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## **Imperial Policy and the Role of Foreign Consuls in Canada 1870 - 1911**

During the years immediately prior to Confederation and subsequent to that period the imperial government in recognition of Canadian development, the country's need for increased markets in a competitive world and for a greater immigration flow, permitted many foreign nations to appoint consuls and Consuls General to Canada. Consular officers despatched by their home countries held a commission from the head of state responsible for their appointment and required official approval and recognition from London before assuming their duties in Canada. In the case of such officials, *consuls de carriere*, the appointments were made by their home government and were subsequently approved of by the Foreign Office without prior consultation with Ottawa. In the case of consuls who were permanent residents of Canada, the Canadian government was consulted regarding its willingness to accept such appointments as consular officials.

Though the imperial government had clearly permitted foreign powers to locate and establish representatives in Canada, mainly in Ottawa and Montreal, London did not recognize such appointments as being of a genuine diplomatic nature. The status of such officers, regardless of the method of their assumption of duty, was viewed by Whitehall as that of foreign residents in Canada who might bring to Ottawa's attention minor problems their fellow nationals were experiencing in the Dominion. Equally, consuls could alert the administration regarding the possibility of beneficial trade arrangements between their countries and Canada but only on the understanding that any negotiations on issues of this nature would be conducted by imperial diplomatic personnel and accredited representatives of the foreign governments concerned. Under no circumstances would such consular officials engage in negotiations with the Canadian government nor would they be granted the recognition and privileges normally accorded diplomats accredited to a sovereign nation state.

Despite the fact that imperial policy had clearly spelled out the status of foreign representatives, it had not completely clarified their role. Thus, the presence of consuls in the Dominion made it inevitable that sooner or later such individuals or the Canadian government itself would seek to initiate negotiations on a variety of matters, thereby bringing about a form of *de facto* recognition of the consuls and quite obviously violating London's suzerainty over the external relations of Britians' self-governing dependencies. Incidents of this nature revealed themselves sporadically throughout the late nineteenth century and particularly in the early twentieth century, indicating quite clearly that it would only be a matter of time until Ottawa seized the initiative in administering certain aspects of Canada's relations with foreign powers. These developments also brought in their train a reluctant recognition by the imperial government that Canadian independence would become inevitable within the relatively near future.

In 1860, Britain's arch apostle of free trade, Richard Cobden, concluded a highly lucrative and liberal trade agreement with France. Under the terms of the treaty, France lowered her duties on coal and British manufactures while London in turn reduced the duties on French wines and brandy. Over the succeeding decade, United Kingdom exports to France more than doubled, most of the increase being in manufactured products. Though Canada was not included in the Anglo-French treaty, Ottawa came to an informal understanding with Paris in 1862. On that occasion, the French Consul-General to Canada, Baron Boileau, agreed that Canadian-built wooden ships, sawn wood and other articles would enjoy preference in the French tariff. For her part, Canada conceded reductions on French wines specifically and manufactured goods generally.

Earl Grey reported from the Canadian capital that he had apprised William Fielding of the irregularities inherent in his agreement with Dr. Lang. Fielding, so it seemed to the impressionable Governor-General, agreed completely with London's guidelines and then proceeded to make yet another breach in the facade of imperial authority.<sup>66</sup> On February 3, 1910, Martin Franklin, Charge d'Affaires to the Italian Embassy in London, informed the Foreign Office and Sir Edward Grey that his government was anxious to send a delegation to Canada to work out the terms of an Italo-Canadian commercial agreement.<sup>67</sup> Accepting the fact that Ottawa would negotiate with the mission upon its arrival, Arthur Berriedale Keith admitted that this development would lead to yet another extension of Canada's treaty-

making prerogatives.<sup>68</sup> His colleague, Hartmann Just, agreed that Canada had an all but unlimited treaty-making faculty where commercial agreements were concerned. About all the Colonial Office could do was to see that the accord did not come into effect without London's approval. Also, the Office should attempt to make certain that the treaty was "finally signed" in either London or Rome "by the usual diplomatic representatives."<sup>69</sup> Just's oblique reference to the "usual diplomatic representatives" was an obvious attempt to avoid a repetition of Canadian independent action which was being consummated on that very day in Ottawa by Fielding and Lang.

By this time, imperial policy makers had all but resigned themselves to unilateral treaty-making by their senior Dominion. Lord Crewe expressed the dubious hope that Canada would observe the "Treaty-making forms" in commercial treaties as much as Britain did where political agreements were concerned. Recognizing the inevitable, he admitted that the imperial government could not prevent Canadian delegates from negotiating with their foreign counterparts. About all that London could expect now would be information from Ottawa on the progress of the talks.<sup>70</sup>

In much the same manner as the German negotiations, and despite Lord Crewe's private rebukes to Earl Grey, the Canadians went ahead and concluded and signed an agreement with the Italian Consul. The agreement took effect June 10, 1910, and was published in the Italian *Official Gazette* on September 13 of that year. Imperial reaction was one of quiet resignation. In the Foreign Office, the permanent under-secretary, Sir Charles Hardinge, sarcastically observed that the negotiations had been going on since March and now in September, his department learned for the first time that an agreement had been "*signed in Canada*" in the early summer.<sup>71</sup> Over in the Colonial Office, a similar atmosphere of reluctant acceptance prevailed. Arthur Berriedale Keith shrewdly remarked that he found it very difficult to see any intrinsic difference between the commercial agreements Ottawa had been merrily concluding and bona fide treaties.<sup>72</sup> In essence, the Colonial Office resident constitutional expert had recognized Canada's de facto treaty-making power in commercial matters and her determination to treat independently with consuls.

Having conceded the reality of Canada's direct negotiations with foreign consuls, the imperial government moved reluctantly to a study of their status and rank in Ottawa. Its initiatives in this direction stemmed directly from a forthright statement on the issue by Wilfrid

Laurier and by marked expressions of discontent on the part of certain consuls over the fact that they had not received adequate recognition in the Canadian capital.

Describing Canada's development "as a nation," the Prime Minister remarked that the consuls in Ottawa performed "very important duties not only of a commercial nature, but even of a semi-diplomatic nature." Again emphasizing the country's progress towards independence, Laurier pointed out that foreign consuls actually carried out "diplomatic duties." Thus, the German and Italian Consuls had been "charged" by their respective governments with just such tasks and at that very moment the United States Consul General to Ottawa, John Foster, was fulfilling a "diplomatic function" for the Taft administration regarding the possibilities of a Canadian-American reciprocity agreement.<sup>73</sup> Given these developments, the Prime Minister argued, it was high time that an agreement reached with Whitehall granting the consuls "semi-diplomatic recognition".<sup>74</sup>

The Franco-Canadian understanding of 1862 proved to be of particular benefit to Canada's shipbuilding industry and over the subsequent twelve years trade between the two countries greatly expanded. However, in 1873 Lord Lyons, Britain's ambassador to France, presided over a successful renewal of Cobden's 1860 treaty. Though this was no mean feat given the trend in the Third Republic towards protection, the agreement did not specifically include the British colonies. Colonial produce from that date forward came under the French maximum tariff and Canadian statesmen were given adequate reason to argue that Canada's interests took second place to British commercial goals. Imperial diplomacy, it seemed, took heed of colonial needs just so long as they did not interfere with United Kingdom national self-interest.

With French tariffs effectively blocking exports, Canada experienced a marked reduction in her timber trade, particularly so where the country's shipbuilding industry was concerned. France's now discriminatory duties on foreign-built shipping, together with the depression of the eighteen-seventies, seriously affected Quebec and the Maritime provinces. The plight of shipbuilders and protests on their behalf were brought to the attention of Alexander Mackenzie's Liberal administration and their Conservative successors under Sir John A. Macdonald as the situation worsened.

In early 1875, a prominent Quebec City shipbuilder, N. Rosa, informed Ottawa that France's new duties had made it impossible for

him to compete in that country's market. Prior to the renewal of the Anglo-French treaty he had constructed between three and four vessels annually for French buyers. Now, with the duty increased from two francs (38 1/2¢) per ton to 40 francs (\$7.69), he could no longer meet the price of his French competitors despite a current order for four ships.<sup>1</sup> Rosa argued that the new duties had made it impossible for his shipyard to continue its operation.<sup>2</sup>

To the complaints of Quebec shipbuilders was added the powerful voice of the country's Dominion Board of Trade. In a personal submission to the Governor-General, the Board described France's tariff structure as prohibitive and a major contributor to the decline of the Canadian shipbuilding industry. Referring directly to Britain's renewal of her treaty with France, the Board of Trade insisted that in all future commercial treaties with foreign powers the imperial government be urged to consider Canadian needs.<sup>3</sup>

The protests of commercial interests as well as individual entrepreneurs quite obviously encouraged the French consul at Quebec to promote bilateral Franco-Canadian negotiations on the issue of tariff revision. According to Alexander Mackenzie the consul, A. Lefavre, had published a letter of June 20, 1877, calling for the appointment of a Canadian delegate to negotiate directly with the French government. In this manner, the commercial relations between France and Canada would be strengthened and Canada's representative would be assured of a hearty welcome in Paris.<sup>4</sup>

Needless to say, the publication of Lefavre's missive created considerable concern in Ottawa. It was an open demand for a Canadian voice in treaty-making, a questioning of British supremacy in this field and an obvious departure by the consul from his restricted role in Canada. Upon being contacted by the Prime Minister to explain his letter, Lefavre made a hasty apology and retraction. The letter, he argued, had been published in the daily press without his knowledge. The consul recognized that treaty discussions had to be initiated by the imperial government though he slyly suggested that the option of opening any such discussions lay with Ottawa. All France desired, without indicating how the conversations should be opened, was to welcome Canadian proposals in as cordial a manner as possible.<sup>5</sup>

Seemingly, Alexander Mackenzie had firmly reiterated London's control of the treaty-making faculty and Canada's subordinate role by his swift response to Lefavre's suggestions. In reality, the Prime Minister's policies in this situation were open to a charge of duplicity.

A bare two months following his correspondence with Lefavre, Mackenzie contacted Joseph Shehyn, a prominent member of the provincial Liberal party in Quebec and a well-known business man in the province's capital city.<sup>6</sup> Mackenzie informed Shehyn that Ottawa was willing to reduce the duties on French wines in return for a reduction to the British level of the duties levied on Canadian ships. He noted that this proposal had already been communicated to Paris through London as this was the only way Canada could "conduct correspondence with a foreign government." The Prime Minister then proceeded to urge Shehyn to carry on informal discussions with Lefavre. He further encouraged the Quebec politician to use whatever means he thought best to bring about closer Franco-Canadian commercial relations.<sup>7</sup> Thus, as the Liberal government approached its last months in office, its leaders had sanctioned a parallel negotiation with France's consul in Quebec while at the same time seeking official approval in London for an opening of talks with the French administration!<sup>8</sup>

As the crisis in the shipping industry deepened, increased pressure was brought to bear upon Ottawa to take some action. At the same time, France was giving every indication that she might shortly denounce the Anglo-French treaty so laboriously renegotiated by Lord Lyons. With the possibility of renewed discussions between London and Paris in mind, the *Montreal Star* understandably raised the question of Canada's interests being sacrificed all over again. To offset this likelihood, would it not be well to have a "competent and duly authorized Canadian" on the spot to look after the country's export needs? According to the *Star*, lack of Canadian participation in such negotiations had had a disastrous effect on what was once a large and expanding shipbuilding industry.<sup>9</sup> *The Monetary Times* of Toronto pursued a somewhat similar tack in recommending an almost independent Canadian approach to France. According to that journal, Quebec City's Rosa had himself personally obtained from Paris a reduction of duty on a vessel he had sold in Bordeaux as far back as 1865. Also, *The Monetary Times* reminded its readers that Canadian officials and Baron Boileau had reached an informal and bilateral agreement three years earlier on the issue of trade relations. With these precedents in mind, Ottawa was urged to seek "direct negotiation" with France.<sup>10</sup> Though the journal did not say so, its editorial was an implicit endorsement of Canada's negotiations with France's consul Lefavre.

While it can be argued that a tacit recognition of the French consul's role in Canada had been extended by the Mackenzie administration, the entire issue of Franco-Canadian trade negotiations fell upon John A. Macdonald's Conservatives in the aftermath of their successful election campaign in 1878. Selected to promote these negotiations with the approval of the Foreign Office was Alexander Galt who had served as the country's first Finance Minister under Macdonald from July to November 1867. Galt's attempts to reach a satisfactory agreement with Paris failed during his initial journey to the French capital in late 1878 and indeed in subsequent negotiations following 1880 when he was appointed Canada's first High Commissioner to London.<sup>11</sup>

In spite of Alexander Galt's less than successful negotiations, his involvement brought to light a growing determination both on his part and that of Macdonald to promote a more independent stand with reference to foreign governments. Galt himself emphasized that Canadian interests differed markedly from those of the United Kingdom and that British diplomats were not particularly aggressive in promoting Canada's goals. Referring to the country's increasing trade relations abroad he stressed the need for "direct negotiations" with the foreign world.<sup>12</sup> Though less emphatic than Galt, John A. Macdonald endorsed the former's opinion observing that the time had arrived when Canada had to be treated "as an auxiliary power rather than a dependency" in her relations with London.<sup>13</sup> Their concern over inadequate contacts with foreign powers was shortly to be endorsed by yet another prominent member of Macdonald's administration.

With the Franco-Canadian trade talks at a low ebb, France's Lefavre proceeded once more to promote unilateral discussions with Ottawa. In the early summer of 1881 he personally approached Sir Hector Langevin, Macdonald's Minister of Public Works, with a view to encouraging Ottawa to join in the negotiations for a new Anglo-French commercial agreement. Lefavre's initiative evoked a mixed reaction in both Canadian and imperial circles.

Writing from London as High Commissioner, Alexander Galt argued that Lefavre's approach to Langevin, which the High Commissioner insisted must have had the approval of the French government, could "scarcely fail to give offence" in Whitehall. Galt suggested that the consul be told in no uncertain terms that Franco-Canadian negotiations could only be commenced by the "Imperial Foreign Office." The High Commissioner's staunch defense of im-

perial sovereignty was, however, not as forceful as his terminology indicated. In the same breath he warned Macdonald to be wary of associating Canada, as Lefaiivre had suggested, in any Anglo-French negotiations. If Canada did participate and there was a rupture between London and Paris, Canada might find herself committed to "a special arrangement with France" that did not have the support and backing of the imperial government.<sup>14</sup>

In the British Commons, the parliamentary under-secretary to the Foreign Office, Sir Charles Dilke, described Lefaiivre's contact with Langevin as "irregular". He praised Ottawa for rejecting the consul's offer pointing out that Canadian contacts with a foreign power could only be made through the imperial government.<sup>15</sup>

Sir Charles Dilke's parliamentary statement did not entirely reflect the exact state of opinion on the issue of a dependent Canada establishing bi-lateral contacts with a foreign consul. Hector Langevin defended his discussions with Lefaiivre in such a manner as to suggest that a more equal status for Canada in her relations with foreign powers was merely a matter of time. He emphasized that there had been no censure of the talks by the imperial government, which was not entirely accurate, and insisted that as the Minister of Public Works, owing no responsibility to either Sir Charles Dilke or Whitehall, he would not have accepted any rebuke from London. Langevin's opinion that he was responsible only to the "Governor-General of Canada" and to the Canadian "people" who had elected him a Member of Parliament, though not in line with imperial policy, gave clear indication that he at least wanted to rid the country of London's restrictions and to approach consuls on a bi-lateral basis.<sup>16</sup>

Within the Colonial Office which together with the Foreign Office was responsible for Canada's external relations, departmental opinion was relatively sympathetic. E.B. Pennell suggested that the French consul might well have approached Hector Langevin at the request of Alexander Galt for the simple reason that Galt was "very anxious" to know when the Anglo-French negotiations might be resumed.<sup>17</sup> His colleague, John Bramston, displayed even more understanding. As Bramston analyzed Ottawa's trade goals, Canada was approaching the point where essentially she would conclude her own commercial treaties. Thus, when this stage was reached would there be any point in the imperial government viewing Lefaiivre's "rather mild overture" as even being "irregular"?<sup>18</sup>

Though muted strains of support for Canada's bi-lateral contacts with foreign consuls, at least in the French case, had emerged from



the Colonial Office, the issue was effectively settled by Sir John A. Macdonald. In the spring of 1882, the leader of the Liberal Opposition, Edward Blake, expressed the opinion that Canadian interests were considered "trifles" by Britain and were treated as such. He suggested that Canada was capable of negotiating with foreign countries and should use that capability to the "fullest extent." Replying for the government, Macdonald pointed out that Britain was not likely to give her consent and he mentioned the rebuff Lefavre had received when he had attempted to open discussions with Langevin. Defending the policy whereby Canada concluded commercial agreements through the Foreign Office in particular and the imperial government in general, the Prime Minister emphasized that it would be "penny-wise and pound foolish" to reject the advantages Ottawa has gained in having treaties made between "Great Britain and the nation, not between Canada and the Nation."<sup>19</sup>

John A. Macdonald's staunch endorsement of imperial primacy took on added significance given the fact that he was replying to a motion put forward by Edward Blake calling for an independent treaty-making power for Canada, at least where commercial relations were concerned. Given the Conservatives two-to-one majority in the Commons it was not that surprising that the motion was defeated by 104 to 58 votes.

The conclusion of the parliamentary debate earned the Prime Minister the gratitude of Sir Robert Herbert, the permanent under-secretary to the Colonial Office. Divorcing himself from his junior colleagues who had treated the French consul's discussions with Langevin in a kindly fashion, Herbert described the issue of an independent Canadian negotiating initiative as "old". Canada's Prime Minister had demonstrated an "increasing loyalty" to the imperial government and had effectively pointed out the "practical disadvantages" for his country if placed on an independent footing with foreign powers.<sup>20</sup>

Though Robert Herbert's praise for John A. Macdonald was a clear affirmation of Whitehall's supremacy regarding Canada's contacts with foreign consuls, it overlooked the fact that the Prime Minister himself and two of his more senior colleagues had endorsed a more unilateral stand for Ottawa where Canadian external relations were concerned. Sir John's parliamentary assertion that Canada's interests would be better served through British diplomatic channels was undoubtedly a realistic assessment of the country's subordinate status in the Empire at that time. Nonetheless, his endorsement of imperial

suzerainty could not disguise the fact that he himself had privately endorsed an enhancement of Canada's presence in foreign circles and that this development had been championed by such stalwarts as Galt and Langevin.

With Conservative administrations destined to remain in power in Ottawa for fourteen more years the issue of the role of foreign consuls declined in importance, though it should be emphasized that Macdonald and his more senior colleagues had left a legacy of dissatisfaction over imperial promotion of Canadian interests. This dissatisfaction was seized upon by the opposition Liberals in the election of 1882 when Edward Blake called for greater freedom on Canada's part in the management of the country's external relations. In the 1887 election Blake reiterated the theme with a simple demand for Ottawa's right to conclude her own treaties. Four years later in the 1891 campaign Wilfrid Laurier, now leading the Liberals, argued that the day must come when Canada's commercial interests abroad took precedence over those of the United Kingdom.

Once in power in 1896 the triumphant Liberals under Laurier moved swiftly to expand the administration's contacts with foreign consuls. Though the new administration would pursue this goal with considerably more vigour than its Conservative predecessors, it should be recalled that the agitation for independent contacts with foreign consular officials had received the unofficial approbation of Alexander Mackenzie's Liberal regime and that of their Conservative successors in the initial years following the 1878 election. To this extent it can be argued that Canadian governments regardless of their political stripe had promoted a policy of treating foreign consuls as quasi-diplomats and by doing so had demonstrated Ottawa's frustration regarding imperial diplomacy where Canada's external interests were at stake.<sup>21</sup>

Upon forming his new government, Wilfrid Laurier and his colleagues became even more aware than before that the United States had no intention of moving towards a more liberal trading pattern with Canada. During their years in opposition the Liberals could not have failed to notice the impact of the McKinley tariff of 1891 which was aptly described by its author as "protective in every paragraph and American in every word and line."<sup>22</sup> Now, barely in power, the new Liberal administration was faced with Washington's proposed Dingley tariff which was criticized by Laurier's Minister of Finance, William Stevens Fielding, as ample evidence that the U.S.A. was not inclined to trade favourably with Canada. In an obvious riposte to

United States policy, Fielding presented to the House of Commons a series of tariff schedules the most prominent of which granted preference to United Kingdom commodities.

William Fielding's proposed preference for British imports immediately ran afoul of London's long-standing commitments to Belgium and Germany. Under the terms of commercial treaties concluded in 1862 and 1865, respectively Britain's colonies were obliged to grant both countries any and all tariff concessions they made to the United Kingdom. Canada's tariff, confining preference solely to British commodities, clearly violated London's treaty obligations and was ruled to have done just that by the Imperial Law Officers of the Crown. Nonetheless, the agreements were denounced in 1898 by the Foreign Office, the argument being used that they stood as a "barrier against any internal fiscal arrangements of the British Empire" and were "inconsistent" with the development of closer ties between the various members of the imperial brotherhood.<sup>23</sup> The results for German-Canadian relations were swift and dramatic.

Berlin's irritation over Canada's concessions to Britain and the denunciation by London of the 1865 treaty was added to in 1900 when the Laurier administration increased British preference from twenty-five per cent to thirty-three and a third per cent. In retaliation, Germany subjected Canadian products to the duties of the general tariff which were markedly higher than those listed under the conventional tariff. Canada replied by subjecting German commodities to a thirty-three and a third per cent surtax in April 1903.

The first rumblings of discontent in Canadian commercial circles over the tariff imbroglio emerged in mid-1901. At that time, the influential Toronto Board of Trade urged the government to bend "every possible effort" to obtain a more favourable market in Germany.<sup>24</sup> The almost immediate result was the beginnings of negotiations between Ottawa and the German consul in Montreal, Franz Bopp.

Making the initial approach to Wilfred Laurier, the consul argued that the concession proposed by Canada, namely the tariff rates on a selected range of goods listed in the Franco-Canadian treaty of 1895, was totally inadequate when compared to Canada's demand for the restoration to Canadian exports of the German conventional tariff.<sup>25</sup> Though the actual details of the subsequent proposals and counter proposals need not concern us, considerable significance lay in the fact that during the negotiations the government deliberately avoided any reference to either the Colonial Office or the Foreign Office. In-

deed, in its contacts with Franz Bopp, the Laurier administration pointed out that though a treaty between Canada and Germany would require the appointment of plenipotentiaries by "His Majesty the Emperor of Germany and His Majesty the King of Great Britain," it was nonetheless desirable that the government and the consul should carry on "a friendly exchange of views." Also, the cabinet recommended that Canada's proposals be brought only to Bopp's attention and on a confidential basis!<sup>26</sup>

In the aftermath of the abortive discussions of 1901, a broad hint that the Canadian government was engaged in a form of diplomatic manoeuvring with Germany's consul was given to the Commons in early 1902. On that occasion, Laurier told the House that negotiations had been initiated with Germany. Though the talks were not "official," as Canada could not conclude her own treaties, nevertheless the administration would carry on the conversations "informally."<sup>27</sup> One year later William Fielding candidly informed the Commons that as an earlier request by Ottawa to Whitehall to plead Canada's case with Berlin "had not proved successful" the government had decided to discuss the trade problem directly with Franz Bopp.<sup>28</sup>

William Fielding's parliamentary statement was not only a declaration of the government's intention to deal directly with a foreign consul, but also an open criticism of imperial diplomacy. Shortly after the beginning of the German-Canadian tariff war Ottawa sought the aid of London. Lord Strathcona, third High Commissioner to the United Kingdom, pointed out that Canada, unlike the other portions of the British Empire, had been denied most-favoured-nation treatment in the German market due to the implementation of preference for British products. As Britain herself might well be initiating a new round of commercial negotiations with Berlin, the High Commissioner urged Whitehall to bend every diplomatic effort to obtain most-favoured-nation treatment for Canadian goods.<sup>29</sup>

The British reply to Canada was at best lukewarm. The Colonial Secretary, Joseph Chamberlain, pointed out that his administration was fully alive to Canadian interests, noting that when negotiations opened with Germany, possibly in 1903, the Foreign Office would attempt to persuade Berlin to drop the policy of discrimination against Canada. Having made a gesture to Canadian aims, Chamberlain then promptly diluted his support. An Anglo-German commercial treaty would probably only come about if Britain guaranteed the German Empire most-favoured-nation treatment for its commodities and na-

tionals not only in Great Britain but in Britain's dependencies as well. Thus, any tariff concessions made by Canada in the future to a third power would have to be extended by Ottawa to Germany under the terms of a projected commercial agreement between London and Berlin.

The Colonial Secretary pointed out that Britain had always adhered to this interpretation of most-favoured-nation treaties indicating that the German government held similar views. Chamberlain admitted that Canada did not agree with this interpretation. As the Colonial Secretary saw it, Ottawa would only grant Germany tariff concessions that had been made to a third power on the clear understanding that Berlin would reciprocate the privileges the third power in question had extended to Canada. Given the fact that London and Ottawa were obviously at odds on the issue, Chamberlain argued that it would be "impossible specially to safeguard Canadian interests in negotiating with Germany a Treaty which may, and probably will, embody a most-favoured-nation clause."<sup>30</sup>

Joseph Chamberlain's lecture to the Laurier administration on the virtues of British negotiated most-favoured-nation treaties and their application to members of the imperial brotherhood now appears in retrospect to be markedly superfluous. Since Confederation Canada had been bound by a host of most-favoured-nation agreements, some dating back to the early nineteenth century. Due to Canadian restiveness, the Foreign Office had reluctantly agreed that such treaties concluded between Britain and third powers would not bind the self-governing colonies unless such communities gave their specific assent. This procedure was only implemented from 1878 onward and did not affect those agreements concluded earlier.<sup>31</sup> Further, on the occasion of the British denunciation of the German and Belgian treaties, Chamberlain had committed himself and the imperial government to tackle the problem of the United Kingdom's most-favoured-nation agreements as they affected Canada, let alone the other self-governing colonies.<sup>32</sup> Now, given the tenor of his reply to Ottawa and his explicit rejection of Canada's interpretation of the obligations existing under most-favoured-nation treaties, it was not surprising that the Laurier administration rejected the aid of imperial diplomacy and initiated a unilateral approach to Berlin in order to achieve a commercial detente.

William Fielding's parliamentary admission that the administration had been engaged in negotiations with Franz Bopp was un-

doubtedly important but equal emphasis must be given to the fact that he tabled in the Commons the correspondence that he and his colleagues had carried on with the consul. Though the correspondence was not printed as a sessional paper, it was made available to the Members and thus became a matter of public record, particularly for the press. Imperial reaction was swift.

The Governor-General, Lord Minto, informed Sir Wilfrid Laurier that Joseph Chamberlain was very concerned that no copies of the correspondence in question had been provided for his attention and the personnel of the Colonial Office. Minto bleakly observed that he himself had no knowledge of the negotiations apart from the press references he had read. The first intimation the Colonial Secretary had received regarding the discussions had been his receipt of the sessional paper. The Governor-General concluded his rebuke on an almost plaintive note. He was forwarding his observations directly to Laurier rather than the cabinet as a whole for the simple reason, as Minto optimistically noted, the Prime Minister would be the first to adhere to long-established imperial and Colonial Office "routine"!<sup>33</sup>

Joseph Chamberlain's annoyance over Canadian temerity and breach of imperial sovereignty certainly seemed to call for an explanation from Ottawa. Accordingly, the government prepared a memorandum setting forth Canada's case for negotiating with the German Consul. In the first instance, the presence of the Consul in Montreal made it "extremely convenient" for the government to pursue discussions that might lead to an improvement in relations between the two countries. Though a formal treaty between Canada and Germany would of course require the appointment of delegates by London and Berlin, the Canadian administration nonetheless endorsed the negotiations with Bopp as possibly leading to a better understanding between the two countries. If a better understanding did result then subsequent measures would be taken "through the proper treaty-making channels."<sup>34</sup>

Canada's reply hardly requires elaboration. The government had paid its usual lip service to the retention of the treaty-making faculty in London. Despite this gesture, however, it was more than clear that the Laurier administration would continue its negotiations with Franz Bopp or the consul of any other power if the occasion arose. The memorandum's reference to the convenience afforded Ottawa by the consul's presence in Montreal and to the fact that the discussions might go a long way towards improving German-Canadian relations leave very little doubt on this score.

The Prime Minister in his more private utterances certainly endorsed the treaty-making power for Canada in matters affecting the country's territory and commerce. Writing in the immediate aftermath of Chamberlain's rebuke, Laurier observed that the settlement of the Alaska boundary dispute had brought the treaty-making problem directly before the Canadian public.<sup>35</sup> Though the Prime Minister was not demanding the treaty-making power for the conclusion of offensive or defensive treaties, he was emphatic where Canada's territorial and commercial interests were at stake. Where these issues were concerned, Canada's claim to the treaty-making power was "right, just and should be granted."<sup>36</sup>

Regardless of Laurier's private observations and his administration's highly equivocal reply to Chamberlain, imperial London was more than concerned that Canada's actions were a marked violation of British sovereignty. The Colonial Office argued that the negotiations with Franz Bopp practically gave the consular officers of foreign powers in the colonies "diplomatic status." To add insult to injury, the Canadian memorandum did not even attempt to apologise for or explain the complete failure of Laurier's government to keep London informed of "an important correspondence."<sup>37</sup>

In what appears to have been a rear-guard attempt to strengthen imperial unity, the Colonial Office recommended that Canada be made privy to the correspondence between London and Australia regarding that dominion's contacts with Japanese consular officials. There, such officials only corresponded with the local authorities of the municipalities in which they resided. As the Commonwealth of Australia and Britain agreed on this role for consular officials, the implication was obvious. If Canada in the future engaged in discussions with consular personnel on other than purely local matters, the imperial government must be immediately informed. Also, should the discussions eventually lead to more serious negotiations, London would not be bound by such initiatives and would only support the colony concerned if the "interests of the Empire as a whole" were not jeopardized. As the Colonial Office viewed the situation, Canada's behaviour had raised a "matter of very great importance in its relation to the unity of the Empire."<sup>38</sup>

The Colonial Office analysis of Canada's negotiations with Germany not only revealed concern over the issue of imperial unity but it also resulted in a sharp rebuke to Ottawa. John Anderson, perhaps the most informed member of the Office regarding Canadian affairs and at that time a principal clerk in the North American department,

completely rejected Canada's half-hearted explanation. London had been left in "complete ignorance" of the discussions and had only heard of them through the medium of the daily press.<sup>39</sup> His sentiments were echoed by Sir Montagu Ommanney, the permanent under-Secretary of State for the Colonies from 1900 to 1907. Canadian temerity had to be stopped, particularly in view of the fact that London was currently attempting to curb the pretensions of foreign consuls assuming diplomatic status in South Africa.<sup>40</sup>

With Canada having clearly violated imperial policy, the Colonial Office in collaboration with the Foreign Office drew up new guidelines regarding the role of foreign consuls throughout the dependencies. Emphasizing the understatement so frequently characteristic of Whitehall's directives the Colonial Secretary, Lord Elgin, observed that "certain points" had arisen "in connection with the position and treatment of Foreign Consuls in the Colonies." On the issue of protocol, Elgin insisted that such officials had no diplomatic status in a colony. As they were merely foreigners resident in a dependency, they enjoyed no right to a private entree to the colonial governor on occasions such as the monarch's birthday. Rather, at the governor's levee when specific events were being celebrated, foreign consuls would attend "the general levee" and would be presented to the governor as part of the "general circle."

Turning to matters of greater substance and again with Canada's behaviour in mind, Lord Elgin ruled that the only "legitimate" function for a foreign consul in a colony was to look to the welfare of his fellow nationals as individuals. Questions relating to trade and commerce and which touched upon the colony's commercial policies could only be dealt with by the consul's government and the Foreign Office. The Colonial Secretary gave added emphasis to his case with the curt observation that consuls who desired to make representations to colonial administrations on "general political questions" could only do so by contacting their respective capitals, thus allowing a particular issue to be handled "*through proper diplomatic channels.*"<sup>41</sup>

On the surface, it appeared that Lord Elgin's instructions had restored Anglo-Canadian relations to the relative normalcy that had prevailed prior to Ottawa's negotiations with Franz Bopp. Similarly, it seemed that Canada's assertiveness over the treaty-making problem had subsided. Neither interpretation, it will be seen, was correct.

In late 1906, a bare half year after the receipt of the Colonial Secretary's celebrated circular letter, William Fielding rose in the Commons to describe the administration's new budget. Fielding, who



more often than not served as the Laurier cabinet's stalking horse on issues of Canadian sovereignty, seized the opportunity to clarify Canada's growing external presence. Describing Ottawa's necessity to resort to London for authority and assistance in concluding commercial treaties, the Finance Minister as much as stated that the country conducted her own foreign affairs. Using as an example the predicament of a German national who had run into trouble with the authorities in Montreal, Fielding described how such problems were solved. The German Consul General in that city came to Ottawa on behalf of his fellow-citizen and probably within an hour the matter was settled. Of more significance was the Finance Minister's added comment in this debate that Canada did have "business relations with the representatives of foreign countries."<sup>42</sup>

William Fielding's analysis of Canada's relations with foreign powers is vital to an understanding of the eventual resolution of the tariff war. Though he had made the now time-honoured gesture to the sovereignty of the imperial government, the Finance Minister had clearly outlined a more independent role for Ottawa in discussions with the representatives of other nations. His assertion of Ottawa's right to enter into discussions with foreign consuls in Canada—and he might just as well have said negotiations—cannot be dismissed as merely parliamentary rhetoric. Fielding had, after all, told the Commons that the Canadian administration was engaged in foreign relations and his references to imperial authority could not disguise this development.

In the aftermath of the Finance Minister's parliamentary foray, Canada concluded a commercial treaty with France providing for a mutual reduction by Ottawa and Paris on a wide range of each other's commodities. Negotiated by Fielding and his colleague Louis Philippe Brodeur, Minister of Marine and Fisheries, the treaty received imperial approval though the British ambassador to Paris, Sir Francis Bertie, played no role whatsoever in the negotiations. With implementation of the agreement an immediate possibility, German diplomacy moved to initiate meaningful discussions with Canada.<sup>43</sup>

In early 1908 Count Metternich, the German ambassador to London, urged the imperial government to prepare the ground for talks with Ottawa. Berlin was prepared to make substantial concessions to Canadian trade in return for benefits along the lines of the Franco-Canadian treaty. Metternich's approach to the Foreign Office was more in the nature of a brusque demand and less an exchange of diplomatic correspondence. He insisted that a refusal by Ottawa to

extend the benefits of the French treaty to Germany would lead to less amicable relations between London and Berlin. Indeed, it was up to the Foreign Office to bring about an understanding between the "English Colony" and the German government. The ambassador admitted that the Foreign Office might be unable to persuade Ottawa to make the French treaty applicable to Germany. In this event, Berlin had every reason to expect that the imperial government would see to it that Canada removed "without delay" the existing surtax on German products.<sup>44</sup>

The Foreign Office, by now the department with which an aggressive Canada dealt more often than the Colonial Office, viewed Metternich's intemperate note with an eye to British trade interests. Algernon Law noted that Ottawa had retaliated against German tariff discrimination by implementing the surtax of 33 1/3 per cent. Together with the prevailing preference for British exports, the surtax gave United Kingdom commerce an advantage of sixty-six per cent over German commodities in the Canadian market. As Law assessed the situation, it was definitely not in Britain's interests to promote any negotiations. The Canadians might well remove the surtax as a concession to Berlin and reduce the United Kingdom's competitive edge by half. Revealing his concern that negotiations could well go beyond a mere cessation of the tariff war between the two countries, Law warned that Ottawa might reach an agreement similar to the French treaty and thus jeopardize even more Britain's privileged position in Canada.<sup>45</sup>

More significant for Canada's growing international status were the observations of Louis Mallet. In the first instance, the permanent under-secretary criticized the German government for being unnecessarily impolitic. Metternich's memorandum reminded him of the despatches between London and Paris in the days before the Anglo-French Entente Cordiale of 1904! On the issue of trade negotiations, Ottawa was in an excellent position to drive a hard bargain with Berlin. Canada, despite the surtax, was an important market for Germany and the Franco-Canadian treaty distinctly threatened that market.<sup>46</sup> Therefore, the imperial government should not take any steps to meet Metternich's demands or seem to coerce Ottawa. Rather, the initiative for negotiations should be left entirely in the hands of the Laurier administration. On a more unkindly note, Mallet expressed the hope that Metternich's strong language would not "frighten" the Colonial Office into bringing pressure to bear upon Canada.<sup>47</sup>

As it turned out the Colonial Office was not particularly intimidated by Metternich's note but rather was concerned over the possible imperial implications of a Canadian-German rapprochement. Perfectly aware of the independent stand Canada had taken at Paris, the department expressed the pious hope that the imperial government would play a larger role than had been evident at that time.<sup>48</sup> Sir Charles Lucas, the permanent under-secretary, viewed with misgivings an agreement between Ottawa and Berlin. Under the existing Canadian tariff, all German beet sugar was excluded from Canada. A commercial detente between the two countries might remove this barrier and expose British West Indian sugar to vigorous German competition. Thus, on purely pragmatic grounds and with an obvious eye to imperial unity, Lucas urged that the West Indian sugar industry be kept in mind should negotiations ever begin.<sup>49</sup> The theme of imperial unity, it will be seen, was a matter of indifference to Canada.

Count Metternich's blunt diplomacy revealed clearly a growing anxiety over German commercial relations with the dominion. It seems reasonable, therefore, to pose the question as to just how willing Germany was to come to terms with the "English Colony." Though the evidence on this score is somewhat fragmentary, certain factors can be cited to indicate the degree of importance Germany attached to the Canadian market.

In early 1909, the Ottawa Board of Trade was contacted by Berlin to use its influence with the Laurier government in order that the surtax might be removed. The Board's reply was both polite and emphatic. It would approach the government but only when Germany took the first step and restored Canadian goods to the conventional German tariff.<sup>50</sup> A few months later, the German League of Merchants approached the Ottawa Board with the same request and received the same answer.<sup>51</sup>

Canada's importance as a lucrative and expanding market became even more obvious when the German-Canadian Economic Association of Berlin saw fit to despatch a two-member delegation to the country with the specific mission of visiting and influencing Canadian Boards of Trade and Chambers of Commerce. Conferences were held with the major commercial bodies but with no success. The Montreal Board of Trade, for example, insisted that overtures for improved trade relations should come directly from Berlin. The economic reprisals against Canada over British preference and the denunciation of the Zollverein treaty had been instigated by Germany.

Therefore, it was up to the German government to take the first step and restore Canadian commodities to the conventional tariff. With this accomplished, Ottawa would move swiftly to remove the surtax, the Montreal body argued.<sup>52</sup> Arguments of this nature merely confirmed Louis Mallet's opinion that Canada was in an excellent position to drive a hard bargain with Germany.

With all the initiative coming from Berlin, it should not have surprised anyone that Canada and Germany sat down to resolve their differences in early 1910. In preliminary conversations with Dr. Karl Lang, the new German consul, William Fielding established that Lang had been authorized by his government to come to an agreement with Ottawa. As Lang described his powers, he was fully commissioned to reach "a memorandum of agreement" following which Berlin would take immediate steps to bring the agreement into effect.<sup>53</sup> With Lang's credentials verified, Canada's Finance Minister signed an agreement on February 15, 1910, bringing an end to the surtax on German goods and abolishing Germany's maximum rates on Canadian commodities.

The question immediately arises as to whether or not Canada had reached a genuine agreement with a foreign power and whether this accord had been concluded without imperial supervision and participation. Regarding the latter point there can be no doubt. Fielding and Lang had negotiated together in Ottawa and the result had been the termination of a decade-long tariff war. On the more fundamental score of Canadian independence in the treaty-making field a murky and convoluted picture presents itself. This vagueness can only be clarified by a root and branch examination of the imperial government's policy decisions and policy inconsistencies.

In early 1909 while in London to discuss a supplementary Franco-Canadian convention, William Fielding had informed the Foreign Office that he had been negotiating informally for years with the Belgian consul to Canada with a view to concluding a commercial treaty. As the time seemed ripe, the Finance Minister indicated that he was ready to reach an agreement and sign it in Ottawa. Upon receipt of this news, the Colonial Office expressed misgivings though once again indecision and ambivalence in Whitehall contributed to an expansion of Canada's external sovereignty.

A. Berriedale Keith argued that the signing of an agreement in Canada by a foreign consul meant that London had recognized such consuls as political officers appointed to a colonial government. Secondly, to give Fielding full powers to sign alone would be regarded

by Canada as tantamount to a surrender by Britain of the treaty-making power on that occasion. Though this would not necessarily be true, it would be regarded by Canada in that light. Keith's solution to what was obviously an embarrassing situation was to have Canada's High Commissioner to London, Lord Strathcona, sign the agreement with the Belgian ambassador in the imperial capital. Curiously Algeron Law at the Foreign Office had recommended that the Colonial Secretary sign any agreement with Belgium as agent for Canada. This, Keith had properly rejected as quite inadmissible.<sup>54</sup>

The Colonial Secretary, the first Earl of Crewe, seemed as opposed as Keith to Fielding's unilateral discussions with a foreign consul. He emphasized to Canada's Finance Minister the difficulties involved in investing a consul with a diplomatic character. Privately, Crewe ruefully reflected on the undesirability of granting "such a high degree of independence to Canada." He concluded his analysis by noting that Fielding "did not seem to demur" when these salient facts of diplomatic life were brought to his attention and when it was suggested that the Foreign Secretary, Sir Edward Grey and Lord Strathcona sign a Belgian agreement in London.<sup>55</sup> Lord Crewe's assessment of Fielding's good faith turned out to be completely inaccurate.

With the issue left squarely in the hands of the Foreign Office, Louis Mallet made his decision. The agreement would be negotiated in Canada. The High Commissioner and the Foreign Secretary, however, would sign the accord in London "*should . . . such a course be acceptable to the Dominion Government*".<sup>56</sup> Mallet's conclusions require little elaboration. He had agreed that the centre of authority for the negotiations lay in Ottawa. Further, an imperial signature on the document would only come about if it was acceptable to the Laurier administration. Though formal negotiations with Belgium did not begin immediately, those with Germany did. The Canadian government, obviously determined to seize each and every opportunity of enhancing the country's external powers, followed the guidelines and format laid down by the Foreign Office's permanent under-secretary.

In addition to the rather obvious fact that the Foreign Office had approved Canada's negotiations with foreign consuls, whether Belgian or German, Wilfrid Laurier himself publically endorsed such contacts. Referring to the country's lack of a diplomatic corps, the Prime Minister noted that foreign consuls in Ottawa exercised "powers very often cognate" to those of genuine diplomats. Given this

development, Laurier suggested that a more precise recognition of the role of such consuls in Canada would soon become necessary.<sup>57</sup>

Despite Wilfrid Laurier's admission that his administration viewed consuls as far more than mere foreigners resident in Canada and the general imprimatur granted by Whitehall for negotiations with them, the news that William Fielding and Dr. Lang had reached and signed an agreement evoked considerable criticism in the imperial capital. The Foreign Office in a marked display of inter-departmental pique criticized the Colonial Office in terms reminiscent of the reception tendered Count Metternich's celebrated memorandum of 1908. According to Henry Dering, the Colonial Office had failed completely in keeping its sister department informed of the Ottawa discussions.<sup>58</sup> Further, the Colonial Office had attempted to excuse this oversight on the grounds that Louis Mallet's letter of March 15, 1909 had approved in principle the holding of the talks in the Canadian capital.

Henry Dering argued that Mallet's letter referred to the Belgian negotiations and not to those that might develop with Germany. Even a kindly interpretation would regard this criticism as bureaucratic hairsplitting at its best. Bolstering his arguments, Dering insisted that the question of where the agreement would be signed had not been settled by Mallet. Therefore, the signing of the convention in any centre other than London or Berlin and by a consul who had never received imperial recognition regarding his diplomatic functions was "perfectly irregular." Henry Dering saw the Colonial Office as lacklustre and timid in its relations with Canada. That department's "limp attitude" had gone a long way towards encouraging Canada's independent behavior. With Ottawa's *fait accompli* staring it in the face, the Colonial Office seemed to argue that "the thing is done, so it had better be recognized." As Dering saw it, this was no way to conduct imperial relations.<sup>59</sup>

Henry Dering's direct criticism of the Colonial Office and his more subdued reservations regarding Canadian policy were tempered at the political level within the Foreign Office. Thomas McKinnon Wood, the parliamentary under-secretary, urged his colleagues to accept the fact that the imperial government did not interfere with whatever tariff arrangements the self-governing colonies saw fit to conclude provided they did not conflict with British negotiated treaties.<sup>60</sup> He rejected Henry Dering's suggestion that the Canadian-German agreement be regularized by a formal treaty between London and Berlin. Any action of this nature would "irritate unnecessarily" the Canadians who did not understand the need for diplomatic norms and pro-

cedures.<sup>61</sup> He might well have added that Ottawa no longer even respected such procedures.

Thomas McKinnon Wood's observations revealed clearly that imperial London was not going to impede an independence-prone Canada. About all Whitehall could do was to accept the agreement as a temporary arrangement between Ottawa and Berlin that would be brought into force by an order-in-council in Ottawa. A more permanent accord could be incorporated in a formal treaty by Britain and Germany but this was mere speculation on the part of the Foreign Office.<sup>62</sup>

In any analysis of the Ottawa discussions it is quite obvious that Canada had successfully concluded a commercial agreement with Germany and in so doing had removed herself from imperial jurisdiction. Foreign Office reference to the agreement as "temporary" and the hope that a more permanent accord would be concluded under imperial auspices was avoiding the issue entirely and smacked of unrealistic self-assurance. Further, Henry Dering's awkward rebuttal that approval in principle had been given only for negotiations with Belgium was beside the point. Belgium was as much a foreign power as Germany and Canada's independent negotiating with Dr. Lang had carried Louis Mallet's instructions to their logical conclusion. Foreign Office annoyance over the signing of the agreement in Ottawa conveniently overlooked the fact that Mallet himself had suggested London only if this met with the approval of the Canadian government. In the light of what had transpired, the permanent under-secretary's suggestion had not met with Ottawa's approval.

Throughout the entire situation there seems to have been an atmosphere of unreality as well as ignorance between departments of state in Whitehall. For example, on the very day that Fielding was signing the agreement, Arthur Berriedale Keith was convinced that the Foreign Office had given its approval for the negotiations to take place in Ottawa while at the same time his contemporaries in that department were insisting that the only discussions in the Canadian capital that had received imperial approval were those with Belgium. Keith, an increasingly astute interpreter of Canadian policy, ruefully acknowledged that such negotiations had been "notoriously proceeding" for years, which was true. He also pointed out that Canada wanted Dr. Lang to be accorded "*temporary diplomatic status*" for the Ottawa talks. Though the Colonial Office was not necessarily opposed, the Foreign Office was not willing to see Canada go to such lengths. This assessment, though accurate, overlooked once again the

all but complete latitude Louis Mallet had granted the Dominion.<sup>63</sup>

With a squabble of trans-Atlantic proportions emerging in the spring of 1910, the Colonial Office set to work to bring the Foreign Office's reservations to the attention of the Laurier administration as gently as possible. Deliberately avoiding the medium of an official dispatch, Lord Crewe privately contacted the Governor General, Earl Grey. He reiterated Foreign Office concern that a more permanent agreement between Ottawa and Berlin should be incorporated in a treaty between Britain and Germany. Crewe remarked that this approach was the only course "free from objection" Significantly, he emphasized that he was forwarding his views and those of Edward Grey at a personal level in order to avoid any appearance of "admonition" to Laurier's cabinet.<sup>64</sup>

Having gently and indirectly rapped Canada's knuckles, the Colonial Secretary subsequently proceeded to outline the advantages of having an imperial imprimatur on Canada's treaties. Informal treaties such as those concluded by Fielding would be difficult to enforce if the foreign governments in question decided to repudiate them. As Crewe delightfully described that hypothetical situation, it could lead to "difficult questions." Lord Crewe, of course, was correct. Enforcement of an agreement would come about far more rapidly if backed by British diplomacy and diplomats. However, it is more than obvious that the Colonial Secretary was referring more to the norms and protocols of diplomatic negotiation than to the realities of concrete discussions and the delegates who actually signed agreements. He indicated without hesitation that the imperial government had no intention of "*diminishing the powers of the Canadian government to have its own Treaties.*"<sup>65</sup>

In his brief comments, a resigned Colonial Secretary had recognized Canada's sovereignty in the conclusion of commercial treaties. His references to diplomatic procedures can only be construed as both superfluous and as the dying gasp of an imperial authority obviously sundered by Canadian determination. Ottawa seems to have treated Crewe's suggestions in a similar manner.

Earl Grey reported from the Canadian capital that he had apprised William Fielding of the irregularities inherent in his agreement with Dr. Lang. Fielding, so it seemed to the impressionable Governor-General, agreed completely with London's guidelines and then proceeded to make yet another breach in the facade of imperial authority.<sup>66</sup> On February 3, 1910, Martin Franklin, Charge d'Affaires to the Italian Embassy in London, informed the Foreign Office and Sir Ed-



ward Grey that his government was anxious to send a delegation to Canada to work out the terms of an Italo-Canadian commercial agreement.<sup>67</sup> Accepting the fact that Ottawa would negotiate with the mission upon its arrival, Arthur Berriedale Keith admitted that this development would lead to yet another extension of Canada's treaty-making prerogatives.<sup>68</sup> His colleague, Hartmann Just, agreed that Canada had an all but unlimited treaty-making faculty where commercial agreements were concerned. About all the Colonial Office could do was to see that the accord did not come into effect without London's approval. Also, the Office should attempt to make certain that the treaty was "finally signed" in either London or Rome "by the usual diplomatic representatives."<sup>69</sup> Just's oblique reference to the "usual diplomatic representatives" was an obvious attempt to avoid a repetition of Canadian independent action which was being consummated on that very day in Ottawa by Fielding and Lang.

By this time, imperial policy makers had all but resigned themselves to unilateral treaty-making by their senior Dominion. Lord Crewe expressed the dubious hope that Canada would observe the "Treaty-making forms" in commercial treaties as much as Britain did where political agreements were concerned. Recognizing the inevitable, he admitted that the imperial government could not prevent Canadian delegates from negotiating with their foreign counterparts. About all that London could expect now would be information from Ottawa on the progress of the talks.<sup>70</sup>

In much the same manner as the German negotiations, and despite Lord Crewe's private rebukes to Earl Grey, the Canadians went ahead and concluded and signed an agreement with the Italian Consul. The agreement took effect June 10, 1910, and was published in the Italian *Official Gazette* on September 13 of that year. Imperial reaction was one of quiet resignation. In the Foreign Office, the permanent under-secretary, Sir Charles Hardinge, sarcastically observed that the negotiations had been going on since March and now in September, his department learned for the first time that an agreement had been "*signed in Canada*" in the early summer.<sup>71</sup> Over in the Colonial Office, a similar atmosphere of reluctant acceptance prevailed. Arthur Berriedale Keith shrewdly remarked that he found it very difficult to see any intrinsic difference between the commercial agreements Ottawa had been merrily concluding and bona fide treaties.<sup>72</sup> In essence, the Colonial Office resident constitutional expert had recognized Canada's de facto treaty-making power in commercial matters and her determination to treat independently with consuls.

Having conceded the reality of Canada's direct negotiations with foreign consuls, the imperial government moved reluctantly to a study of their status and rank in Ottawa. Its initiatives in this direction stemmed directly from a forthright statement on the issue by Wilfrid Laurier and by marked expressions of discontent on the part of certain consuls over the fact that they had not received adequate recognition in the Canadian capital.

Describing Canada's development "as a nation," the Prime Minister remarked that the consuls in Ottawa performed "very important duties not only of a commercial nature, but even of a semi-diplomatic nature." Again emphasizing the country's progress towards independence, Laurier pointed out that foreign consuls actually carried out "diplomatic duties." Thus, the German and Italian Consuls had been "charged" by their respective governments with just such tasks and at that very moment the United States Consul General to Ottawa, John Foster, was fulfilling a "diplomatic function" for the Taft administration regarding the possibilities of a Canadian-American reciprocity agreement.<sup>73</sup> Given these developments, the Prime Minister argued, it was high time that an agreement was reached with Whitehall granting the consuls "semi-diplomatic recognition".<sup>74</sup>

The problem of granting the foreign consuls some form of recognition came to a head within the confines of the Governor-General's official residence. Writing from Government House, Douglas Orme Malcolm, Earl Grey's private secretary, informed the Colonial Office that the consuls in Ottawa wanted to be presented to the Governor-General at his levees as a distinct body and not merely as members of the general public. They had demonstrated their annoyance, Malcolm observed, by "markedly" absenting themselves from just such occasions. As the Governor-General's secretary analyzed the situation, Lord Elgin had been quite correct in 1906 in denying the consuls any ceremonial recognition as they enjoyed no diplomatic status in a colony. However, where Canada was concerned, it was becoming "rather difficult . . . to maintain the theory of their non-diplomatic character."

Looking back over the Laurier government's frequent negotiations with foreign consuls and those currently being promoted by the United States Consul, Malcolm argued that any difference between the commercial agreements concluded and formal treaties was "theoretical rather than practical." Given this situation, the consular body in Ottawa would not be satisfied until they had been granted the privilege of a private entrée to the Governor-General.<sup>75</sup>

Where Canada's Prime Minister was concerned, Douglas Malcolm was critical, warning the Colonial Office that Laurier had gone "a long way in recognizing the consuls as having diplomatic status." In the light of this development the imperial government would be wise to anticipate a discussion of the entire subject when Wilfrid Laurier arrived in London to attend the 1911 Imperial Conference.<sup>76</sup> Malcolm's warnings stirred the Foreign Office to a clinical analysis of the consular corps' activities in Canada and the policies of Canada's Prime Minister.

At the Foreign Office, Algernon Law suggested that the Liberal government's frequent negotiations with consular officials had "turned their head." He also noted that their "pretensions" to diplomatic status had been "unfortunately backed up" by Wilfrid Laurier. According to Law, the Prime Minister had embarked on a deliberate policy of establishing a de facto Canadian sovereignty and in this context referred somewhat unkindly to Laurier's description of Canada as "a 'nation' practically." In Law's view, any concessions made to Canada regarding foreign consuls would create "endless difficulties" for London arising "out of similar claims made by consular representatives elsewhere." Equally, even a limited recognition accorded the consuls in Ottawa would lead to "further claims" until the point was reached where the Ottawa body would have achieved a status "practically analogous to that of diplomatic representatives." The solution was obvious. Canada would have to give full adherence to the letter and the spirit of Lord Elgin's circular letter of June 1, 1906.<sup>77</sup>

Though officials of the stature and rank of Algernon Law could urge a restrictive policy towards Canada, his recommendations were tempered by Sir Edward Grey, the Foreign Secretary. Grey insisted that no action be taken until Wilfrid Laurier arrived in London at which time the issue could be thoroughly ventilated. In this context it should be noted that Sir Edward more often than not viewed Ottawa's claims for an enhancement of Canada's external status in a far more liberal light than that demonstrated by many of the career professionals in his department.

The fact that Edward Grey could acquiesce in a broader external role for Canada and thus set a standard to be followed by the personnel of both the Foreign Office and the Colonial Office was not a matter of mere whim nor was it confined to the problems posed by Canadian boldness over the issue of the negotiations with Germany. Four years earlier, during the sessions of the 1907 Imperial Conference,

Grey had assured Sir Wilfrid that Ottawa's delegates proceeding to Paris to initiate discussions regarding the Franco-Canadian trade agreement would have an all but free hand.<sup>78</sup> Subsequently, the Foreign Secretary had instructed his department to issue full powers to William Fielding and Louis Philippe Brodeur, Canada's Minister of Marine and Fisheries, to negotiate and sign an agreement with France.<sup>79</sup>

Edward Grey's liberality regarding Canada's unilateral contacts with foreign powers in 1907 was just as evident four years later and undoubtedly influenced Whitehall's bureaucrats. Thus, though Algernon Law could identify himself as an opponent of Ottawa's pretensions, he was equally capable of accepting the fact the Laurier administration was conducting independent negotiations with the United States for a bi-lateral trade agreement. This development, he admitted, was due to the fact that Canada had long since wrested from London the right to regulate independently the Canadian tariff as a lever in commercial negotiations.<sup>80</sup> Law's comments underlined the fact that Edward Grey's forbearance had set the tone for Ottawa's increasing external independence and was shared by his colleague in the Colonial Office, Arthur Berriedale Keith.

According to Keith, Canada had actually achieved a *de facto* right to conclude her own commercial treaties. Accepting the inevitable he recommended that London should recognize *de jure* Ottawa's prerogatives in this field.<sup>81</sup> Keith's acceptance of Canada's determination to deal independently with other powers together with Algernon Law's recognition of Ottawa's control of the tariff was but a belated acceptance of a relaxation of imperial authority over Canada which had received Edward Grey's imprimatur four years earlier.

Following Sir Wilfrid's arrival in London, a private meeting was convened comprising Laurier himself, Louis Botha, Prime Minister of South Africa, Grey and Lewis Harcourt, the Colonial Secretary. At this meeting Sir Wilfrid urged that consuls in Ottawa be granted "some favour . . . on official occasions." Both Harcourt and Grey gave qualified approval suggesting that recognition of the consuls could be extended "as a personal favour at the discretion of the Governor and not as a matter of rule or right."<sup>82</sup>

With a compromise format agreed upon, it fell to Arthur, Duke of Connaught, Earl Grey's successor as Governor-General, to implement the new scheme of things. Connaught's military secretary, Lt. Colonel Lowther, immediately contacted John Foster to explain the "favour" that would be accorded the consuls. Lowther noted that the

Governor-General was anxious to show "some courtesy" to the consuls and was prepared to greet them privately. Indicative of the awkward compromise that was reached was Lowther's emphasis on the fact that in his correspondence with the United States Consul he had not employed the term "Governor-General." Thus, any courtesies shown by Connaught to the consular body would be in his capacity as the Duke of Connaught and not as Governor-General of Canada.<sup>83</sup>

The Governor-General himself felt that his reception of the consuls had solved "a tiresome situation." As the Duke of Connaught he had indeed gone ahead and received the consuls privately but under no circumstances had he accorded them the privilege of the Drawing Room.<sup>84</sup> The latter term was merely Connaught's indication that the consuls had not been granted a formal reception as was the case when genuine diplomats were presented at Court in London.

Despite the Governor-General's insistence that he had granted the consuls neither recognition nor precedence, it was obvious that he had received them as a distinct body. As one wit in the Foreign Office observed:

As Governor General of Canada, His Royal Highness does *not* see the consuls; as The Duke of Connaught he does. It is really like Pooh Bah in the Mikado.<sup>85</sup>

Looking back over a period of some forty years, it is apparent that Canada had established *de facto* the prerogative of independent negotiation, at least on commercial matters, with foreign consuls resident in the country and that this independence had received a reluctant imperial approval during Wilfrid Laurier's successive administrations. It is equally obvious that the consuls, through their own initiative and rather blatantly supported by Canada's Prime Minister, had wrested from London a tacit recognition of their semi-diplomatic status. No amount of hair-splitting by Whitehall over such terms as "Arthur, Duke of Connaught" and "Governor-General of Canada" could disguise the fact that consuls such as John Foster and Karl Lang were indeed quasi-diplomats who had engaged in genuine negotiations with the Canadian government and, thus, were entitled to protocol and ceremonial niceties over and beyond those accorded mere foreign residents in Canada. The achievement of this status and the establishment of the role of consuls as *bona fide* negotiators took its origins in the late nineteenth century but the reality of the achieve-

ment stemmed directly from Wilfrid Laurier's curt observations of 1903, that Canada's claim to the treaty-making power was "right, just and should be granted."

## NOTES

1. Rosa to Fournier (Minister of Justice), Quebec, January 25, 1875, *Sessional Papers of Canada*, 1887 Vol. IX, Paper No. 100, p. 3.
2. *Ibid.*, Rosa to J. Smith (Minister of Marine & Fisheries), Quebec, February 25, 1876.
3. *Ibid.*, Dominion Board of Trade to Dufferin, Montreal, February 18, 1878, Vol. XI, Paper No. 70, p. 5.
4. *Ibid.*, Mackenzie to Lefaivre, Ottawa, September 7, 1877, p. 6.
5. *Ibid.*, Lefaivre to Mackenzie, Quebec, September 7, 1877, p. 7.
6. Sheyn, a Liberal in politics, represented the constituency of Quebec East in the provincial assembly from 1875 to 1900. From 1887 to 1891, he served as Provincial Treasurer in the administration of Honore Mercier. In addition to a lengthy political career, he had an active role in business. Sheyn was a member of the Dominion Board of Trade, a president of the Quebec Board of Trade and a Commissioner of the Quebec Harbour Board. He capped his political life by serving as Acting Premier of Quebec for some months in 1898.
7. Mackenzie to Sheyn, Ottawa, November 5, 1877, *Sessional Papers of Canada*, 1878, Vol. XI, Paper No. 70, p. 8.
8. Canada's official request to London was contained in Dufferin's dispatch to the Colonial Office, Ottawa, November 21, 1877, *Colonial Office Records*, Series C.O. 42/749, Canada, original correspondence, Public Record Office, London. Hereafter cited as C.O. 42.
9. See editorial entitled "Canadian Shipping in France," August 30, 1877.
10. See editorial entitled "French Duties on Canadian Vessels," March 15, 1878.
11. For details of Galt's unsuccessful negotiations see R.A. Shields, "The Franco-Canadian Treaty Negotiations 1878-1883," *The Bulletin of Institute of Historical Research*, Vol. XL, No. 101, 1967, pp. 185-202.
12. See Galt's memorandum, Confidential, undated but probably early 1880, *Macdonald Papers*, Vol. CCXVI, Public Archives of Canada (P.A.C.), Ottawa.
13. *Ibid.*, Macdonald's marginalia comments on Galt's memorandum.
14. *Ibid.*, Galt to Macdonald, London, June 27, 1881, Vol. CCXVIII.
15. Hansard, H.C., 3rd. ser., July 4, 1881, Vol. CCLXII, cols. 1951-1952.
16. Canada, *Debates*, Commons, April 22, 1882, Vol. II, cols. 1068-1075.
17. Minutes of June 30, 1881, C.O. 42/769. At this period Pennell was Chief Clerk in the North American and Australian Department of the Colonial Office.
18. *Ibid.* Branton at this time was an assistant under-secretary in the Colonial Office.
19. Canada, *Debates*, Commons, April 22, 1882, Vol. II, cols. 1068-1075.
20. Minutes of May 12, 1882, C.O. 42/771.
21. For examples of what was regarded by Ottawa as imperial aloofness to Canadian trade concerns see R.A. Shields, "The Franco-Canadian Treaty Negotiations 1878-1883," *Bulletin of the Institute of Historical Research*, Vol. XL, No. 101, 1967, pp. 185-202; "The Imperial Government and the Spanish-Canadian Treaty Negotiations," *Bulletin of the Institute of Historical Research*, Vol. LII, No. 124, 1978, pp. 160-173.
22. A.C. Bining and P.S. Klein, *A History of the United States*, Vol. II, (New York, 1951), p. 168.
23. For details of the preferential tariff and Britain's reaction, see R.A. Shields, "Imperial Reaction to the Fielding Tariff of 1897," *The Canadian Journal of Economics and Political Science*, Vol. XXXI, No. 4, 1965, pp. 524-537.
24. Edgard A. Wills (Secretary), to Laurier, Toronto, July 29, 1901, *Laurier Papers*, Vol. CCIII, Public Archives of Canada (P.A.C.), Ottawa. Hereafter cited as *Laurier Papers*.

25. *Ibid.* Bopp to Laurier, Montreal, November 13, 1901, Vol. CCII. For details of the treaty with France, see R.A. Shields, "Sir Charles Tupper and the Franco-Canadian Treaty of 1895: A Study of Imperial Relations," *The Canadian Historical Review*, Vol. XLIX, No. 1, 1968, pp. 1-23.
26. *Ibid.*, "Memorandum on Trade Between Canada and Germany." Confidential, November 18, 1901, contained in Laurier to Bopp, Ottawa, November 21, 1901.
27. Canada, *Debates*, Commons, March 6, 1902, Vol. I, cols. 794-795.
28. *Ibid.*, April 16, 1903, Vol. I, col. 1414.
29. Strathcona to Chamberlain, (Colonial Secretary), London, May 7, 1901, *Colonial Office Records*, Series C.O. 323/466, Colonies, General correspondence, Public Record Office, London.
30. *Ibid.*, Chamberlain to Minto (Governor-General), Confidential, London August 10, 1901.
31. At the beginning of the twentieth century, the countries to whom Canada was obliged to grant most-favoured-nation privileges together with the dates of their agreements with Britain read as follows: Argentina (1825), Austria-Hungary (1876), Bolivia (1840), Columbia (1866), Costa Rica (1849), France (1895), Denmark (1660), Japan (1906), Liberia (1848), Persia (1903), Russia (1859), Sweden and Norway (1826), Uruguay (1885) and Venezuela (1825).