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# The Development of Canada's Permanent External Representation

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## THE DEVELOPMENT OF CANADA'S PERMANENT EXTERNAL REPRESENTATION

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It has been customary to describe the growth of Canada's Dominion status as the inescapable consequence of the original concession of responsible government in the 1840's. It was inevitable, according to this view, that the scope of responsible government should be continuously expanded to include more and more of the functions of government, internal and external.<sup>1</sup> In regard to external relations, the practice has been to present the development as a succession of more or less spectacular advances of a constitutional nature, such as Canada's participation in commercial negotiations, or her representation at the Paris Peace Conference. As a result, little attention has been paid to the steady, unspectacular growth of Canada's external representation between the great constitutional episodes, or to the functional nature of that growth. Canada's permanent representation abroad (as distinct from her representation at conferences), and especially the earlier phases of it, have likewise been neglected.<sup>2</sup> A better understanding of the history of this system of permanent external representation may be secured if it is viewed as a series of responses to particular needs confronting the Canadian state at different historical stages, rather than as the foreordained evolution of an idea or principle.

In no case is this more evident than in the earliest type of Canadian representation abroad. It is seldom realized that that representation is as old as the Dominion itself, and that its initial purpose was the promotion of immigration, the natural concern of a young country. Indeed D'Arcy McGee, Minister of Agriculture and Immigration for the Province of Canada, had appointed Mr. William Dixon, Canadian Agent for Immigration, at Liverpool for the season of 1866, and with the formation of the Dominion Mr. Dixon was put in charge of a Dominion Agency of Immigration, in London.<sup>3</sup> There were soon appointed under Dixon subordinate agents in the British Isles, sometimes numbering as many as nine, at the ports of Liverpool, Bristol, Glasgow, Belfast, Dublin, etc., and on the continent of Europe, at first in Antwerp, then in Paris, at times in Switzerland, Germany, and elsewhere. Although in no sense diplomatic agents, Mr. Dixon, with his two small rooms in Adams Street, and his staff of two clerks and a messenger, and the other emigration agents must be considered as the precursors of the present ministers and high commissioners. A temporary experiment in 1874 in the form of an Agent General for Canada, primarily concerned with emigration but working for other government departments, was discontinued after somewhat less than two years, and

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<sup>1</sup>Cf. Chester Martin, *Empire and Commonwealth* (Oxford, 1929), xiv, xv, 327; J. W. Dafoe, "The Problems of Canada" in *Great Britain and the Dominions*, Harris Foundation Lectures, 1927 (Chicago, 1928), 194, 206.

<sup>2</sup>Cf. R. M. Dawson, *The Development of Dominion Status, 1900-1936* (London, 1937), 4, and Chester Martin, *Empire and Commonwealth*.

<sup>3</sup>*Canada, Sessional Papers*, 1867-8, no. 3, v; 1869, no. 67, 5.

representation through a Chief Emigration Agent was resumed.<sup>4</sup> With the establishment of the High Commissioner's office in 1880, however, the supervision of the emigration agents was taken over by the Emigration Branch of that office, and after 1899, by the Inspector of European Immigration Agencies, under the High Commissioner. From the seventies onward the main features that were to remain characteristic of the work of the emigration agents began to appear. Their primary purpose was to attract to Canada agricultural labourers, tenant farmers, and domestics, a purpose which brought them into a "noble competition" with the "Yankees," the other British colonies, and later South American countries. As a means to this end their principal activity was the publicizing of Canadian opportunities through advertising in the press, posters in post-offices and railway stations, visits to agricultural fairs and markets, the distribution of books, maps, and pamphlets, and lecture tours.<sup>5</sup> This publicity, reaching a high peak under Clifford Sifton, as Minister of Interior, never entirely banished the prevalent ignorance of Canada of which the agents complained but was instrumental in providing the Dominion with a large proportion of its present population.

The economic growth of Canada, requiring foreign markets for surplus agricultural and industrial production, created the need for a new type of representation abroad. It is not necessary to recite here the well-known evolution of Canadian autonomy as regards commercial negotiations, with the steadily increasing significance of Canadian representatives in such trade discussions. Almost no attention has been paid, however, to the equally momentous enlargement of Canada's *permanent* commercial representation. Throughout the eighties and the early nineties, the Liberal opposition, led by Edward Blake, David Mills, and Sir Richard Cartwright, and a Conservative D'Alton McCarthy, waged a vigorous parliamentary campaign for independent negotiation of commercial treaties through Canadian representatives, appointed by the Crown on the advice of the Canadian Cabinet and entering into direct communication with foreign governments. This proposal was linked in their minds with the idea of permanent representation in foreign capitals, especially in Washington, and was but an extension of the principle of responsible government from local affairs to external commercial relations. Although their argument for autonomy was often couched in constitutional terms, it was the commercial needs and interests of Canada which primarily motivated the proposal. Only Canadian representatives, responsible ultimately to the Canadian parliament and conscious of Canadian interests, could, they believed, serve those needs and interests adequately.<sup>6</sup>

Toward these proposals the Conservative government was none too sympathetic. Sir John A. Macdonald and others recognized the need for encouraging external trade but preferred to associate Canadian representatives with the British diplomatic service where specific negotiations required

<sup>4</sup>*Ibid.*, 1876, no. 7, 118.

<sup>5</sup>For the above information on emigration agencies, Reports of the High Commissioner and of the European Emigration Agents were consulted in *Canada, Sessional Papers*, 1867-1914.

<sup>6</sup>*Canada, House of Commons Debates*, April 21, 1882, 1068-78, 1080-95; Feb. 18, 1889, 172-94; April 7, 1892, 1104-51; May 2, 11, 1892, 1950-2482.

it.<sup>7</sup> Beyond that they wished to rely on the creation of non-diplomatic commercial agencies. From the early eighties the emigration agents had been devoting much attention to the promotion of trade, with the approval of the government, and by the end of that decade an important part of the work of the High Commissioner lay in this field.<sup>8</sup> By 1886 the government had formed the intention of supplementing this work by "commercial agencies," to be set up at favourable points.<sup>9</sup> By 1892, when the Department of Trade and Commerce was established, there were already eight trade representatives: one in Paris (the Paris commissioner), two emigration agents in Great Britain serving as trade agents, and five in the West Indies. The last-named were local business men, receiving \$250 per year for part-time services. The first European commercial agent, apart from the Paris Agent, was appointed in 1894 for the Scandinavian countries. The first permanent salaried commercial agent was sent to Australia in 1895. Year by year the number of "trade commissioners," as the full-time representatives came to be called, advanced, and offices were set up in Great Britain, Europe, the Caribbean, and the Far East. By 1914 there were sixteen such trade commissioners, and three other commercial agents.

This network of representatives, subordinated to a separate section of the Department of Trade and Commerce, was by 1915 known as the Commercial Intelligence Service, its present name. Its primary purpose was and is "to bring together the domestic seller and the foreign buyer for the sale of Canadian products and to cooperate with the commercial community to build up the volume of Canada's foreign trade."<sup>10</sup> Most of the methods now used to achieve this purpose were introduced early in the twentieth century. The chief method was not, as in the case of the emigration agents, to publicize Canada abroad but to inform Canadian exporters of business opportunities abroad. This was accomplished by the sending of "trade enquiries" from foreign business men and of regular reports to Ottawa for publication in what was later called the *Commercial Intelligence Journal*, and by periodic tours of Canada by the agents themselves.<sup>11</sup> The trade commissioners had purely commercial functions and were in no sense diplomatic or even consular officers. Consular services continued to be provided for Canadians by British consuls. It was sometimes suggested that the trade commissioners were handicapped by the lack of diplomatic status which would enable them to come into direct contact with foreign governments. No change was made in their status, however, until the founding of the Canadian legations, when the commissioners in those capitals joined the staff as commercial attachés.<sup>12</sup> In countries where there were no

<sup>7</sup>See speeches of Conservatives (Sir John A. Macdonald, Sir Hector Langevin, Mr. George Foster, Sir John Thompson, and Sir Charles Tupper) in the above debates.

<sup>8</sup>*Canada, Sessional Papers, 1887-1892*, Reports of Sir Charles Tupper, High Commissioner, to the Minister of Agriculture; 1893, Report to the Minister of Finance.

<sup>9</sup>*Canada, House of Commons Debates*, May 29, 1886, 1659; June 2, 1886, 1773.

<sup>10</sup>*Canada, Annual Reports*, Deputy Minister of Trade and Commerce, 1925-6, II, 23.

<sup>11</sup>For all this, *Canada, Sessional Papers, 1893-1914*, were consulted; also, *House of Commons Debates, 1886-1914*, appropriations for "commercial agencies" and, after 1909, for "trade commissioners."

<sup>12</sup>Mackenzie King, *Canada, House of Commons Debates*, Jan. 30, 1928, 60; April 8, 1930, 1382.

Canadian trade representatives, arrangements were made by George Foster before the first World War with many British consulates to concern themselves with Canadian trade.<sup>13</sup>

By 1880 the Canadian government felt the need of a more adequate representation of the Dominion in London. According to the Memorandum submitted at the end of 1879 to the British government by Macdonald, Tilley, and Tupper, advocating a "resident minister," "Canada has ceased to occupy the position of an ordinary possession of the Crown. She exists in the form of a powerful Central Government, having no less than seven subordinate local executive and legislative systems, soon to be largely augmented by the development of the vast regions lying between Lake Superior and the Rocky Mountains. Her Central Government is becoming even more responsible than the Imperial Government for the maintenance of international relations towards the United States, a subject which will yearly require greater prudence and care, as the populations of the two countries extend along, and mingle across the vast frontier line, three thousand miles in length."<sup>14</sup> This change in status required an elevation in the status of the Canadian representative in London. The proposed resident minister would, they suggested, assume responsibilities in the spheres of emigration, trade, and finance. His greater prestige and quasi-diplomatic rank would, it was argued, aid and assist him in the promotion of emigration, especially from the continent. In view of Canada's growing interest in external trade and the forthcoming commercial negotiations between the United Kingdom and European governments, it was imperative to have a Canadian representative on the spot to be consulted or to participate in these discussions. Moreover the Canadian representative could assume the financial functions hitherto performed by Sir John Rose, ex-Cabinet minister who had been since 1869 informally serving as Financial Commissioner for the Dominion of Canada in London.<sup>15</sup> In fact these were the functions later performed by the High Commissioner, the title for the new agent finally agreed upon by the British and Canadian governments. Although performing various tasks for other government departments, the High Commissioner was primarily responsible, and reported directly, to the Minister of Agriculture (later to the Minister of Interior) on his emigration work and to the Minister of Finance (later to the Minister of Trade and Commerce) in trade matters.<sup>16</sup>

It had been recognized by the Canadian government's Memorandum that a colony such as Canada then was could not have separate diplomatic representation, and they were firmly reminded of this in the reply of the Colonial Secretary, Sir Michael Hicks-Beach. "Looking, however, to the position of Canada as an integral portion of the Empire, the relations of

<sup>13</sup>Canada, *House of Commons Debates*, Jan. 30, 1914, 323, April 3, 1915, 1932, and March 13, 1916, 1653; Report of the Deputy Minister of Trade and Commerce, *Canada, Sessional Papers*, 1922, no. 10, 14; A. B. Keith, *Imperial Unity and the Dominions* (Oxford, 1916), 297.

<sup>14</sup>Text of Memorandum, *Canada, Sessional Papers*, 1880, no. 105, 2-4.

<sup>15</sup>See the Memorandum, and the speeches of Sir John A. Macdonald, (*Canada, House of Commons Debates*, April 29, 1880, 1857-9, 1872-4) and of Sir Leonard Tilley (*ibid.*, March 8, 1881, 1272-4).

<sup>16</sup>See George Foster, *ibid.*, Feb. 1, 1893, 189-93; Reports of the High Commissioner to the Prime Minister, *Canada, Sessional Papers*, 1892, no. 7b\*, 1896, no. 5A.

such a person with Her Majesty's Government would not be correctly defined as being of a diplomatic character" and "would necessarily be more analogous to that of an officer in the home service, than to that of a Minister at a Foreign Court."<sup>17</sup> The Canadian government believed, however, that the transfer to Canada of control over many important matters meant that "their discussion and settlement have become subjects for mutual assent and concern, and thereby have . . . assumed a quasi-diplomatic character as between Her Majesty's Government representing the United Kingdom *per se* and the Dominion, without in any manner derogating from their general authority as rulers of the entire Empire." For this reason the resident minister ought to have "a quasi-diplomatic position at the Court of St. James, with the social advantages of such a rank and position" and ought to be "specially entrusted with the general supervision of all the political, material and financial interests of Canada in England, subject to instructions from his Government." He would be "an official representative" and the channel of communication between the governments of the United Kingdom and Canada. Moreover, he would on occasion be accredited to foreign courts to associate with the British Minister in trade negotiations.<sup>18</sup>

There was indeed a precedent for this in the unique status enjoyed by Sir John Rose as Financial Commissioner, who according to the Order-in-Council of 1869 setting forth his duties was "accredited to Her Majesty's Government as a gentleman possessing the confidence of the Canadian Government with whom Her Majesty's Government may properly communicate on Canadian affairs." In fact Rose had performed many semi-diplomatic duties on behalf of the Canadian government.<sup>19</sup> In spite of this earlier precedent the High Commissioner came to occupy a very different position from that urged by the Canadian government. The British government from the outset refused to concede him diplomatic status and did not treat him as the only channel of communication between the two governments.<sup>20</sup> Although Sir Charles Tupper, Conservative Cabinet member and simultaneously High Commissioner from 1883 to 1896, was able to develop the political side of his duties to some extent as a result of his unique dual role, the Liberal government after 1896 was reluctant to use Lord Strathcona, a Conservative appointee, for such purposes. As a result the High Commissioner long remained a mere government official and a business agent of various departments, and not an ambassadorial representative of his government.<sup>21</sup>

With the death of Lord Strathcona in 1914, Sir George Perley, a Cabinet member, resided in England, as a temporary expedient, and throughout the

<sup>17</sup>Text given in *Canada, Sessional Papers*, 1880, no. 105, 1-2.

<sup>18</sup>See Memorandum cited, and copy of a report of a Committee of the Privy Council, December, 1879, *ibid.*, 4-6.

<sup>19</sup>Morden H. Long, "Sir John Rose and the Informal Beginnings of the Canadian High Commissionership" (*Canadian Historical Review*, XII, March, 1931, 27, and the whole article).

<sup>20</sup>See Hicks-Beach's reply cited in footnote 17, and A. B. Keith, *Responsible Government in the Dominions* (3 vols., Oxford, 1912), III, 1460.

<sup>21</sup>Keith, *Imperial Unity*, 536-41; A. G. Dewey, *The Dominions and Diplomacy* (2 vols., London, 1929), I, 360-4; A. B. Keith, *Responsible Government in the Dominions* (2 vols., Oxford, 1928), I, 281-7.

war acted as High Commissioner, keeping Canada in close touch with the course of the war and bringing before the Allied governments Canada's productive capacities.<sup>22</sup> During 1916 and 1917 Perley also acted as Minister of Overseas Forces, supervising the Canadian forces in Britain and France, being replaced in this post by Sir Edward Kemp in 1917.<sup>23</sup> During these war and post-war years the diplomatic side of the High Commissioner of necessity developed considerably, and his position was enhanced still further by the change in the status of the Governor-General in 1926.<sup>24</sup> Thus it was possible for Mackenzie King to say in 1927 that "the position of High Commissioner has become increasingly significant as a diplomatic post, and . . . does correspond to the position an ambassador would hold between nations," with the right of access to all British government departments.<sup>25</sup> Indeed, in King's opinion, this post was "the head of that representative service which has to deal with the affairs of Canada abroad."<sup>26</sup> R. B. Bennett, however, denied that the High Commissioner was in any way an ambassador, but argued that he was a political representative of the Canadian government, subject to change with a change of government.<sup>27</sup> The fact was more important than the theory. The functions of the High Commissioner had of necessity broadened considerably from his original business functions, and he had become, in fact, if not in form, a diplomat.

A somewhat similar pattern of change is evident in the case of the Canadian representation in Paris. The predecessor of Canada's first Minister to France was the Hon. Hector Fabre, appointed in 1882 as a representative of the Quebec government in Paris, and from the first used by the Dominion for the promotion of trade and emigration. Responsible to the London High Commissioner in this aspect of his work, the Paris Agent was unofficially graced with the title, Commissioner-General. Like other emigration agents he sought to publicize Canada but was primarily interested in the emigration of Frenchmen of property and means.<sup>28</sup> A more important part of his activity was the promotion of trade and for a few years after 1892 he held the post of commercial agent under the Department of Trade and Commerce.<sup>29</sup> Although apparently not very effective in either capacity, M. Fabre was continued in office by the Laurier government, which considered him of value as a general commissioner, providing

<sup>22</sup>Keith, *Imperial Unity*, 541-7, 584; A. B. Keith, *War Government in the Dominions* (Oxford, 1921), 170-1. See the speeches of Sir Robert Borden, *Canada, House of Commons Debates*, Feb. 24, 1915, 391, April 9, 1915, 2318-19, Feb. 9, 1916, 664, Feb. 21, 1916, 957-9, 960-1, 963, 967-8, Aug. 6, 1917, 4177-8.

<sup>23</sup>Sir Robert Borden, *Canada, House of Commons Debates*, Aug. 7, 1917, 4436, 4438; *Canada, Sessional Papers*, 1917, no. 41; Keith, *War Government*, 76-7, 85.

<sup>24</sup>A. B. Keith, *The Constitutional Law of the British Dominions* (London, 1933), 189-92; N. W. Rowell, *The British Empire and World Peace* (Toronto, 1922), 192-5; Dewey, *The Dominions and Diplomacy*, I, 360, 362-4; Borden, *Canada, House of Commons Debates*, June 30, 1920, 4539; King, *ibid.*, April 13, 1927, 2465-6.

<sup>25</sup>King, *ibid.*, April 13, 1927, 2466.

<sup>26</sup>King, *ibid.*, Jan. 31, 1928, 58-9, May 15, 1931, 1647-50.

<sup>27</sup>Bennett, *ibid.*, Sept. 20, 1930, 491, May 15, 1931, 1646-7, 1650-1, 1658-61. See A. B. Keith, *The Dominions as Sovereign States* (London, 1938), 282-3.

<sup>28</sup>For the above, see *Canada, House of Commons Debates*, Feb. 17, 1882, 45, Feb. 15, 1884, 337, April 3, 1884, 1304, 1305, April 8, 1885, 931-5, and the Reports of Hector Fabre, *Canada, Sessional Papers*, 1887, no. 88.

<sup>29</sup>See Fabre's Reports and *Canada, House of Commons Debates*, June 7, 1887, 820-1, Sept. 17, 1891, 5103, June 30, 1892, 4423-6.

France with information about Canada.<sup>30</sup> After an "ambassadorship" of almost thirty years, M. Fabre was succeeded in 1911 by Philippe Roy who also acted as trade commissioner. Under the Borden government the Paris Agent ceased to represent Quebec and became solely a Dominion agent.<sup>31</sup> Like Mr. Perley in London, M. Roy was active during the war in seeking French government orders for Canadian products and preparing the way for increased post-war trade.<sup>32</sup> Like the High Commissioner, too, the Paris Agent gradually began to perform quasi-diplomatic duties, communicating at least in minor matters directly with the French and foreign governments.<sup>33</sup> By 1928, Mackenzie King could say that M. Roy's position had already become "much more nearly that of a minister" and that he had time and again been granted the right of immediate approach by the French government and the British Ambassador "as a matter of courtesy."<sup>34</sup> Once again, the fact was more important than the form. A most significant metamorphosis of function had occurred before the establishment of the Legation in 1928 had set the seal of constitutional authority upon it.

Canada's representation in the United States, culminating in the establishment of the Legation in 1927, was similarly the outcome of special needs and circumstances. The earliest record of representation in the United States is of a resident immigration agent in Massachusetts in 1875, concerned with the repatriation of French Canadians. Thereafter other immigration agents were established at various points, at first to protect European emigrants proceeding to Canada via the United States, later to encourage American migration. By 1914 there were twenty such salaried agents, supervised by a travelling inspector of agencies.<sup>35</sup> Commercial agents in the United States were held unnecessary by successive Canadian governments, and it was believed that trade with the neighbouring republic would develop freely out of the efforts of Canadian business men without the need for governmental intervention. There was some feeling in the nineties, as we have seen above, in favour of diplomatic representation in Washington. "Such is the magnitude of the interests between Canada and the United States," declared Sir Richard Cartwright in 1889, "that if there be one point on the earth's surface where it is important to Canada to have an agent who shall keep our Government well advised, who shall be responsible to the Government and people of Canada, who shall take his orders from us, and who shall know that it is his business to look after the interests of Canada and nothing else, it is there. . . ."<sup>36</sup> In the minds of Cartwright and McCarthy, there were many questions which would be the concern of such a representative, but most prominent among them was the promotion of trade. Concretely, their proposals did not envisage separate diplomatic representation, which was considered incompatible with imperial unity,

<sup>30</sup>Laurier, *ibid.*, Sept. 7, 1891, 5094-5, April 19, 1901, 3451-2, June 9, 1905, 7209.

<sup>31</sup>Borden, *ibid.*, June 30, 1920, 4539.

<sup>32</sup>Borden, *ibid.*, Feb. 21, 1916, 982; Rowell, *ibid.*, April 29, 1919, 1901.

<sup>33</sup>Borden, *ibid.*, June 30, 1920, 4539; King, *ibid.*, June 15, 1923, 4001, June 2, 1925, 3837-8.

<sup>34</sup>King, *ibid.*, Jan. 30, 1928, 59-60.

<sup>35</sup>Canada, *Sessional Papers*, 1876-1914 (Report of the Minister of Agriculture to 1892, of the Minister of Interior, 1893-1903, of Inspector of Agencies in the U.S., 1904-14).

<sup>36</sup>Canada, *House of Commons Debates*, Feb. 18, 1889, 174.



but suggested an attaché at the British Embassy, subordinate to the British Ambassador and the British Foreign Office, but authorized to communicate directly with the Canadian government.<sup>37</sup>

The Conservative government admitted the need for some fuller representation of the Dominion in Washington but flatly rejected the proposed attaché in the British Embassy. Their proposed alternative, although never clearly defined, involved an agent with a status somewhere between that of a mere commercial agent and an independent diplomatic representative, having the right of access to the British Minister and the American government, and having the right to report directly to the Canadian government. They were determined, however, to take no step until, in agreement with the United Kingdom, the exact status of the proposed agent was determined.<sup>38</sup> George Foster, reporting in 1893 on his discussions in this connection in London with the British government noted that they would be willing "to facilitate in any way a full representation of Canada's interest, through their Minister at any of these [foreign] capitols, and further, would be willing to act in every possible way so as to give a Canadian agent or unofficial representative, whatever advantages could possibly be given through the Embassy, or by the Minister representing Great Britain in that country." "Serious difficulties" would, however, be in the way of Canadian representatives "with ambassadorial or ministerial functions."<sup>39</sup> Thus the matter stood down to the Great War, and neither the Laurier nor the Borden governments took steps to establish either a diplomatic or a commercial agent in Washington, in spite of parliamentary pressure.

The outbreak of the war brought the problem sharply to the fore and led to the initiation of discussions with the British government by the Borden government in 1917. The special war needs were satisfied by the temporary appointment in 1918 of the Canadian War Mission, made up of business men. In order to avoid diplomatic difficulties, the Mission represented, not the Canadian government but the Cabinet and the heads of departments.<sup>40</sup> Its functions were clear-cut; it was to secure for Canadian importers priority orders, export licences and transport permits issued by American departments, and later on, to assure American markets for Canadian munitions exporters.<sup>41</sup> As Newton Rowell put it, the war situation required the government "to step in and protect Canadian industries and the development and maintenance of our industrial life" and "to get the business . . . by going after the business."<sup>42</sup> Although not formally a diplomatic mission, it did in fact perform such duties.<sup>43</sup> After the war the Mission was temporarily continued so as to avoid an interregnum between it and the permanent representation which the government was by that time

<sup>37</sup>See the speeches of Cartwright, Laurier, and McCarthy in the *Debates* cited in Footnote 6.

<sup>38</sup>See the speeches of Foster, Tupper, and Sir John Thompson in the *Debates*, Footnote 6.

<sup>39</sup>George Foster, *Canada, House of Commons Debates*, March 2, 1893, 1615.

<sup>40</sup>Dewey, *The Dominions and Diplomacy*, II, 103; Keith, *War Government*, 172.

<sup>41</sup>Borden, *Canada, House of Commons Debates*, April 18, 1918, 905-6, May 17, 1920, 2451-3; Rowell, *ibid.*, May 5, 1919, 2070-7.

<sup>42</sup>Rowell, *ibid.*

<sup>43</sup>Borden, *ibid.*, April 21, 1921, 2388-9; Sir Robert Borden, *Canada in the Commonwealth* (Oxford, 1929), 96.

again discussing with the British government. Indeed even after the work of the Mission had been wound up in 1921, Mr. M. M. Mahoney, its secretary, remained in Washington for some years as "agent" of the Department of External Affairs. In addition a Bureau of Information was set up in 1919 in New York City, devoting itself largely to the promotion of trade, and was succeeded in 1921-2 by a Trade Commissioner's Office, the first office of its kind in the United States, intended by the Conservative government to be the beginning of an extensive system of commissioners in the United States.

By May, 1920, agreement had already been reached between the Canadian and British governments on the appointment of a Canadian "Minister Plenipotentiary" in Washington to act as "the ordinary channel of communication . . . in matters of purely Canadian concern." It was provided that in the absence of the British Ambassador the Canadian Minister would take charge of the "whole Embassy," so that the new arrangement was not taken to "denote any departure . . . from the principle of diplomatic unity of the British Empire."<sup>44</sup> There was little disagreement in the Canadian parliament as to the real need for such a representative and few were ready to cast doubt on Rowell's assertion that "a Canadian, possessing the intimate knowledge which a Canadian should have of Canadian affairs and trade conditions, is better qualified to look after Canadian interests than a man who has not the knowledge or experience."<sup>45</sup> It was the turn of the Liberals in opposition, however, to criticize the attachment of the Canadian representative to the British Embassy, and for the Conservatives to defend it, thus reversing the roles taken in the 1892 discussions. In particular the Liberals assailed the dual responsibility of the Canadian representative and feared that he would be a "camouflaged chief clerk," subordinate to the British Ambassador and even the British Consul.

The government denied that there would be any difficulty as to the division of duty and responsibility and defended the arrangement as a guarantee of the continued integrity of the Empire and of the prestige of the Canadian representative. Although the principles of self-government and autonomy were frequently alluded to in the debates, it seems impossible to avoid the conclusion that the government was more concerned with the fact of representation, than the form, since formally the Canadian representative would be dependent and subordinate and the diplomatic unity of the Empire would be preserved. Said Arthur Meighen, "We take this step not because we are a nation and merely to express our nationhood. We take it for the service it is going to be to us. We take it because it will be a help to us, but it does illustrate the growing nationhood of our country."<sup>46</sup> There were those who believed, and were comforted by the fact, that the "right of legation" had *not* been clearly established by this development, and reconciled themselves to the Washington representation only because the principle of self-government had not been pushed to its logical con-

<sup>44</sup>Text in Dawson, *Development of Dominion Status*, 202.

<sup>45</sup>Rowell, *Canada, House of Commons Debates*, May 17, 1920, 2444. W. S. Fielding denied the need for a Washington representative. See the important *Debates* in the House, May 17, 1920, 2442-75, June 30, 1920, 4533-43, April 21, 1921, 2378-2436.

<sup>46</sup>Meighen, *Canada, House of Commons Debates*, April 21, 1921, 2431.

clusion in the form of a separate diplomatic representative.<sup>47</sup> Nor did the "logic" of self-government lead to any conclusion as to the extension of the idea to other countries than the United States. Such a step might be taken, but not necessarily, American relations "differing wholly" from relations with other countries.<sup>48</sup>

The proposal of Washington representation, originally taking this "imperialist" form, was finally translated into fact in 1926 by Mackenzie King, who, true to his earlier criticism of the dual nature of Borden's scheme, put the Canadian Minister in charge of a separate legation. Moreover he clearly indicated his expectation that Canada would ultimately have representatives in every country in the world.<sup>49</sup> The Conservative opposition, led by R. B. Bennett, bitterly opposed representation in this "nationalist" form, deploring the effect it would have on imperial unity and suggesting in place of a diplomat a trade commissioner.<sup>50</sup> But the die was cast. Canada's representative in Washington was to be in form, as well as in fact, a diplomatic representative. The right of legation had been established.<sup>51</sup> But as in the case of Paris and London, the need had created the right. Had the Conservatives had their way, the need would have been fulfilled without the right. As it was, the fulfilment of the need was accompanied by the achievement of the right. The final result was a functional, not a theoretical product.

In conclusion, it remains to demonstrate that the later expansion of Canadian representation in Paris and Tokyo reflected the circumstances and needs of Canada rather than the strict letter of a constitutional theory. These steps were taken, and others followed later, as the special needs presented themselves, and the steps were justified by those needs, not by a constitutional principle. Their establishment did not automatically follow from the creation of the Washington Legation, which had been considered a product of the peculiar nature of Canadian-American relations.<sup>52</sup> The motive of trade promotion played an important part in the decision to set up missions in Paris and Tokyo. Moreover the two representatives were looked upon as Canada's sole representatives in the two continents, Europe and Asia, not merely as ministers to the two countries in question. Then there was the intention of giving Canada the means of fulfilling her general responsibility in foreign relations as an independent state. The purpose of these two legations, said Mr. King, was not to emphasize Canada's status, which was already recognized, but rather to assume the responsibility corresponding to that status.<sup>53</sup> This implied, of course, that representatives would later have to be established in other countries. "We are sending

<sup>47</sup>See P. E. Corbett and H. A. Smith, *Canada and World Politics* (London, 1928), 140, 184-6; Keith, *War Government*, 173-5; Keith, *Responsible Government* (1928), 909 n.; A. B. Keith, *The Sovereignty of the British Dominions* (London, 1929), 438, 447-8.

<sup>48</sup>Meighen, *Canada, House of Commons Debates*, April 21, 1921, 2430.

<sup>49</sup>King, *ibid.*, June 2, 1925, 3842.

<sup>50</sup>Bennett, *ibid.*, April 13, 1927, 2472, 2481-2. Sir Henry Drayton and Borden were also opposed (*ibid.*, June 2, 1925, 3839-40; Borden, *Canada in the Commonwealth*, 98).

<sup>51</sup>P. J. Noel Baker, *The Present Juridical Status of the British Dominions in International Law* (London, 1929), 150-2, 251.

<sup>52</sup>Dewey, *The Dominions and Diplomacy*, II, 104-5, 106, 291.

<sup>53</sup>King, *Canada, House of Commons Debates*, Jan. 31, 1928, 60.

representatives to Paris, Washington and other places," said Mr. King, "to deal with special and individual problems arising between foreign countries and ourselves, and the natural, necessary and inevitable development is to send as conditions warrant permanent representatives to the capitals of foreign countries."<sup>54</sup> More concretely, King advanced the curious argument that it was wise for Canada to establish relations with her four "nearest neighbors" on the continents of Europe, Asia, and North America, "the four great powers that are instrumental in controlling world affairs."<sup>55</sup> To the thesis propounded by Mr. King, Mr. Bennett and the Conservative opposition could not agree. They were ready to admit the commercial value of Canadian ministers. But they were inexorably opposed in principle and practice to further diplomatic representation, which would render impossible, in their view, the desirable unity of the Empire in foreign policy. "It [the commonwealth]," said Mr. Bennett, "cannot speak with one voice if power is given to the representative of Canada or any other part of the commonwealth to speak with a dissenting voice."<sup>56</sup> Mr. King was on sounder ground, however, in his argument that a joint foreign policy would still be possible through joint action of the several British representatives at a foreign capital.<sup>57</sup>

By 1928 there was no doubt that Canada was not only free constitutionally to establish legations wherever she wished, but that, right or no right, Canada would do so wherever the need appeared to demand it. Mr. Bennett, as Prime Minister, did not make any additions to Canada's diplomatic system, but did not discontinue or change the status of any of the existing legations. It was clear, however, that wherever the costs and the likely results justified it, Canadian diplomatic representation would be inaugurated. From this fact the later events, right down to the appointing of ministers to Chungking and Moscow, and of the first Consul-general, in New York City, followed almost inevitably, not as of right, but as of need. On the other hand, wherever this did not take place, British embassies and consulates continued to be used, in minor matters even without instructions from the Foreign Office.<sup>58</sup>

If Canadian historians, constitutional lawyers and statesmen like to think of the development of Canada's representation abroad in terms of an idea—responsible government—first vindicated by Robert Baldwin, it may make Canada's history nobler and more purposeful, and does not too grossly distort the formal course of events. None the less a clear understanding of the development can only be secured if its content as well as its form is considered. Seen in this light, the development of our permanent representation abroad has been the product of circumstances and needs, not of theories and principles. The theories, indeed, have often had to hobble

<sup>54</sup>*Ibid.*, June 9, 1928, 4162.

<sup>55</sup>*Ibid.*, June 9, 1928, 4157. See W. L. M. King, "Canada's Legations Abroad" (*The Canadian Nation*, II, March-April, 1929, 26).

<sup>56</sup>*Canada, House of Commons Debates*, June 9, 1928, 4166.

<sup>57</sup>See for the above the statements by Mackenzie King, *ibid.*, Jan. 31, 1928, 57-62, June 9, 1928, 4155-63, April 8, 1930, 1382-4; Bennett, Jan. 30, 1928, 27-9, May 28, 1928, 3484, June 9, 1928, 4163-7, April 8, 1930, 1383-4, July 30, 1931, 4335-6, 4344; Perley, Feb. 2, 1928, 116-17, June 9, 1928, 4153-5.

<sup>58</sup>Keith, *Imperial Unity*, 19-20; *The Sovereignty of the British Dominions*, 447, 450-1; *The Dominions as Sovereign States*, 582-3.

along after the facts, sadly crippled by the facts, and desperately striving to overtake them. What Newton Rowell, in defending the idea of Canadian representation in Washington, once said about the British Empire may be well applied to Canada: ". . . the British Empire has not been built up on constitutional theory, it has not developed on theoretical lines. Its development has been in accordance with the actual needs of the hour and the conditions which faced its people in different quarters of the globe."<sup>59</sup> So it is with Canada's permanent representation abroad.

#### DISCUSSION

*Professor Trotter* asked whether the separate representation secured by the Irish Free State under the Treaty had any direct influence on the appointment of a diplomatic representative at Washington; but Mr. Skilling had no evidence showing any direct bearing of the former on the action of the Canadian government.

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<sup>59</sup>Rowell, *The British Empire and World Peace*, 191.