

37. If any one hold of Us by *fee-farm, socage or burgage*, and hold land of another by knight's service, We will not have the *wardship* of his heir, or the land which belongs to another man's fee, by reason of that fee-farm, socage, or burgage, unless such fee-farm owe knight's service. We will not have the wardship of
lesser feudal forms of free land-holding
guardianship

any man's heir, or the land which he holds of another by knight's service, by reason of any *petty serjeanty* which he holds of Us by service of rendering Us daggers, arrows, or the like.
non-military feudal holding

38. No bailiff shall for the future put any man to trial upon his simple accusation without producing credible witnesses to the truth thereof.

39. No freeman shall be taken, imprisoned, *disseised*, outlawed, banished, or in any way destroyed, nor will We proceed against or prosecute him except by lawful judgment of his *peers* or the law of the land.
dispossessed
feudal equals

40. To no one will We sell, to none will We deny or defer, right or justice.

41. All merchants shall have safe conduct to go and come out of and into England, and to stay in and travel through England by land and water for purchase or sale, without *maltolt*, by ancient and just customs, except in time of war, or if they belong to a country at war with Us. And if any such be found in Our dominion at the outbreak of war, they shall be *attached*, without injury to their persons or goods, until it be known to Us or Our Chief Justiciary, after what sort Our merchants are treated who shall be found to be at that time in the country at war with Us, and if they be safe there then these shall be so also with Us.
evil exaction
arrested

42. It shall be lawful in future, unless in time of war, for any one to leave and return to Our kingdom safely and securely by

land and water, saving his *fealty* allegiance to Us, for any short period, for the common benefit of the realm, except prisoners and outlaws according to the law of the land, people of the country at war with Us, and merchants who shall be dealt with as is aforesaid.

43. If any one die holding of any *escheat*, feudal estate reverted to the Crown as of the honour of Wallingford, Nottingham, Boulogne, Lancaster, or other *escheats* reverted estates which are in Our hands and are baronies, his heir shall not give any *relief* inheritance payment or do any service to Us other than he would owe to the baron if such barony should have been in the hands of a baron, and We will hold it in the same manner in which the baron held it.

44. Persons dwelling without the forest shall not for the future come before Our justiciaries of the forest by common summons, unless they be *impleaded* involved in a suit under forest laws or are bail for any person or persons *attached* arrested for breach of forest-laws.

45. We will only appoint such men to be justiciaries, constables, sheriffs, or bailiffs as know the law of the land and will keep it well.

46. All barons, founders of abbeys by charters of English kings or ancient tenure, shall have the custody of the same during vacancy as is due.

47. All forests which have been *afforested* placed under forest laws in Our time shall be forthwith disafforested, and so shall it be done with regard to *rivers* river banks which have been *placed in fence* reserved for royal hunting in Our time.

48. All evil customs concerning forests and *warrens*, enclosed breeding grounds for game foresters,

warreners, sheriffs, and their officers, rivers and their conservators, shall be immediately inquired into in each county by twelve sworn knights of such shire, who must be elected by honest men thereof, and within forty days after making the inquisition they shall be altogether and irrevocably abolished, the matter having been previously brought to Our knowledge or that of Our Chief Justiciary, if We, Ourselves shall not be in England.

49. We will immediately give up all hostages and charters delivered to Us by the English for the security of peace and the performance of loyal service.

(Articles 50 to 59 deal mostly with special and temporary matters and are therefore omitted.)

60. All which customs and liberties aforesaid, which We have granted to be enjoyed, as far as in Us lies, by Our people throughout Our kingdom, let all Our subjects, clerks and laymen, observe, as far as in them lies, towards their dependents.

61. And whereas We, for the honour of God and the amendment of Our realm, and in order the better to allay the discord arisen between Us and Our barons, have granted all these things aforesaid, We, willing that they be for ever enjoyed wholly and in lasting strength, do give and grant to Our subjects the following security, to wit, that the barons shall elect any twenty-five barons of the kingdom at will, who shall, with their utmost power, keep, hold, and cause to be holden the peace and liberties

which We have granted unto them, and by this Our present Charter confirmed, so that, for instance, if We, Our Justiciary, bailiffs, or any of Our ministers, offend in any respect against any man, or shall transgress any of these articles of peace or security, and the offence be brought before four of the said five and twenty barons, those four barons shall come before Us, or Our Chief Justiciary if We are out of the kingdom, declaring the offence, and shall demand speedy amends for the same. And if We or in case of Our being out of the kingdom, Our Chief Justiciary, fail to afford redress within the space of forty days from the time the case was brought before Us or Our Chief Justiciary, the aforesaid four barons shall refer the matter to the rest of the twenty-five barons, who, together with the commonalty of the whole country, shall *distrain* and distress Us to the utmost of their power, to wit, by compel capture of Our castles, lands, possessions, and all other possible means, until compensation be made according to their decision, saving Our person and that of Our Queen and children, and as soon as that be done they shall return to their former allegiance. Any one whatsoever in the kingdom may take oath that, for the accomplishment of the aforesaid matters, he will obey the orders of the said twenty-five barons, and distress Us to the utmost of his power ; and We give public and free leave to every one wishing to take such oath to do so, and to none will We deny the same. Moreover We will compel all such of Our subjects who

shall decline to swear to, and together with the said twenty-five barons to *distrain* and distress Us of their own free will and accord, to do so by Our command as is aforesaid. And if any one of the twenty-five barons shall die or leave the country, or be in any way hindered from executing the said office, the rest of the said twenty-five barons shall choose another in his stead, at their discretion, who shall be sworn in like manner as the others. And in all cases which are referred to the said twenty-five barons to execute, and in which a difference shall arise among them, supposing them all to be present, or that all who have been summoned are unwilling or unable to appear, the verdict of the majority shall be considered as firm and binding as if the whole number should have been of one mind. And the aforesaid twenty-five shall swear to keep faithfully all the aforesaid articles, and, to the best of their power, cause them to be kept by others. And we will not procure, either by Ourselves or any other, anything from any man whereby any of the said concessions or liberties may be revoked or abated; and if any such procurement be made let it be null and void; it shall never be made use of either by Us or any other.

62. We have also wholly *remitted* and *condoned* all ill-will, wrath, and malice which have arisen between Us and Our subjects, clerks and laymen, during the disputes, to and with all men; and We have moreover fully remitted, and as far as in Us lies, wholly condoned to and with all clerks and laymen all trespasses

made in consequence of the said disputes from Easter in the sixteenth year of Our reign till the restoration of peace; and, over and above this, We have caused to be made in their behalf letters patent by testimony of Stephen, Archbishop of Canterbury, Henry, Archbishop of Dublin, the Bishops above mentioned, and Master Pandulph, upon the security and concession aforesaid.

63. Wherefore We will, and firmly charge, that the English Church be free, and that the men in Our Kingdom have and hold all the aforesaid liberties, rights, and concessions, well and peaceably, freely, quietly, fully, and wholly, to them and their heirs, of Us and Our heirs, in all things and places for ever, as is aforesaid. It is moreover sworn, as well on Our part as on the part of the Barons, that all these matters aforesaid shall be kept in good faith and without *malengine*. Witness the above-mentioned Prelates and Nobles and many others. Given by Our hand in the meadow which is called Runnymede between Windsor and Staines, on the Fifteenth day of June in the Seventeenth year of Our reign.

THE IMPORTANCE OF MAGNA CARTA

IT IS NOT the details of Magna Carta that give it lasting importance. They have long been out of date, for ways of life and the laws concerning them have changed greatly since the feudal times in which these details were written. Its underlying principle, however, is important for all time: that government should not be arbitrary, carried on at the whim of the ruler, but should be conducted according to the law. The whole document, and the events surrounding it, were a dramatic assertion that even the King was not above the law.

The document came to be looked on as the foundation of English liberties, and it was long the practice to require succeeding Kings to "confirm" or endorse it with various changes in its details. After the Great Council had developed into a Parliament, Magna Carta was passed by it and ratified by the King in a form that clearly recognized the principle that new taxes could not be levied lawfully without the consent of Parliament.

As the Royal Courts of Common Law developed (Court of King's Bench for criminal matters, Court of Common Pleas for suits between subjects, and Court of Exchequer for financial matters involving the government) their growing importance worked against the feudal practices and weakened the feudal rights that Magna Carta was intended to preserve. Nevertheless the growth of these courts was in line with the fundamental idea of the rule of law which Magna Carta upheld. That document therefore came to be regarded as a safeguard of the Common Law against arbitrary royal interference with the administration of justice. When the position of both Parliament and the Courts was threatened by the early Stuart Kings, their defenders often appealed to Magna Carta as the foundation of their liberties against royal absolutism.

Modern research has made clearer the feudal nature of this old document's provisions, but has also made clearer the permanent importance of its underlying principle. Magna Carta is recognized by scholars as the "origin of the English Constitution", the "foundation of English liberties". The peoples of British lands, and those of other lands for whom the free institutions of Britain have provided encouragement and example, may properly speak of this document of 1215 as the Great Charter of their liberties.

iii

Parliament Becomes the Guardian
of British Liberty





The Houses of Parliament at Westminster in London

THE RISE OF PARLIAMENT

PARLIAMENT to-day is supreme in British government. It began in the same century as Magna Carta, when representatives were elected by the knights of the shires and by the burgesses of the towns to meet with the higher clergy and the greater barons who made up the Great Council. Long before the Middle Ages were over and the New World discovered, Parliament's two Houses, of Lords and Commons, were both of real importance.

The "power of the purse" (the right to vote taxes), which belonged mainly to the House of Commons, was used to gain the King's assent to many laws. Kings were most in harmony with the House of Commons when they needed its support to check the ambitions of the nobility, or to pay for military campaigns for the extension of English power or for protection from England's enemies.

When the Stuart line came to the throne, England's mediaeval nobility had largely disappeared, and, with the defeat of the Spanish Armada, fear of foreign conquest had passed. James I and Charles I thought they could rule Parliament and be a law unto themselves. Charles, however, was so much in need of money in 1628 that he had to accept the Petition of Right. In this, Parliament declared that certain of his actions were illegal and must not be repeated. This was the first important restriction of the royal power since the fifteenth century.

King Charles did not keep his promises. He tried to rule without Parliament and imprisoned many of his subjects without trial. However, after some years his need of money made him again call Parliament, and Parliament compelled him to accept fresh limitations on his power. Civil War soon followed and this brought about the defeat and execution of the King. Under Cromwell's military dictatorship a decade of republican experiment followed. From this the nation turned again to monarchy and called Charles II to the throne, but with the limitations on his authority that Parliament had put on Charles I.

It was still difficult to escape arbitrary imprisonment, so in 1679 the Habeas Corpus Act was passed to make the use of the old writ of Habeas Corpus easy, quick, and certain. This writ, the use of which until then had been too easily blocked, was an order from a judge to a jailor to bring an imprisoned person into Court and show legal cause for his imprisonment. It has since remained a valuable safeguard of personal liberty.

The arbitrary policies of James II soon afterwards brought a crisis which led to a victory for Parliament and to placing effective limitations on royal power. William and Mary were invited to occupy the throne in place of James, and in accepting the offer they agreed to a Declaration of Rights which listed, as unlawful, many of James's recent acts. In October 1689 Parliament passed the Bill of Rights confirming this Declaration. The following extracts from the Bill, except for the closing paragraphs, repeat the most important part of the Declaration.

The Bill of Rights at some points echoes Magna Carta, and, like it, deals with details, but details which reflect a great principle. Thereafter, although the monarch was formally the head of the state, the final controlling authority was actually in the hands of Parliament.

Extracts from the Bill of Rights (1689)

An Act Declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown.

... Whereas the said late King James the Second having abdicated the government, and the throne being thereby vacant, his Highness the Prince of Orange . . . did (by the advice of the Lords Spiritual and Temporal, and divers principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs, and Cinque Ports, for the choosing of such persons to represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two and twentieth day of January, in this year one thousand six hundred eighty and eight, in order to [provide] such an establishment, as [1689 by the "New Style" calendar] that their religion, laws, and liberties might not again be in danger of being subverted; upon which letters elections having been accordingly made:

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their

ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare :—

1. That the pretended power of suspending of laws, or the execution of laws, by regal authority without consent of Parliament is illegal.

2. That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

3. That the commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other commissions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the use of the Crown by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

5. That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

6. That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.

7. That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

8. That election of members of Parliament ought to be free.

9. That the freedom of speech, and debates or proceedings in

Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

10. That excessive bail ought not to be required nor excessive fines imposed; nor cruel and unusual punishments inflicted.

11. That jurors ought to be duly impanell'd and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.

12. That all grants and promises of fines and forfeitures of particular persons before conviction, are illegal and void.

13. And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently.

And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in anywise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their

rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties:

The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do resolve, that William and Mary, Prince and Princess of Orange, be, and be declared, King and Queen of England, France and Ireland, and the dominions thereunto belonging, to hold the Crown and royal dignity of the said kingdoms and dominions to them the said Prince and Princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives; and after their deceases, the said Crown and royal dignity of the said kingdoms and dominions, to be to the heirs of the body of the said Princess; and for default of such issue to the Princess Anne of Denmark, and the heirs of her body; and for default of such issue to the heirs of the body of the said Prince of Orange. And the Lords Spiritual and Temporal, and Commons, do pray the said Prince and Princess to accept the same accordingly.

(Here follow the oaths to be taken.)

Upon which their said Majesties did accept the Crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said Lords and Commons contained in the said declaration.

* * * * *

Now in pursuance of the premises, the said Lords Spiritual and Temporal, and Commons, in Parliament assembled, for the ratifying, confirming, and establishing the said declaration, and the articles, clauses, matters, and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted, That all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.

(William and Mary are then declared to be the lawful King and Queen and provision is made concerning the future succession to the throne.)

All which their Majesties are contented and pleased shall be declared, enacted, and established by authority of this present Parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

SUPREMACY OF PARLIAMENT AND GOVERNMENT BY THE PEOPLE

THE BILL OF RIGHTS marked victory for Parliament and guaranteed the civil liberty of the King's subjects. Parliament further strengthened its position by adopting various other measures. Certain practices concerning the making of laws and the voting of money were also instituted. These made it necessary for Parliament to meet regularly if government was to go on lawfully. The Act of Settlement of 1701 brought succession to the throne completely under Parliament's control. It also made it impossible for judges to be dismissed except at the demand of Parliament. Thus they were removed from the danger that royal pressure might influence their interpretation of the law.

But how was Parliament to control the day-by-day conduct of the men who carried on the business of government in the King's name? The solution of this problem was found in the growth of the Cabinet system. Under this plan the King appointed as his ministers members of Parliament whom the majority of the House of Commons were willing to support, and changed ministers whenever a majority of that House shifted their support from the Government of the day to another party.

In the nineteenth and early twentieth centuries the control of this parliamentary system passed step by step from the upper classes to the people as a whole. One Reform Act after another gave the vote to the middle classes in 1832, to industrial labourers in 1867, to agricultural labourers in 1884, to other men and to women over thirty in 1918, and to practically all women in 1928.

Meanwhile the power of the House of Lords to obstruct the will of the House of Commons (representing the mass of the people) grew less. The supremacy of the House of Commons was established in law by the Parliament Act of 1911.

The monarchy ceased many years ago to carry any danger of arbitrary power against which Parliament and the people must be on guard. It became instead a useful part of the democratic constitution which Britain has built, gradually but surely, on her ancient foundations. The monarch has become more than ever a living symbol of the great continuing traditions of the British state and the unity of its people of all classes and parties.

iv

British Liberties Spread Overseas
in the Early British Empire





Early Jamestown in Virginia,
the First British Colony to Have a Voice in Its Own Government

BEGINNINGS OF REPRESENTATIVE GOVERNMENT IN ENGLISH COLONIES

IN THE ERA of colonization which followed the discovery of America, England was the only great colonizing power that possessed a representative Parliament at home. The colonies of France and Spain naturally were governed by the same arbitrary methods that held sway in those countries. It was different in the English colonies. When a considerable body of English folk settled in a colony it was generally taken for granted by those in authority in England, as well as by the colonists themselves, that representative government would soon be set up to deal with many of the colony's own affairs. This was done in various ways, but in most cases at the order of those in authority in England.

The earliest example was in the colony of Virginia while it still had only a few hundred inhabitants. Permission to found the colony had been granted by the English government to a company formed for the purpose. What would be called to-day the board of directors of this company included prominent business men in England as well as members of the English Parliament. This board decided that in a growing community of Englishmen, even so distant from England as was Virginia, it was fitting that the people should have a share in government. They therefore instructed the Governor of the colony to have the colonists elect representatives to a colonial assembly. On July 30, 1619, there met in the church at Jamestown this first assembly in any English colony. When, five years later, the company lost its rights, and Virginia became a Royal Province, the assembly was continued.

In 1620 representative government was similarly set up in Bermuda, which thus enjoys the distinction of possessing the oldest representative legislature in any British colony or dominion to-day. There was another famous beginning in 1620, this time in New England, when the Pilgrim Fathers established the little colony of Plymouth. The leading element was a congregation of English dissenters from the established church of England, who had emigrated some years earlier to Holland. They had now sought and received King James I's permission to settle under the British flag in America and the Virginia Company had given its consent. Their ship, *The Mayflower*, arrived off Cape Cod as winter was approaching. They realized that they were outside the authority of the Virginia

Company and needed a government of their own to keep order. They drew up the famous Mayflower Compact. This followed the form of a Church Covenant, but it became a basis for the self-government of the Plymouth colony. In the following year the colony's right to establish laws through its own elected representatives was officially authorized in a patent or grant obtained from the English company which was in charge of activities in the region already known as New England and which now gave its approval to the settlement at Plymouth.

Although Virginia and Plymouth are no longer under the British Crown they are given place here because it was in them that the colonial self-government began which in later years was to become so wide-spread in the British Empire.

Ordinance for Virginia

[The document of 1619 ordering the establishment of representative government in Virginia has not been preserved, but the Company in London issued a new ordinance in 1621 which is almost if not exactly the same. This is the document printed here.]

TO ALL PEOPLE to whom these presents shall come, be seen, or heard, the Treasurer, Council and Company of Adventurers and Planters of the city of London for the first Colony in Virginia, send Greeting. Know ye that we, the said Treasurer, Council and Company, taking into our careful consideration the present state of the said Colony in Virginia, and intending, by the Divine assistance, to settle such a form of government there as may be to the greatest benefit and comfort of the people, and whereby all injustice, grievance and oppression may be prevented and kept off as much as is possible from the said Colony, have thought fit to make our entrance, by ordaining and establishing such Supreme Councils, as may not only be assisting to the Governor for the time being, in the administration of justice, and the executing of other duties to his office belonging, but also, by their vigilant care and prudence, may provide, as well for remedy of all inconveniences growing from time to time, as also for the advancing of increase, strength, stability and prosperity of the said Colony :

We therefore, the said Treasurer, Council and Company, by

authority directed to us from His Majesty under his Great Seal, upon mature deliberation do hereby order and declare, that from hence forward there be two Supreme Councils in Virginia, for the better government of the said Colony as aforesaid.

The one of which Councils, to be called the Council of State, and whose office shall chiefly be assisting with their care, advice and circumspection to the said Governor, shall be chosen, nominated, placed and displaced, from time to time, by us, the said Treasurer, Council and Company and our successors: which Council of State shall consist, for the present, only of those persons whose names are here inserted, viz. : Sir Francis Wyatt, Governor of Virginia, Captain Francis West, Sir George Yearly, Knight, Sir William Newce, Knight Marshal of Virginia, Mr. George Sandys, Treasurer, Mr. George Thorpe, Deputy of the College, Captain Thomas Newce, Deputy for the Company, Mr. Christopher Davison, Secretary, Doctor Potts, Physician to the Company, Mr. Paulet, Mr. Leech, Captain Nathaniel Powell, Mr. Roger Smith, Mr. John Berkley, Mr. John Rolfe, Mr. Ralph Hamer, Mr. John Pountus, Mr. Michael Lapworth, Mr. Harwood, Mr. Samuel Macocke ; which said Councillors and Council we earnestly pray and desire, and in His Majesty's name strictly charge and command, that all factious partialities and sinister respects laid aside, they bend their care and endeavours to assist the said Governor ; first and principally in advancement of the

honour and service of Almighty God, and the enlargement of his kingdom amongst those heathen people ; and next, in the erecting of the said Colony in one obedience to His Majesty, and all lawful authority from His Majesty derived ; and lastly, in maintaining the said people in justice and Christian conversation among themselves, and in strength and ability to withstand their enemies. And this Council is to be always, or for the most part, residing about or near the said Governor.

The other Council, more generally to be called by the Governor, and yearly of course and no oftener but for very extraordinary and important occasions, shall consist for the present of the said Council of State and of two burgesses out of every town, hundred, and other particular plantation, to be respectively chosen by the inhabitants ; which Council shall be called the General Assembly, wherein, as also in the said Council of State, all matters shall be decided, determined, and ordered by the greater part of the voices then present ; reserving always to the Governor a negative voice. And this General Assembly shall have free power to treat, consult, and conclude as well of all emergent occasions concerning the public weal of the said Colony and every part thereof, as also to make, ordain, and enact such general laws and orders, for the behoof of the said Colony, and the good government thereof, as shall, from time to time, appear necessary or requisite ;

Wherein, as in all other things, we require the said General Assembly, as also the said Council of State, to imitate and follow the policy of the form of government, laws, customs, manner of trial, and other administration of justice, used in the Realm of England, as near as may be, even as ourselves by His Majesty's Letters Patent are required.

Provided, that no laws or ordinance, made in the said General Assembly, shall be and continue in force and validity, unless the same shall be solemnly ratified and confirmed, in a General Greater Court of the said Company here in England and so ratified, and returned to them under our seal ; it being our intent to afford the like measure also unto the said Colony, that after the government of the said Colony shall once have been well framed, and settled accordingly, which is to be done by us as by authority derived from His Majesty, and the same shall have been so by us declared, no orders of our Court afterwards shall bind the said Colony, unless they be ratified in like manner in their General Assembly.

In witness whereof we have hereunto set our Common Seal, the 24th day of July, 1621, and in the year of the reign of our Governor Lord, James, by the grace of God of England, Scotland, France and Ireland, King, Defender of the Faith, viz. of England, France and Ireland the nineteenth and of Scotland the four and fiftieth.

The Mayflower Compact

IN THE NAME of God, Amen. We, whose names are underwritten, the loyal subjects of our dread Sovereign Lord King James, by the Grace of God of Great Britain, France, and Ireland King, Defender of the Faith, &c. ; having undertaken for the glory of God, and advancement of the Christian faith, and honour of our King and country, a voyage to plant the first colony in the northern parts of Virginia ; do by these presents, solemnly and mutually in the presence of God and one another, covenant and combine ourselves together into a civil body politic for our better ordering and preservation, and furtherance of the ends aforesaid; and by virtue hereof to enact, constitute, and frame, such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the general good of the colony ; unto which we promise all due submission and obedience. In witness whereof we have hereunder subscribed our names at Cape Cod the eleventh of November, in the year of the reign of our Sovereign Lord King James, of England, France and Ireland the eighteenth, and of Scotland the fifty-fourth. Anno Domini, 1620.

John Carver
William Bradford
Edward Winslow
William Brewster
Isaac Allerton

Miles Standish
John Alden
Samuel Fuller
Christopher Martin
William Mullins

William White
Richard Warren
John Howland
Stephen Hopkins
Edward Tilley

*John Tilley
Francis Cooke
Thomas Rogers
Thomas Tinker
John Rigdale
Edward Fuller
John Turner
Francis Eaton
James Chilton*

*John Crackston
John Billington
Moses Fletcher
John Goodman
Degory Priest
Thomas Williams
Gilbert Winslow
Edmund Margeson*

*Peter Browne
Richard Britteridge
George Soule
Richard Clarke
Richard Gardiner
John Allerton
Thomas English
Edward Dotey
Edward Leister*

PROGRESS AND FAILURE IN THE EARLY BRITISH EMPIRE

MANY ENGLISH COLONIES were founded in America as years went by. Some began under companies or proprietors, some were under the Crown. In most of them, from an early date, elected representatives of the people played an important part in government.

In Massachusetts a chartered commercial company moved its company organization across the Atlantic from England and made it into a representative government for the colony. Several offshoots of Massachusetts worked out their own systems along similar lines. These New Englanders left England at a time of party conflict. From the beginning they were specially independent in spirit. They sometimes forgot that they had brought their ideas on law and government with them from England, and that an England without a representative Parliament of its own would not have let colonies enjoy representative assemblies. The colonies outside New England, however, were founded in such ways that it was very obvious that they owed their representative government to England.

By the middle of the eighteenth century assemblies made up of representatives elected by the people had been set up in the English colonies all along the Atlantic coast of North America from Georgia to Nova Scotia, and in a number of islands in the West Indies. In no other Empire did any such system exist, by which the people of the colonies enjoyed, through their chosen representatives, a share in making the laws under which they lived and levying the taxes that they paid.

The colonies did not completely control their own government, however, under this system. As time went on, many of the colonials became more and more critical of this fact. Misunderstandings and hard feelings grew among different parties in the colonies, and between some of the colonies and the mother country. There were moderate persons both in the colonies and in Britain who, to meet this situation, wanted enlargement of self-government bit by bit. But differences were too deep between the extremists. One group demanded complete independence at once; the other insisted that imperial authority must be made stronger. Moderate counsels failed. The tragic result was civil war within the Empire, even within the colonies themselves. To this was added war with foreign powers who came to the aid of the revolutionary party. This War of the American Revolution established the independence of the United States.

Henceforth the tree of political and civil liberty which for so long had been growing in the colonial empire as well as in Britain was divided into two separate branches. In the United States it went on developing within the framework of the new Republic. Evidence that this branch still drew vigour from its English roots may be seen in the way in which the first state constitutions of Virginia and Massachusetts, and the Bill of Rights of the United States Constitution, all echoed Magna Carta and the English Bill of Rights.

The other branch, which remained in the British Empire, included a number of colonies with representative government similar to that in the colonies which had left the Empire. This branch also grew and eventually bore fruit in what to-day we call the British Commonwealth of Nations. Its members enjoy national independence without having sacrificed the advantages of their common British connection.

The Problem of Colonial Self-Government
Solved in the Later British Empire





Lord Durham, Who Recommended
Responsible Government for British North America

A REMEDY PROPOSED FOR DIFFICULTIES IN BRITISH NORTH AMERICA

THE TRADITIONS and institutions of the early British Empire were the foundation on which, after the American Revolution, the later British Empire was built. Among the colonies that remained in the Empire after the disaster was Nova Scotia. Its government was that of a typical royal province, with an elected assembly playing an important part. Before many years similar forms of government were set up in the other provinces of British North America.

In time difficulties developed in these provinces like those which had appeared in the former American colonies in the working of representative government. In all the provinces there was friction. In all, some changes gradually took place that increased the strength of the elected assemblies. But in all there remained the fact that the assemblies were unable to control the conduct of the administration or to get rid of officials whom they disliked.

In the provinces of Nova Scotia, New Brunswick, and Prince Edward Island, commonly known as the Maritime Provinces, there was good promise that even this difficulty would be met successfully before long. But in the Canadas events took a more troubled course. In Lower Canada quarrels between English-speaking and French-speaking parts of the population increased the political strife. In Upper Canada many of the people were immigrants fresh from the United Kingdom whose difficulties in getting started in their life in new settlements complicated a situation that was already troubled. So in both of the Canadas little rebellions broke out. Order was soon re-established, but the rebellions sharply called attention to the pressing nature of the political difficulties.

The Earl of Durham, a leading British statesman of the day, was persuaded by the British Government to become Governor-General of British North America. He was to deal directly as Governor with the crisis in Lower Canada and to study the troubled situation in all the provinces and recommend a remedy. He talked with many men in the two Canadas and with leaders from the Maritime Provinces who went to Quebec at his invitation.

He presented a long Report in 1839 to the British Government. Some of its ideas proved to be mistaken, but one of its recommendations concerning the problem of government has given this Report fame as the

most important official document on colonial questions in the nineteenth century. Durham advised that the Executive Council, which was appointed in each province to manage its affairs, should have the same sort of relation to the Assembly that the Cabinet in Great Britain had to the House of Commons. It should hold office only while supported by the Assembly. By this means the representatives of the people would be able to control the administration of the province and secure a change of government when they so desired. Friction between the Assembly and the Executive would be removed.

The following extract from Lord Durham's Report sets forth his famous ideas on this question.

Lord Durham's Report on the Affairs of British North America (1839)

[*Extract on Responsible Government*]

The preceding pages have sufficiently pointed out the nature of those evils, to the extensive operation of which, I attribute the various practical grievances, and the present unsatisfactory condition of the North American Colonies. It is not by weakening, but strengthening the influence of the people on its Government; by confining within much narrower bounds than those hitherto allotted to it, and not by extending the interference of the imperial authorities in the details of colonial affairs, that I believe that harmony is to be restored, where dissension has so long prevailed; and a regularity and vigour hitherto unknown, introduced into the administration of these Provinces. It needs no change in the principles of government, no invention of a new constitutional theory, to supply the remedy which would, in my opinion, completely remove the existing political disorders. It needs but to follow out consistently the principles of the British constitution, and introduce into the Government of these great Colonies those wise provisions, by which alone the working of the representative system can in any country be rendered harmonious and efficient. We are not now to consider the policy of establishing representative government in the North American Colonies.

That has been irrevocably done ; and the experiment of depriving the people of their present constitutional power, is not to be thought of. To conduct their Government harmoniously, in accordance with its established principles, is now the business of its rulers ; and I know not how it is possible to secure that harmony in any other way, than by administering the Government on those principles which have been found perfectly efficacious in Great Britain. I would not impair a single prerogative of the Crown ; on the contrary, I believe that the interests of the people of these Colonies require the protection of prerogatives, which have not hitherto been exercised. But the Crown must, on the other hand, submit to the necessary consequences of representative institutions ; and, if it has to carry on the Government in unison with a representative body, it must consent to carry it on by means of those in whom that representative body has confidence.

In England, this principle has been so long considered an indisputable and essential part of our constitution, that it has really hardly ever been found necessary to inquire into the means by which its observance is enforced. When a ministry ceases to command a majority in Parliament on great questions of policy, its doom is immediately sealed ; and it would appear to us as strange to attempt, for any time, to carry on a Government by means of ministers perpetually in a minority, as it would be to pass laws with a majority of votes against them. The ancient

constitutional remedies, by impeachment and a stoppage of the supplies, have never, since the reign of William III, been brought into operation for the purpose of removing a ministry. They have never been called for, because, in fact, it has been the habit of ministers rather to anticipate the occurrence of an absolutely hostile vote, and to retire, when supported only by a bare and uncertain majority. If Colonial Legislatures have frequently stopped the supplies, if they have harassed public servants by unjust or harsh impeachments, it was because the removal of an unpopular administration could not be effected in the Colonies by those milder indications of a want of confidence, which have always [under Cabinet Government] sufficed to attain the end in the mother country.

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I know that it has been urged that the principles, which are productive of harmony and good government in the mother country, are by no means applicable to a colonial dependency. It is said that it is necessary that the administration of a colony should be carried on by persons nominated without any reference to the wishes of its people ; that they have to carry into effect the policy, not of that people, but of the authorities at home ; and that a colony which should name all its own administrative functionaries, would, in fact, cease to be dependent. I admit that the system which I propose would, in fact, place the internal govern-

ment of the colony in the hands of the colonists themselves ; and that we should thus leave to them the execution of the laws, of which we have long entrusted the making solely to them. Perfectly aware of the value of our colonial possessions, and strongly impressed with the necessity of maintaining our connection with them, I know not in what respect it can be desirable that we should interfere with their internal legislation in matters which do not affect their relations with the mother country. The matters, which so concern us, are very few. The constitution of the form of government,—the regulation of foreign relations, and of trade with the mother country, the other British Colonies, and foreign nations,—and the disposal of the public lands, are the only points on which the mother country requires a control. This control is now sufficiently secured by the authority of the Imperial Legislature ; by the protection which the Colony derives from us against foreign enemies ; by the beneficial terms which our laws secure to its trade ; and by its share of the reciprocal benefits which would be conferred by a wise system of colonization. A perfect subordination, on the part of the Colony, on these points, is secured by the advantages which it finds in the continuance of its connection with the Empire. It certainly is not strengthened, but greatly weakened, by a vexatious interference on the part of the Home Government, with the enactment of laws for regulating the internal concerns of the Colony, or in the selection

of the persons entrusted with their execution. The colonists may not always know what laws are best for them, or which of their countrymen are the fittest for conducting their affairs; but, at least, they have a greater interest in coming to a right judgment on these points, and will take greater pains to do so, than those whose welfare is very remotely and slightly affected by the good or bad legislation of these portions of the Empire. If the colonists make bad laws, and select improper persons to conduct their affairs, they will generally be the only, always the greatest, sufferers; and, like the people of other countries, they must bear the ills which they bring on themselves, until they choose to apply the remedy. But it surely cannot be the duty or the interest of Great Britain to keep a most expensive military possession of these Colonies, in order that a Governor or Secretary of State may be able to confer colonial appointments on one rather than another set of persons in the Colonies. For this is really the only question at issue. The slightest acquaintance with these Colonies proves the fallacy of the common notion, that any considerable amount of patronage in them is distributed among strangers from the mother country. Whatever inconvenience a consequent frequency of changes among the holders of office may produce, is a necessary disadvantage of free government, which will be amply compensated by the perpetual harmony which the system must produce between the people and its rulers. Nor do I fear that the character

of the public servants will, in any respect, suffer from a more popular tenure of office. For I can conceive no system so calculated to fill important posts with inefficient persons as the present, in which public opinion is too little consulted in the original appointment, and in which it is almost impossible to remove those who disappoint the expectations of their usefulness, without inflicting a kind of brand on their capacity or integrity.

RESPONSIBLE GOVERNMENT RECONCILES COLONIAL SELF-GOVERNMENT AND A UNITED EMPIRE

LORD DURHAM'S recommendation of responsible government as a remedy for the difficulties of the old representative system in the British North American provinces was a revolutionary idea. At first its full meaning was grasped by only a few men, such as Robert Baldwin of Upper Canada, who had suggested the idea to Lord Durham, and Joseph Howe of Nova Scotia, who wrote the British Colonial Secretary in support of it. Louis H. Lafontaine of Lower Canada soon co-operated with Baldwin and others to work for its realization. Most men wondered how colonies could remain connected with the mother country if such an idea were carried out. Durham argued that the best hope of preserving the values of the British connection was, by this reform, to do away with misunderstanding and friction.

Some years were needed for men to adjust their minds to such a novel proposal and for several years half measures were tried. When the British Government instructed the governors to carry it out fully, serious opposition arose from some provincial parties. These parties were unwilling to see their opponents hold office and control the government even if they did have a majority in the Assembly. In Montreal this led to serious rioting in 1849 against the Governor, the Earl of Elgin. But he stood by his instructions and upheld loyally the new principle of responsible government. In this he was supported by the Colonial Secretary, Earl Grey, by the British Cabinet, and by both Houses of the British Parliament. The storm blew over, and in a short time everyone accepted responsible government as a great step forward.

By the middle of the nineteenth century responsible government was in operation in the British North American provinces of Nova Scotia, New Brunswick, and Canada, and was about to come into effect in Prince Edward Island. Its benefits were now so obvious that during the next few years it was introduced in Newfoundland, in most of the Australian colonies, and in New Zealand. Somewhat later it was also extended to West Australia and to the colonies in South Africa.

Thus a solution was found in the later Empire for the central problem which, in the earlier Empire, had brought on the American Revolution. It is true that many conditions were different during the two periods.

The development of quicker means of travel and communication in the nineteenth century, for example, made it simpler in some ways to handle relations between countries so far apart. But it is important, nevertheless, to recognize the value of finding a sound and workable political idea for the peaceful solution of a political problem.

This idea of responsible government was one that grew directly out of British experience at home, where by this time the Cabinet system was firmly established and was becoming well understood. Its application in the colonies gave them a type of self-government similar in its essentials to the modern system in Great Britain. As the years passed, this similarity made easier the development of fuller understanding between colonies and mother country. Finally the relationship developed into the present one, of full and equal partnership, which is enjoyed by the members of the British Commonwealth under their common Crown.

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Canada Becomes the First Dominion





*Colonial Leaders Confer,
to Plan a New Nation in the Empire.*

CANADA'S BIRTH AS A NATION

FAR-SIGHTED citizens in the old provinces of British North America long looked forward to the day when their separate communities might unite and build a nation from sea to sea. Until the middle of the nineteenth century, however, although population was growing rapidly it remained too small and scattered for such a union to be feasible. Between the settlements in the Maritime Provinces and those in the Canadas along the St. Lawrence and the lower Great Lakes lay an unpopulated region of mountain and forest. In the great West there was as yet little activity apart from the fur trade. Settlements had begun on the Red River and on the Pacific coast, but they were still very small.

The coming of railways brought new possibilities of travel and trade in the older communities, where there was much railway building in the 1850's. But further extension was needed, especially a railway between the Canadas and the Maritime Provinces. This would give the former a route over British territory to ocean ports open in winter while those of the St. Lawrence were closed. It was hoped that it also would promote prosperity in the Maritime Provinces by opening inland markets to them. They had held a unique position in the age of sail (they owned one-fifth of the shipping of the British Empire), but steam was beginning to replace sail on the oceans and this enviable position was being lost. They felt that they must soon look elsewhere for prosperity.

A railway across the continent westward from those of settled Canada was also needed. Unless the prairies of the Northwest could be taken over soon and developed from the Eastern provinces, the expansion of settlement that was going on in the Middle West of the United States was likely to press across the border into that region on such a scale that this territory might pass into American possession, and be lost so far as Canada's future was concerned.

It was difficult to see how these railway extensions east and west could be obtained or how a Canadian future for the West could be insured unless some kind of political union of British North America could be established.

Political conditions in the old provinces were pointing in the same direction. The union of Upper and Lower Canada into a single province, which had been carried out in 1841, was becoming more and more un-

satisfactory. While many matters were of common concern to both sections, the differences between their ways of life and interests made it difficult for them to be happily joined in a single province. If each of them could become a separate province in a larger union many of their difficulties would be removed. The Maritime Provinces also were finding that certain matters of common concern to them called for action by a single government. It might not be easy for the three of them to combine in a single province, but as three provinces they might find advantage in a larger union with others.

The growth of the provinces, politically as well as in other ways, reached a point by the 1860's where union would no longer be premature. With every year political leaders were gaining experience in the working of responsible government and this was preparing them to take the great step of building a national system of government to deal with continent-wide problems.

Added urgency was given the whole question by the Civil War in the United States during the first half of the 1860's. Difficulties arose with the Northern States, both for Great Britain and for the provinces, which aroused fears of American aggression. Some elements in the United States added to these fears by threatening economic and even military action against British North America to compel it to accept annexation. Many people in the provinces therefore were aroused to a conviction that they must unite politically even at the cost of surrendering some provincial independence. By so doing they might be able together to develop the transportation system and the trade which would enable them to build a nation of their own in the northern half of the continent, maintaining its independence of the United States and preserving its British connection. In national union they would find strength.

For such urgent reasons as these it came to pass that political leaders in the old provinces of British North America set about their difficult but inspiring task, in which they "built better than they knew". In 1864 these leaders met together to discuss the need and the possibility of union and the terms on which it might be brought about. They met first at Charlottetown, Prince Edward Island, in September, and then at Quebec in October. At Quebec the large group representing all the provincial governments and various parties, which history honours as "The Fathers of Confederation", adopted the Quebec Resolutions, setting forth their proposals.

Hesitation concerning the project and even opposition to it developed in some quarters, but these were overcome, largely by renewed evidence of American antagonism as seen in the termination of the Reciprocity Treaty of 1854 by Congress and in the Fenian Raids across the border. In 1866 delegations proceeded to England for further discussions. There they agreed upon a revised set of proposals, the London Resolutions, and these became the basis for still further deliberations with the British Government, which was now thoroughly in sympathy with the project for union. Finally a bill was drafted which, after being passed in March, 1867, by the British Parliament, became the British North America Act of 1867. By royal proclamation the act went into effect on July 1, 1867. The first day of July came to be celebrated each year as Dominion Day.

The British North America Act provided for a federal system of government. This was designed to reconcile provincial desires with national needs by leaving to the provinces control of their own particular concerns, and giving to the new central or Federal Government powers over matters that concerned them all and in which a single policy and a single control for the whole country was needed. In sections 91 to 95 the distribution of the powers of government between the Dominion and the provinces is set forth. These sections indicate the care with which the Fathers of Confederation tried to allot the various powers so as best to serve the needs of their day.

The system of government for the new Dominion, as well as for each of the provinces, was based on the free principles of the British parliamentary constitution. As in Britain itself for many years, and in the provinces since the adoption of responsible government, laws and taxes passed by Parliament or by a provincial legislature were to be carried into effect by a Cabinet made up of Privy Councillors (Executive Councillors in the provinces) and responsible to the elected representatives of the people.

When the British North America Act speaks of "the Governor-General in Council" or of "the Governor-General acting by and with the advice of the Queen's Privy Council for Canada" it means for practical purposes the Canadian Cabinet which is responsible to the Canadian House of Commons. The Act speaks of the Governor-General as choosing members of the Privy Council, but he must choose those whom the Prime Minister, the leader of the majority in the House of Commons, names.

It speaks also of his appointing senators and judges, but they are actually selected by the Cabinet. It prohibits the House of Commons from passing any measure for the appropriation of public funds that has not been first recommended to it by message of the Governor-General, but that simply means that the initiation of measures involving public expenditure rests with the Cabinet. It is important to remember such realities behind the formal and traditional terms of the Act.

Many details of the Act may seem remote from ordinary life; nevertheless it was to have far-reaching consequences for millions of ordinary people. The Act provided a formal framework within which a Canadian nation came into being. For the first time in history a group of colonies were united politically, on their own initiative and with the blessing of the imperial government, to form a new nation. The example thus set was to have profound effect upon the growth of the British Commonwealth of Nations.

The British North America Act, 1867

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

[29th March, 1867]

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in principle to that of the United Kingdom :

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the British Empire :

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

And whereas it is expedient that provision be made for the eventual admission into the Union of other parts of British North America :

Be it therefore enacted and declared by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present

Parliament assembled, and by the authority of the same as follows :

I. PRELIMINARY

1. This Act may be cited as *The British North America Act, 1867*.

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

II. UNION

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia and New Brunswick shall form and be one Dominion under the name of Canada ; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

4. The subsequent Provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation ; and in the same provisions, unless it is otherwise expressed or implied,

the name Canada shall be taken to mean Canada as constituted under this Act.

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

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

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

8. In the general census of the population of Canada, which is hereby required to be taken in the year One thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III. EXECUTIVE POWER

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

10. The Provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the time

being of Canada, or other the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada, on behalf and in the name of the Queen, by whatever title he is designated.

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

12. All Powers, Authorities, and Functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils or with any number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor-General with

the advice, or with the advice and consent of, or in conjunction with the Queen's Privy Council for Canada or any Members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

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

(Section 14 provides for the appointment of a deputy to the Governor-General to act in his place when necessary.)

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

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

IV. LEGISLATIVE POWER

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

18. The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and

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

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

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

The Senate

(Sections 21 to 33 deal with the number of Senators and the qualifications for a Senator. The original provision was for seventy-two Senators, twenty-four from the Maritime Provinces, and the same number from Quebec and from Ontario. Later the western provinces also were allotted twenty-four Senators. In general the qualifications of a Senator are that he shall be at least thirty years old, be a British subject, hold property to the value of four thousand dollars, and be a resident of the Province for which he is appointed. Section 31 specifies various circumstances under which the place of a Senator shall become vacant.)

34. The Governor-General may from time to time, by Instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

35. Until the Parliament of Canada otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

The House of Commons

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one Members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick.

38. The Governor-General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon and call together the House of Commons.

39. A Senator shall not be capable of being elected or of sitting or voting as a Member of the House of Commons.

(Section 40 provides for the division of Ontario, Quebec, Nova Scotia and New Brunswick into Electoral Districts, each of which shall return one member.)

(Section 41 provides that, until the Parliament of Canada otherwise decides, the laws in force in the several Provinces at the Union relative to the qualifications of candidates for election and the procedure to be followed in such an election shall remain in force.)

(Section 42 deals with the election of members to the first House of Commons.)

(Section 43 deals with any vacancy which might arise in the House of Commons before provision was made by Parliament to deal with such a contingency.)

44. The House of Commons on its first assembling after a General Election shall proceed with all practicable speed to elect one of its members to be Speaker.

45. In case of a vacancy happening in the office of Speaker by death, resignation, or otherwise, the House of Commons shall

with all practicable speed proceed to elect another of its members to be Speaker.

46. The Speaker shall preside at all meetings of the House of Commons.

47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the Chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the Member so elected shall, during the continuance of such absence of the Speaker, have and execute all the powers, privileges, and duties of Speaker.

48. The presence of at least twenty Members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers, and for that purpose the Speaker shall be reckoned as a Member.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote.

50. Every House of Commons shall continue for five years from the day of the return of the Writs for choosing the House (subject to be sooner dissolved by the Governor-General) and no longer.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be readjusted

by such authority, in such manner and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules :—

(1) Quebec shall have the fixed number of sixty-five Members ;

(2) There shall be assigned to each of the other Provinces such a number of Members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec (so ascertained) ;

(3) In the computation of the number of Members for a Province, a fractional part not exceeding one-half of the whole number requisite for entitling the Province to a Member shall be disregarded ; but a fractional part exceeding one-half of that number shall be equivalent to the whole number ;

(4) On any such readjustment the number of Members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding readjustment of the number of Members for the Province is ascertained at the then latest census, to be diminished by one-twentieth part or upwards ;

(5) Such readjustment shall not take effect until the termination of the then existing Parliament.

52. The number of Members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes; Royal Assent

53. Bills for appropriating any part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.

54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address, or Bill for the appropriation of any part of the Public Revenue, or of any Tax or Impost, to any purpose, that has not been first recommended to that House by Message of the Governor-General in the Session in which such Vote, Resolution, Address, or Bill is proposed.

55. Where a Bill passed by the Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the Bill for the signification of the Queen's pleasure.

56. Where the Governor-General assents to a Bill in the Queen's name, he shall by the first convenient opportunity send

an authentic copy of the Act to one of her Majesty's Principal Secretaries of State, and if the Queen in Council within two years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such Disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor-General, by Speech or Message to each of the Houses of the Parliament or by Proclamation, shall annul the Act from and after the day of such signification.

57. A Bill reserved for the signification of the Queen's Pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's Assent, the Governor-General signifies, by Speech or Message to each of the Houses of the Parliament or by Proclamation, that it has received the Assent of the Queen in Council.

An entry of every such Speech, Message, or Proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper Officer to be kept among the Records of Canada.

V. PROVINCIAL CONSTITUTIONS

Executive Power

58. For each Province there shall be an Officer, styled the Lieutenant-Governor, appointed by the Governor-General in Council by Instrument under the Great Seal of Canada.

59. A Lieutenant-Governor shall hold office during the pleasure of the Governor-General ; but any Lieutenant-Governor appointed after the commencement of the first Session of the Parliament of Canada shall not be removable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by Message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not then within one week after the commencement of the next Session of the Parliament.

60. The salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

61. Every Lieutenant-Governor shall, before assuming the duties of his office, make and subscribe before the Governor-General or some person authorized by him, Oaths of Allegiance and Office similar to those taken by the Governor-General.

62. The provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the time being of each Province or other the Chief Executive Officer or Administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit, and in the first instance of the following Officers,

namely: the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with, in Quebec, the Speaker of the Legislative Council and the Solicitor-General.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union, until altered under the authority of this Act.

65. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils or with any number of Members thereof, or by those Governors or Lieutenant-Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice, or with the advice and consent, of or in conjunction with the respective

Executive Councils or any Members thereof, or by the Lieutenant-Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the advice of the Executive Council thereof.

67. The Governor-General in Council may from time to time appoint an Administrator to execute the office and functions of Lieutenant-Governor during his absence, illness or other inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Legislative Power

1. ONTARIO

(Sections 69 and 70 provide for a Legislature for Ontario, consisting of the Lieutenant-Governor and a Legislative Assembly.)

2. QUEBEC

(Sections 71 to 80 provide for a Legislature for Quebec, consisting of the Lieutenant-Governor and two Houses—an appointed Legislative Council and an elected Legislative Assembly.)

3. ONTARIO AND QUEBEC

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the Union.

82. The Lieutenant-Governor of Ontario and of Quebec shall, from time to time, in the Queen's name, by Instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission, or employment, permanent or temporary, at the nomination of the Lieutenant-Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a Member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any person being a Member of the Executive Council of the respective Province, or holding any of the following Offices, that is to say, — the Offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in Quebec Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such Office.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the Union are in force in those Provinces respectively, relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as Members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at Elections, the periods during which such Elections may be continued, and the trial of controverted Elections and the Proceedings incident thereto, the vacating of the seats of Members, and the issuing and execution of new Writs in case of seats vacated otherwise than by dissolution, shall respectively apply to Elections of Members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that until the Legislature of Ontario otherwise provides, at any Election for a Member of the Legislative Assembly of Ontario for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British Subject aged Twenty-one years or upwards, being a householder, shall have a vote.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for four years from the day of the return of the Writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the

Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.

86. There shall be a Session of the Legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one Session and its first sitting in the next Session.

87. The following provisions of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the provisions relating to the Election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the Quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4. NOVA SCOTIA AND NEW BRUNSWICK

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the Authority of this Act ; and the House of Assembly of New Brunswick existing at the passage of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5. ONTARIO, QUEBEC AND NOVA SCOTIA

89. Each of the Lieutenant-Governors of Ontario, Quebec, and Nova Scotia shall cause Writs to be issued for the first Election of Members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such Returning Officer as the Governor-General directs, and so that the first Election of a Member of the Assembly for any Electoral District or any subdivision thereof shall be held at the same time and at the same places as the Election for a Member to serve in the House of Commons of Canada for that Electoral District.

6. THE FOUR PROVINCES

90. The following provisions of this Act respecting the Parliament of Canada, namely,—the provisions relating to appropriation and tax Bills, the recommendation of money votes, the assent to Bills, the disallowance of Acts, and the signification of pleasure on Bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant-Governor of the Province for the Governor-General, of the Governor-General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada.

VI. DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order and good government of Canada in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say : —

1. The Public Debt and Property ;
2. The regulation of Trade and Commerce ;
3. The raising of money by any mode or system of Taxation ;
4. The borrowing of money on the Public Credit ;
5. Postal Service ;
6. The Census and Statistics ;
7. Militia, Military and Naval Service, and Defence ;
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of Canada ;

9. Beacons, Buoys, Lighthouses, and Sable Island ;
10. Navigation and Shipping ;
11. Quarantine and the establishment and maintenance of Marine Hospitals ;
12. Sea Coast and Inland Fisheries ;
13. Ferries between a Province and any British or Foreign Country, or between two Provinces ;
14. Currency and Coinage ;
15. Banking, Incorporation of Banks, and the issue of Paper Money ;
16. Savings Banks ;
17. Weights and Measures ;
18. Bills of Exchange and Promissory Notes ;
19. Interest ;
20. Legal Tender ;
21. Bankruptcy and Insolvency ;
22. Patents of Invention and Discovery ;
23. Copyrights ;
24. Indians and Lands reserved for the Indians ;
25. Naturalization and Aliens ;
26. Marriage and Divorce ;
27. The Criminal Law, except the Constitution of the Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters ;

28. The establishment, maintenance and management of Penitentiaries ;

29. Such Classes of Subjects as are expressly excepted in the enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces ;

And any matter coming within any of the Classes of Subjects enumerated in this section shall not be deemed to come within the Class of Matters of a local or private nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures

92. In each Province the Legislature may exclusively make Laws in relation to matters coming within the Classes of Subjects next hereinafter enumerated, that is to say : —

1. The amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant-Governor ;

2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes ;

3. The borrowing of money on the sole credit of the Province ;

4. The establishment and tenure of Provincial Offices, and the appointment and payment of Provincial Officers ;

5. The management and sale of the Public Lands belonging to the Province, and of the timber and wood thereon ;

6. The establishment, maintenance, and management of public and reformatory Prisons in and for the Province ;

7. The establishment, maintenance, and management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Provinces, other than Marine Hospitals ;

8. Municipal Institutions in the Province ;

9. Shop, Saloon, Tavern, Auctioneer, and other Licenses, in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes ;

10. Local works and undertakings, other than such as are of the following classes :

a. Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province ;

b. Lines of Steam Ships between the Province and any British or Foreign Country ;

c. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces ;

11. The Incorporation of Companies with Provincial Objects ;

12. The Solemnization of Marriage in the Province ;

13. Property and civil rights in the Province ;

14. The Administration of Justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including procedure in civil matters in those Courts ;

15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any Law of the Province made in relation to any matter coming within any of the Classes of Subjects enumerated in this Section ;

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

Education

93. In and for each Province the Legislature may exclusively make laws in relation to Education, subject and according to the following Provisions :

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to Denominational Schools which any class of persons have by law in the Province at the Union ;

(2) All the powers, privileges, and duties at the Union by law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dis-

sentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec ;

(3) Where in any Province a system of Separate or Dissentient Schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's Subjects in relation to Education ;

(4) In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this Section is not made, or in case any decision of the Governor-General in Council on any appeal under this Section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this Section, and of any decision of the Governor-General in Council under this Section.

*Uniformity of Laws in Ontario, Nova Scotia,
and New Brunswick*

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova

Scotia and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces, and from and after the passing of any Act in that behalf, the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Agriculture and Immigration

95. In each Province the Legislature may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province, relative to Agriculture or to Immigration, shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII. JUDICATURE

96. The Governor-General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor-General shall be selected from the respective Bars of those Provinces.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

100. The salaries, allowances, and pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance, and organization of a General Court of Appeal for Canada, and for the establishment of any additional Courts for the better Administration of the Laws of Canada.

VIII. REVENUES ; DEBTS ; ASSETS ; TAXATION

102. All Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and

at the Union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor-General in Council until the Parliament otherwise provides.

104. The annual Interest of the public debts of the several Provinces of Canada, Nova Scotia and New Brunswick at the Union shall form the second charge on the Consolidated Revenue Fund of Canada.

105. Unless altered by the Parliament of Canada, the salary of the Governor-General shall be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall

be appropriated by the Parliament of Canada for the public service.

107. All Stocks, Cash, Bankers' Balances, and Securities for money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the Union.

108. The Public Works and Property of each Province, enumerated in the Third Schedule to this Act, shall be the Property of Canada.

109. All Lands, Mines, Minerals, and Royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the Union, and all sums then due or payable for such Lands, Mines, Minerals, or Royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia, and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

110. All Assets connected with such portions of the Public Debt of each Province as are assumed by that Province shall belong to that Province.

111. Canada shall be liable for the Debts and Liabilities of each Province existing at the Union.

112. Ontario and Quebec conjointly shall be liable to Canada

for the amount (if any) by which the debt of the Province of Canada exceeds at the Union Sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

113. The assets enumerated in the Fourth Schedule to this Act, belonging at the Union to the Province of Canada, shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union Eight million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union Seven million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the Union amount to Eight million and Seven million dollars respectively, they shall respectively receive, by half-yearly payments in advance from the Government of Canada, interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to

the right of Canada to assume any lands or public property required for Fortifications or for the defence of the country.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures : —

Ontario	<i>Eighty thousand Dollars</i>
Quebec	<i>Seventy thousand Dollars</i>
Nova Scotia	<i>Sixty thousand Dollars</i>
New Brunswick	<i>Fifty thousand Dollars</i>

Two hundred and sixty thousand Dollars;

and an annual grant in aid of each Province shall be made, equal to Eighty cents per head of the population as ascertained by the census of One thousand eight hundred and sixty-one, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two Provinces amounts to Four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each Province ; but the Government of Canada shall deduct from such grants, as against any Province, all sums chargeable as interest on the public debt of that Province in excess of the several amounts stipulated in this Act.

119. New Brunswick shall receive, by half-yearly payments in advance from Canada, for the period of ten years from the Union, an additional allowance of Sixty-three thousand dollars

per annum ; but as long as the public debt of that Province remains under Seven million dollars, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of Sixty-three thousand dollars.

120. All Payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova Scotia and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor-General in Council.

121. All articles of the growth, produce, or manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

122. The Customs and Excise Laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of Canada.

123. Where Customs Duties are, at the Union, leviable on any goods, wares, or merchandises in any two Provinces, those goods, wares, and merchandises may, from and after the Union, be imported from one of those Provinces into the other of them, on proof of payment of the Customs Duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs Duty as is leviable thereon in the Province of importation.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in Chapter Fifteen of Title Three of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the amount of such dues ; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.

125. No Lands or Property belonging to Canada or any Province shall be liable to taxation.

126. Such portions of the Duties and Revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the Union power of appropriation, as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all Duties and Revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one Consolidated Revenue Fund to be appropriated for the Public Service of the Province.

IX. MISCELLANEOUS PROVISIONS

General

127. If any person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand, addressed to the Governor-General of the Province of Canada or to the

Lieutenant-Governor of Nova Scotia or New Brunswick (as the case may be) accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a Member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate shall thereby vacate his Seat in such Legislative Council.

128. Every Member of the Senate or House of Commons of Canada shall, before taking his Seat therein, take and subscribe before the Governor-General or some person authorized by him, and every Member of a Legislative Council or Legislative Assembly of any Province shall, before taking his Seat therein, take and subscribe before the Lieutenant-Governor of the Province, or some person authorized by him, the Oath of Allegiance contained in the Fifth Schedule to this Act; and every Member of the Senate of Canada and every Member of the Legislative Council of Quebec shall also, before taking his Seat therein, take and subscribe before the Governor-General, or some person authorized by him, the Declaration of Qualification contained in the same Schedule.

129. Except as otherwise provided by this Act, all Laws in force in Canada, Nova Scotia, or New Brunswick at the Union, and all Courts of Civil and Criminal Jurisdiction, and all legal Commissions, Powers, and Authorities, and all Officers, Judicial, Administrative, and Ministerial, existing therein at the Union, shall continue, in Ontario, Quebec, Nova Scotia and New

Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished, or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

130. Until the Parliament of Canada otherwise provides, all Officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be Officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the Union had not been made.

131. Until the Parliament of Canada otherwise provides, the Governor-General in Council may from time to time appoint such Officers as the Governor-General in Council deems necessary or proper for the effectual execution of this Act.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec ; and both those languages shall be used in the respective Records and Journals of those Houses ; and either of those languages may be used by any person or in any pleading or process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec

(Sections 134 to 144 provide in various ways for the Governments of the new provinces of Ontario and Quebec taking over provincial functions and responsibilities in orderly fashion from the Government of the former Province of Canada.)

X. INTERCOLONIAL RAILWAY

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement, within Six months after the Union, of a Railway connecting the River

St. Lawrence with the City of Halifax, in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

XI. ADMISSION OF OTHER COLONIES

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-Western Territory, or either of them, into the Union, on such terms and conditions in each case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

147. In case of the admission of Newfoundland and Prince Edward Island or either of them, each shall be entitled to a representation, in the Senate of Canada, of Four Members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of Senators shall be Seventy-

six and their maximum number shall be Eighty-two ; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the Three Divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from Twelve to Ten Members respectively, and the representation of each of those Provinces shall not be increased at any time beyond Ten, except under the provisions of this Act for the appointment of Three or Six additional Senators under the direction of the Queen.

SCHEDULES

(Five schedules are attached to the Act. These enumerate the initial electoral districts of Ontario and Quebec; list the provincial public works and property to be the property of Canada, and the assets to be the property of Ontario and Quebec conjointly; and specify the oath of allegiance and the declaration of qualification for appointment to the Senate.)

LATER BRITISH NORTH AMERICA ACTS

[Additional British North America Acts have been passed on a number of occasions by the British Parliament at Canada's request, in order to clarify, supplement, or alter the provisions of the Act of 1867.]

[The first, in 1871, made clear the Dominion's power to establish new provinces, alter provincial boundaries, and make laws for any territory not included in a province.]

[The second, in 1886, empowered the Canadian Parliament to provide for representation of the territories in Parliament.]

[The third, in 1907, increased the provincial subsidies paid by the Dominion.]

[The fourth, in 1915, increased the number of senators to ninety-six, of whom twenty-four should be from each of the four divisions of the country, the Maritime Provinces, Quebec, Ontario, and the Western Provinces. The number of additional senators which might under certain circumstances be appointed in addition to this number was changed from three or six to four or eight, thus maintaining equality among the divisions. It was also provided that no province should have fewer members of the House of Commons than its number of senators.]

[The fifth, in 1916, was a wartime measure, extending the term of Parliament to October 7, 1917.]

[The sixth, in 1930, confirmed agreements between the Dominion and the provinces of Manitoba, British Columbia, Alberta, and Saskatchewan for the transfer of natural resources to the provinces.]

[The seventh, in 1940, empowered the Dominion to set up a system of unemployment insurance.]

[The eighth, in 1943, a wartime measure, postponed the redistribution of representation in the House of Commons.]

[The ninth, in 1946, provided that the House of Commons should have two hundred and fifty-five members, distributed in proportion to population, except that Prince Edward Island was guaranteed four members and the Yukon was guaranteed one.]

[In addition to these revisions made by measures called British North America Acts, Section 18 was altered in 1875.]

CANADA'S NATIONAL GROWTH AS A DOMINION

THE NEW NATION, Canada, at first included only the provinces of Nova Scotia, New Brunswick, Quebec, and Ontario, but the Federal Government which was established in accordance with the British North America Act was able speedily to obtain extension of its territory across the continent. With the help of the British Government negotiations were successfully concluded with the Hudson's Bay Company which opened the way to the acquisition of the Northwest Territories and the entrance of Manitoba as a province in 1870. Further negotiations led to the admission of British Columbia in 1871 and Prince Edward Island in 1873. Later Canada's possession of the islands of the Arctic Archipelago was established by a British Order in Council of July 31, 1880, which was confirmed in 1895 by the British Parliament in the Colonial Boundaries Act. Alberta and Saskatchewan became provinces in 1905.

Thus, except for Newfoundland and its dependency Labrador, all portions of the British Empire in the Western Hemisphere lying northward of the United States became parts of the single country Canada. Formerly they were a group of colonies and territories, each with its own direct relationship to the British Government ; now they were united in a single nation. The form of the union, however, as we have noticed, was federal. This was necessary in so extensive a country, with such variety of conditions and traditions in its various regions that any attempt to establish complete uniformity would create more difficulties than it would solve. As years passed, developments in transportation, in industry, and in trade changed conditions in many ways and brought all parts of the nation into closer and closer relations in many aspects of their life. Because of this, questions have arisen as to how closely the distribution of powers made in 1867 fits the changing needs of the Canadian people. On many occasions conflicts over the distribution of powers as defined in the British North America Act have been taken to the courts for settlement ; many have been carried up to the Judicial Committee of the Privy Council in London, as Canada has chosen, thus far, to preserve the right of appeal to that body except in criminal cases.

As time went on, matters that had remained under imperial authority were transferred to the authority of Canada. This was accomplished

partly by changes in the instructions issued to the Governor-General by the British Government, and partly by changes in practice.

Certain modifications of the system established by the British North America Act of 1867 have been made in supplementary Acts passed by the British Parliament at Canadian request. This method is now available for any changes which Canada may decide to make. In those matters where it may be desired to readjust relations between Dominion and provinces it remains to be seen whether the end in view in particular cases will be reached by co-operative arrangements under the existing law or by processes of formal amendment of the constitutional system. It remains also to be seen whether Canada will continue to amend her constitution by the present method, whereby she asks the formal co-operation of the British Parliament, or whether she will decide upon a method in which she will no longer demand that service. Her decision on this matter when the Statute of Westminster was under consideration was in favour of maintaining the existing system. That Statute is dealt with in the following section.

vii

A Commonwealth of Nations Develops
in the British Empire





The Tower of Our Parliament Buildings at Ottawa

OTHER COLONIES BECOME DOMINIONS IN A BRITISH COMMONWEALTH OF NATIONS

FOLLOWING Canada's example, the Australian colonies drew together in 1901 into a federal union, the Commonwealth of Australia. In 1910 the Union of South Africa was formed along lines worked out in South Africa. These three national unions, along with New Zealand and Newfoundland, became known as Dominions. They were self-governing in their internal affairs and were beginning to take a hand in relations with other countries. From time to time representatives of all the Dominions met, with representatives of the British Government, in Imperial Conferences to discuss questions of common interest.

In the First World War of 1914-1918 the Dominions shared the burden of the struggle and therefore had a part in the making of the peace. They were rapidly assuming the status of partner nations with the Mother Country. Such equality of status with Great Britain was spoken of by British leaders during that war. Its recognition grew as the Dominions shared in making the peace and became members of the League of Nations.

At the Imperial Conference of 1926 a Committee on Inter-Imperial Relations defined "the position and mutual relation" of "the group of self-governing communities composed of Great Britain and the Dominions" in the following terms: "They are autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations." The Committee's Report went on to say that "No account, however accurate, of the negative relations in which Great Britain and the Dominions stand to each other can do more than express a portion of the truth. The British Empire is not founded upon negations. It depends essentially, if not formally, on positive ideals. Free institutions are its life blood. Free co-operation is its instrument. Peace, security, and progress are among its objects. . . . And, though every Dominion is now, and must always remain, the sole judge of the nature and extent of its co-operation, no common cause will, in our opinion, be thereby imperilled."

After further discussion among the governments concerned, the Statute of Westminster was passed by the British Parliament in 1931 in accord-

ance with their wishes. It set forth in legal terms the independence of the Dominions from the authority of the British Parliament or the British Government. By this Act the term "Colony" was no longer officially to be correct for a Dominion or for any province or state forming part of a Dominion.

The Statute of Westminster left no room for doubt that the changes through the years had now brought the Dominions into a new kind of relationship to Great Britain that was no longer in any sense one of colonial subordination. Sections 7, 8, 9, and 10 of the Statute are no exception to this statement, for they were inserted at the wish of the Dominions concerned.

The Statute of Westminster, 1931

An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930

[11th December, 1931]

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences :

(The Irish Free State became a Dominion in 1921, later known as Eire.)

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom :

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the

United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion :

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom :

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained :

Now, therefore, be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

2. — (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

[An act by which a measure of a colonial legislature was void if in conflict with a British Act applying to the Colony concerned.]

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.
[Operation outside the territory of the Dominion.]

4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.

5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

6. Without prejudice to the generality of the foregoing pro-

visions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the Commencement of this Act.

[Sections 7, 8, 9 and 10 were included at the request of the Dominions concerned.]

7. — (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or any order, rule or regulation made thereunder.

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

9. — (1) Nothing in this Act shall be deemed to authorize the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth.

10. — (1) None of the following sections of this Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any

section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in subsection (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

11. Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

12. This Act may be cited as the Statute of Westminster, 1931.

THE BRITISH COMMONWEALTH AS AN EQUAL PARTNERSHIP

NOW THAT THE RELATION between Great Britain and the Dominions had become an equal partnership, the position of the King's representatives in the Dominions was altered. In the past, besides formally representing the Crown the Governors-General had been in fact named by the British Government. They had been the official channels through which it dealt with the Dominion Governments.

The British Government no longer had anything to do with the appointment of the Governors-General, who made no reports to it, but were solely the representatives of the King, performing instead of him, in the Dominions, the functions he regularly performs in person in Great Britain. Now, accordingly, when a Governor-General was to be appointed, the Government of the Dominion concerned conferred with the King and on its advice His Majesty made the appointment. Even the formal commission and instructions to a Governor-General given to him in the name of the King were now drawn up by the Government of the Dominion over which he was to preside in the King's place.

When arrangements were made for the coronation of the new King, the order of ceremony was submitted beforehand to the Governments of all the Dominions, and they shared with the British Government in its revision. The King's coronation oath was altered, for example, at Canada's suggestion.

The new situation was illustrated clearly early in 1939 when Their Majesties King George VI and Queen Elizabeth visited Canada. The Governor-General stepped aside for the time being and His Majesty himself performed various duties of the Crown as a part of the Canadian Government. Thus he appeared in the Canadian Parliament, and there himself gave Royal Assent to bills that had been passed by the two Houses of Parliament. In this North American tour, in the United States as well as Canada, he was accompanied, not by members of the British Government, but by the Prime Minister of Canada and other members of the Canadian Government.

For many years each Dominion had sent a High Commissioner to reside in London and represent it in dealings there with the British Government. There had been no need for the British Government to send similar

High Commissioners to the capitals of the Dominions while the Governors-General acted for it as "channels of communication." Now that the Governors-General no longer so acted, the British Government sent High Commissioners to represent it in the Dominion capitals. It was well understood that the Prime Ministers of the governments of all the members of the Commonwealth might also deal directly with one another.

Thus, as the Commonwealth became an equal partnership, the political methods by which its members dealt with one another were adjusted to the changed situation. In some ways these methods became similar to the diplomatic practices followed in the world at large, and by the nations of the Commonwealth in dealing with countries outside their own group. They remained, however, more intimate than these and retained valuable features especially characteristic of the Commonwealth relationship.

There was some difference of opinion as to whether the new arrangements among these scattered governments were sufficient if need should arise for them to act together in a crisis. Events were soon to test the strength of the partnership in its new form.

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The British Commonwealth Tested
by World Crisis





His Majesty King George VI
and the Commonwealth Prime Ministers
at Buckingham Palace during the 1944 Conference

THE BRITISH COMMONWEALTH PROVES FREEDOM THE SECRET OF EFFECTIVE UNITY

AGAIN in 1939 the British nations rose to preserve the freedom which they enjoyed—Britain and her partners in the Commonwealth took their stand against the growing Nazi menace. After France fell in 1940, for a year they fought alone against the European Axis, except for the valiant resistance of Greece and Yugoslavia, while China still held off Japan in Asia. Then the power of Russia and the United States was added, and the United Nations fought together for victory. In this struggle the Commonwealth and Empire bore an ever-increasing load.

From the beginning of the war, co-operation between the British nations grew closer and more effective, but without sacrificing the independent responsibility of each nation which had been stated so clearly at the Imperial Conference of 1926 and in the Statute of Westminster. Consultation increased among the members of the Commonwealth partnership. This took various forms. Air mail, telegraph, and telephone were constantly used. Each government had High Commissioners representing it at the capitals of other members of the group. Air transport made possible numerous visits by officials to the various capitals.

In May 1944 all the Prime Ministers were in London for full discussion of problems concerning the war and questions of international policy after victory. At the close of their conference they issued a declaration, expressing their devotion to the cause of the United Nations and their desire for an international organization to maintain peace, and ending with a ringing affirmation of their faith in the freedom and unity of the Commonwealth and their confidence that it would, after victory, "make us able to do further service to mankind."

Declaration

*By the Prime Ministers of the British Commonwealth, May 17, 1944,
at the conclusion of their Conference in London*

We, the King's Prime Ministers of the United Kingdom, Canada, Australia, New Zealand, and South Africa, have now, (Ire had remained neutral in the war. Newfoundland had become economically depressed, and at her own request the government had been entrusted temporarily to a special commission.) for the first time since the outbreak of the war, been able to meet together to discuss common problems and future plans. The representative of India at the War Cabinet and the Prime Minister of Southern Rhodesia have joined in our deliberations and are (Although not a Dominion, Southern Rhodesia was now largely self-governing, and the British Government dealt with it through the Dominions Office, not the Colonial Office.) united with us.

At this memorable meeting in the fifth year of the war we give thanks for deliverance from the worst perils which have menaced us in the course of this long and terrible struggle against tyranny.

Though hard and bitter battles lie ahead, we now see before us, in the ever-growing might of the forces of the United Nations and in the defeats already inflicted upon the foe by land, by sea and in the air, the sure presage of our future victory.

To all our armed forces, who in many lands are preserving our liberty with their lives, and to peoples of all our countries whose efforts, fortitude and conviction have sustained the struggle, we express our admiration and gratitude.

We honour the famous deeds of the forces of the United

States and of Soviet Russia and pay our tribute to the fighting tenacity of the many states and nations joined with us.

We remember, indeed, the prolonged stubborn resistance of China, the first to be attacked by the author of world-aggression, and we rejoice in the unquenchable spirit of our comrades in every country still in the grip of the enemy. We shall not turn from the conflict till they are restored to freedom. Not one who marches with us shall be abandoned.

We have examined the part which the British Empire and Commonwealth of Nations should bear against Germany and Japan, in harmony with our allies. We are in cordial agreement with the general plans which have been laid before us. As in the days when we stood all alone against Germany, we affirm our inflexible and unwavering resolve to continue in the general war with the utmost of our strength until the defeat and downfall of our cruel and barbarous foe has been accomplished. We shall hold back nothing to reach the goal and bring to the speediest end the agony of mankind.

We have also examined together the principles which determine our foreign policies, and their application to current problems. Here, too, we are in complete agreement. We are unitedly resolved to continue, shoulder to shoulder with our allies, all needful exertion which will aid our fleets, armies and air forces during the war, and therefore to make sure of an enduring peace.

We trust and pray that victory, which will certainly be won, will carry with it a sense of hope and freedom for all the world.

It is our aim that, when the storm and passion of war have passed away, all countries now overrun by the enemy shall be free to decide for themselves their future form of democratic government.

Mutual respect and honest conduct between nations is our chief desire. We are determined to work with all peace-loving peoples in order that tyranny and aggression shall be removed or, if need be, struck down wherever it raises its head. The people of the British Empire and Commonwealth of Nations willingly make their sacrifices to the common cause. We seek no advantages for ourselves at the cost of others. We desire the welfare and social advancement of all nations and that they may help each other to better and broader days.

We affirm that after the war a world organization to maintain peace and security should be set up and endowed with the necessary power and authority to prevent aggression and violence.

In a world torn by strife we have met here in unity. That unity finds its strength not in any formal bond but in the hidden spring from which human action flows. We rejoice in our inheritance, loyalties and ideals, and proclaim our sense of kinship to one another. Our system of free association has enabled us, each and all, to claim a full share of the common burden.

Although spread across the globe, we have stood together through the stress of two world wars, and have been welded the stronger thereby. We believe that when the war is won and peace returns, this same free association, this inherent unity of purpose, will make us able to do further service to mankind.

WINSTON S. CHURCHILL, *Prime Minister of the United Kingdom of Great Britain and Northern Ireland.*

W. L. MACKENZIE KING, *Prime Minister of Canada.*

JOHN CURTIN, *Prime Minister of the Commonwealth of Australia.*

PETER FRASER, *Prime Minister of New Zealand.*

J. C. SMUTS, *Prime Minister of the Union of South Africa.*

THE BRITISH WAY OF FREEDOM

WHEN KING JOHN yielded to the demands of his Barons and Bishops neither he nor they could foresee the historic importance of Magna Carta. When Parliament passed the Bill of Rights and William signed it, the future fame of that document was not foreseen. But both of these documents sowed the seeds of our present liberties. They placed the law above any ruler ; they guarded the liberties of the subject.

Even after the development of the Cabinet system and the widening of the franchise to make Parliament represent all the people, we can still recognize the importance for us of those early charters of our freedom. The confidence of all the British peoples in their freedom is strengthened by the knowledge that its foundations were laid so surely in a distant past, that it has been preserved through so many years, and that its history has been the story of its growth from century to century.

Its extension to the "Britains overseas" paralleled its growth in Britain itself from the time when English colonies were in their beginnings. Its growth in the Empire had periods, as did its growth in Britain, when progress was slow. There was the unfortunate failure to keep up with changing needs in the eighteenth century, when part of the Empire was lost. But in the end the principles of freedom that grew in Britain till she was a parliamentary democracy, also grew in the Empire till old colonies became new Dominions, equal partners with Britain as heirs of freedom and as its guardians.

The story is not ended. There will be problems to be solved by each new generation if it is not to betray the heritage of the past, and if it is to broaden the people's freedom and make it secure against destruction. Personal liberty and political liberty still require watchful care if they are to grow. And if they do not grow they will die.

For the fellowship of British nations the record of their past is a lesson and an inspiration for the future.

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The British Commonwealth
and the United Nations





President Roosevelt and Prime Minister Churchill Meet
on Board Ship to Plan Co-operation and Formulate the Atlantic Charter

THE NATIONS UNITE

THE SUCCESS of the British Commonwealth in combining freedom with unity gives hope that the United Nations may do the same.

As long ago as 1907 Winston Churchill said that those who looked forward to "larger brotherhoods" cherished the British Empire "because it represents, more than any other similar organization has ever represented, the peaceful co-operation of all sorts of men in all sorts of countries, and because we think that it is, in that respect at least, a model of what we hope the whole world will some day become."

The experience of the British peoples through many years and the hopes that they cherish for further progress towards larger freedoms and surer welfare go far to explain the character of the Atlantic Charter.

This famous declaration was not the first statement of Allied war aims in the Second World War of 1939-1945. An Inter-Allied meeting had already taken place in London on June 12, 1941, at which were represented the Governments of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand and South Africa, the Governments in exile of Belgium, Greece, Luxembourg, the Netherlands, Norway, Poland and Yugoslavia, the Provisional Czechoslovak Government, and the representatives of General de Gaulle, leader of Free Frenchmen, "engaged together in the fight against aggression." They pledged their mutual assistance in the struggle, and declared that "The only true basis of enduring peace is the willing co-operation of free peoples in a world in which, relieved of the menace of aggression, all may enjoy economic and social security; and that it is their intention to work together, and with other free peoples, both in war and peace to this end."

Two months later Winston Churchill, Prime Minister of Great Britain, and Franklin D. Roosevelt, President of the United States, met in conference about the war on shipboard in Placentia Bay off the coast of Newfoundland. There they drew up a more elaborate statement, the Atlantic Charter, which was announced to the world on August 14. Although the United States was not yet at war, it had already decided that British victory was essential and that the British cause must be aided. In this Charter these two great leaders joined in a declaration of aims, which has been described as a profession of faith.

The Atlantic Charter was accepted and endorsed on September 24 by the European Allies at a second meeting of the Inter-Allied Council, which now included Russia.

After the United States entered the war the Atlantic Charter received yet wider official acceptance and endorsement. On January 1, 1942, twenty-six nations, calling themselves the United Nations (the number later increased), adopted the programme of purposes and principles which it embodied, the goals which it set forth. The road to these goals might be long, but they were goals to be kept in sight. They were goals towards which the British Commonwealth of Nations had long been moving and towards which its members were determined to continue to move.

The Atlantic Charter

Drawn up on August 12, 1941 and announced to the world on August 14, 1941.

The President of the United States of America and the Prime Minister, Mr. Churchill, representing his Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world.

1. Their countries seek no aggrandizement, territorial or other.
2. They desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned.
3. They respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them.
4. They will endeavour, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.
5. They desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for

all, improved labour standards, economic advancement and social security.

6. After the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want.

7. Such a peace should enable all men to traverse the high seas and oceans without hindrance.

8. They believe that all of the nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measures which will lighten for peace-loving peoples the crushing burden of armaments.

FRANKLIN D. ROOSEVELT
WINSTON S. CHURCHILL

CANADA IN THE BRITISH COMMONWEALTH AND IN THE WORLD

THE LONG-RANGE bombing aircraft has taught us that the world is smaller than we used to think. The whole world is becoming one neighbourhood in which the health and conduct of each member are the concern of all.

In such a world one is indeed his brother's keeper. Those who are more favoured by natural environment or by historic heritage need to help peoples who are backward or less favoured. That does not mean trying to standardize the world according to our particular ideas. It does mean dealing with other peoples, whether they be advanced or backward in their development, in a spirit of toleration and fair play.

For Canadians, then, freedom is not merely the absence of arbitrary government, the enjoyment of personal and political liberty for ourselves. Our privileged position gives us an opportunity which must be used if our freedom is to grow and not to wither, an opportunity to work to make life fuller and better for all Canadians and to work with others for a better world.

We must be willing to stand shoulder to shoulder with all free men not only to build freedom but to guard it. We must be ever more alert against those who would weaken or destroy it. If need arises again to protect freedom from destruction we must not wait for others to save it for us, but must be eager to bear from the beginning our own full share of the burden and the responsibility.

If as Canadians we hope to stand together to make freedom still larger and more secure, we must be tolerant of the differences among ourselves, and each of us must cherish the freedom of his fellow citizens as strongly as his own. We must learn to pull together more within our own nation. We must have also this attitude of understanding and co-operation towards our partners in the Commonwealth and towards all peoples of good will.

If we are watchful, wise, and courageous, we shall be able to strengthen the forces of freedom in Canada, in the British Commonwealth, and in the world, and help to pass on to future generations the heritage of freedom that has come down to us through the centuries.



A Note

on the Arms

of Canada

IN THE ARMORIAL BEARINGS OF CANADA there is much interesting and significant symbolism. Such symbolism is a heritage of the age of chivalry. Canada's Armorial Bearings were assigned by Royal Proclamation in 1921 at the request of the Canadian Government. Prior to that date, a shield had been used as the Arms of Canada which showed the arms of all the provinces. With the increase in the number of provinces it had come to contain so much detail that it was no longer deemed satisfactory.

The new Armorial Bearings combining arms, crest, supporters, and motto in a decorative design have become widely used as a national emblem, for example, on publications and stationery of the Canadian Government and on the back of the fifty-cent piece.

The design follows the ancient rules of heraldry. The elements in it symbolize the historic origins of the Canadian nation and its present proud position. On the shield the quarterings symbolize the four peoples which founded Canada and whose languages, laws, and arms Canada inherits: the English are symbolized by the three lions, the Scots by the single lion, the Irish by the harp, and the French by the fleurs-de-lis. The maple leaves on the lower third of the shield add to these ancestral emblems a purely Canadian emblem which signifies that other races also have shared in making Canada. Thus the symbolism of the arms on the shield takes in all Canadians, whatever their ancestry.

The other parts of the Armorial Bearings add to the symbolism. The crest is a crowned lion, beneath the imperial crown, holding a red maple leaf in its paw. The supporters at the sides are an English lion and a Scottish unicorn, the former upholding the Union Jack and the latter the banner of Royal France with its golden lilies. Beneath, upon a wreath composed of English roses, Scottish thistles, Irish shamrocks, and French lilies, is a scroll inscribed with the motto, "A Mari usque ad Mare" (From Sea to Sea). It is taken from the Latin version of the verse of a psalm which reads: "He shall have dominion also from sea to sea, and from the river unto the ends of the earth." According to a letter in the Canadian Archives, written by Sir Leonard Tilley's son, this verse was in the minds of the Fathers of Confederation when they used the words "shall form and be one Dominion under the name of Canada."

STUDY GUIDE



The Nature of Freedom (Page 1)

1. What is civil liberty? 2. What is political liberty? 3. Can true civil liberty ever mean that individuals may do whatever they like in all things? Give reasons for your answer. 4. To what ancient peoples do we owe some of our ideas of government and law? 5. When did our modern political system originate?

Magna Carta and the Origin of Our Liberties (Page 7)

1. In what language was Magna Carta written? 2. What do the words Magna Carta mean? 3. Why did the great men draw up Magna Carta and force King John to accept it? 4. Where did King John and the leaders who opposed him meet? 5. With what do the most famous articles of Magna Carta deal? 6. What is the underlying principle that has given Magna Carta lasting importance?

Parliament Becomes the Guardian of British Liberty (Page 27)

1. What was the first British parliament? 2. How did Parliament gain influence over the King? 3. What is the writ of Habeas Corpus? 4. How did Parliament finally obtain controlling authority in government? 5. What are the thirteen provisions of the Bill of Rights? 6. Describe briefly the Cabinet system. 7. Outline the changes that took place in the parliamentary system after the Bill of Rights. 8. What is the position of the British monarchy at the present time?

British Liberties Spread Overseas in the Early British Empire (Page 37)

1. How did British colonies differ from those of other countries? 2. Who made the decision that the colony of Virginia should have representative government? 3. Which British country, outside of Great Britain, has the

oldest representative government? 4. Why are Virginia and Plymouth included in this book, even though they are no longer British? 5. In Virginia, what were the functions of the Council of State? 6. What were the functions of the Virginia General Assembly? 7. Where did the early colonists get their ideas of liberty? 8. Why did some of the American colonies break away from the mother country? 9. In what way was the influence of Magna Carta and the Bill of Rights reflected in the formation of the United States? 10. What developed from the association of Great Britain and the remaining colonies?

The Problem of Colonial Self-Government Solved in the Later British Empire (Page 49)

1. What difficulties arose in the early nineteenth century in the British colonies in North America? 2. How were the difficulties aggravated in Upper Canada and in Lower Canada? 3. Which colonies seemed likely to settle the trouble by peaceful methods? 4. Why did Lord Durham come to the British colonies? 5. What recommendation in Lord Durham's report gave the document outstanding importance? 6. How would Lord Durham's recommendation lessen the dependence of the colonies on the British Government, or, in other words, enlarge their self-government? 7. What points of government did Lord Durham think should remain in the control of the mother country? 8. What reception was given Lord Durham's ideas? 9. Did the enlarged freedom of colonial government prove successful? 10. What was the great value of the new system?

Canada Becomes the First Dominion (Page 61)

1. What benefits were expected from the extension of railways east and west in British North America? 2. What was necessary in order that these railways might be built? 3. What political conditions in the various colonies seemed to indicate the advisability of union? 4. Were the provinces sufficiently experienced in responsible government by 1860 to undertake the setting up of a national government? 5. How did the Civil War in the United States influence the question of union in the British colonies in North America? 6. What were the first steps taken towards Confederation? 7. What further steps preceded the passing of the British North

America Act? 8. When did the British North America Act go into effect? 9. Why did the British North America Act provide for a federal system of government? 10. How are measures that have been passed by the Dominion parliament or by the provincial legislatures carried into effect? 11. Are the traditional and formal terms of the British North America Act to be taken merely literally? 12. What parts of the British Empire in North America became parts of Canada? 13. To what body are conflicts over the distribution of powers as set forth in the British North America Act taken for judicial decision? 14. How does Canada amend her constitution?

A Commonwealth of Nations Develops in the British Empire
(Page 107)

1. What other British colonies followed Canada's example and became Dominions? 2. How do the various Dominions discuss questions of common interest? 3. How was the status of the Dominions raised during the First World War of 1914-1918? 4. How was the status of Britain and the Dominions defined at the Imperial Conference in 1926? 5. What did the Statute of Westminster set forth? 6. Are Sections 7, 8, 9, and 10 of the Statute of Westminster exceptions to the state of equality existing between Britain and the Dominions? 7. What has been the position of the Governors-General since the passing of the Statute of Westminster? 8. When did the Dominions have an opportunity of exercising their equal rights with the British Parliament in relation to the Crown? 9. How did the visit of the King and Queen in 1939 illustrate the new status of the Canadian Government? 10. Who now represents the British Government in Dominion Capitals?

The British Commonwealth Tested by World Crisis (Page 119)

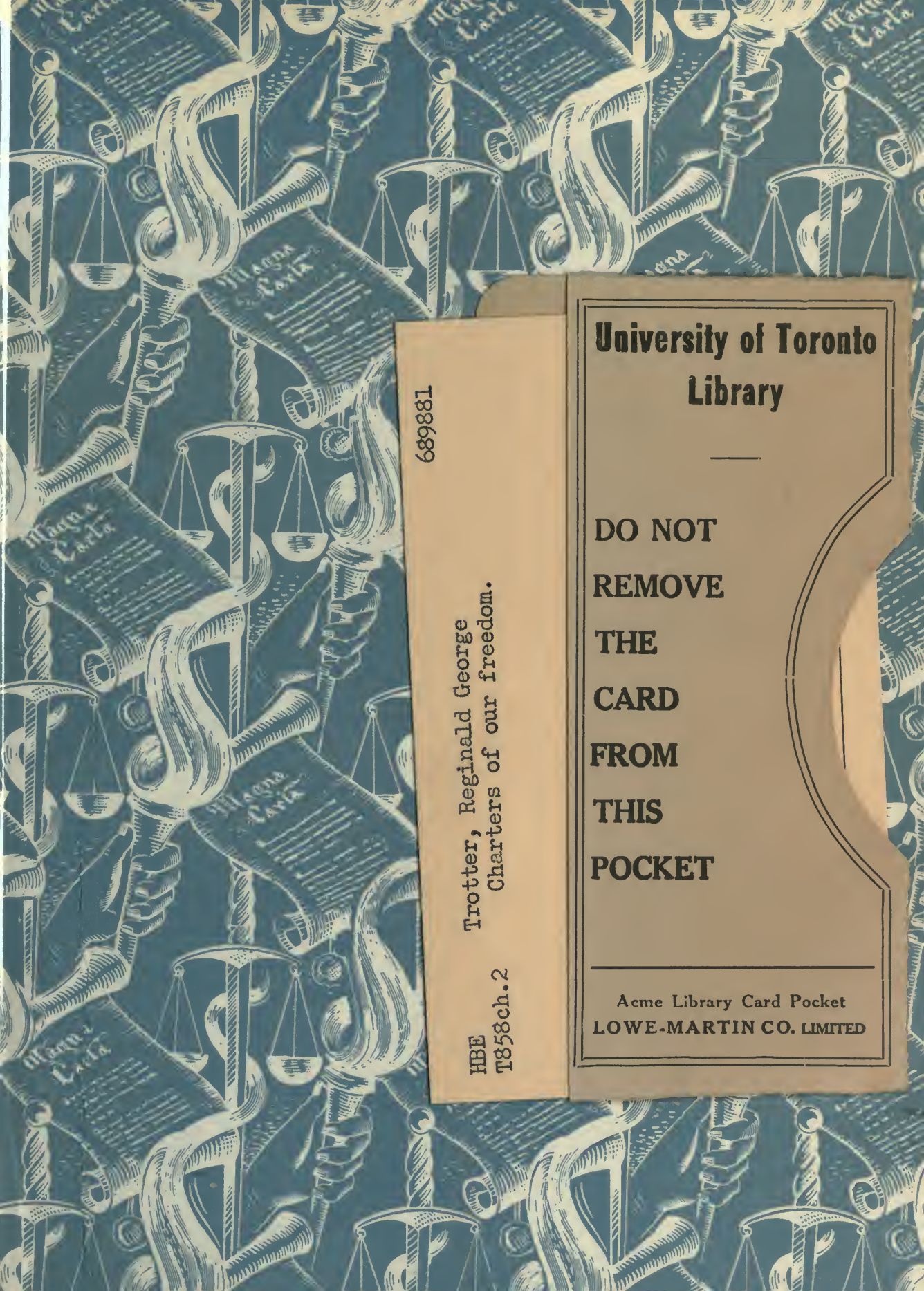
1. How did the Second World War affect the relationship of the various members of the British Commonwealth? 2. By what means was the co-operation of the various parts of the Commonwealth carried on? 3. Why did the Prime Ministers meet in London in 1944? 4. What were the main points of the Prime Ministers' Declaration of 1944? 5. Of what importance are Magna Carta and the Bill of Rights to-day?

The British Commonwealth and the United Nations (Page 127)

1. How does the British Commonwealth offer a model for the United Nations? 2. When and where was the first statement of allied aims made in the Second World War? 3. What were the aims set forth in this first statement? 4. Why did the President of the United States share in the issuance of the Atlantic Charter, when that country was not yet at war? 5. Who drew up the Atlantic Charter? 6. When and by whom was the Atlantic Charter accepted and endorsed? 7. Why should each country feel responsible for other countries in the modern world? 8. What obligations do our freedom and advantages impose upon us in Canada? 9. What must we Canadians work for in our own country? 10. What should Canada's attitude be towards other parts of the Commonwealth and the world?







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Trotter, Reginald George
Charters of our freedom.

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