

THE  
BUBBLES  
OF  
CANADA.



THE  
B U B B L E S  
OF  
C A N A D A .

BY THE AUTHOR OF

“ THE CLOCKMAKER.”

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“ I say, Jack, I'm blow'd if he didn't call it a shap-po! Why the devil couldn't he call it a hat at once—that comes now of his not speaking *English*.”

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SECOND EDITION.

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MY DEAR HALIBURTON,

I shall offer no apology to you for the manner in which I have executed this work, as you are well aware that I could command neither the time nor the materials that were necessary to do it properly: even the small portion of time I have been able to devote to it, out of a hasty visit to London, has been subject to constant interruptions; and many important documents which ought to have been referred to, have, I find (from the little interest hitherto taken in Canadian affairs), not found their way to England. Wherever I could obtain authentic works and official papers, I have used them as freely as I could, that as little as possible might rest on individual assertion. Some of these fortunately combine both narrative and proof.

Such as it is, I beg of you to accept it, as a proof of my desire to comply with your wishes, as far as it has been in my power to do so. If you are satisfied with it, I am content. As respects the rest of the world, we know too little of each other to require that I should explain or they should listen.

Yours always,

S. S.

TO JAMES HALIBURTON, Esq.,  
&c. &c. &c.



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LETTER I.

MY DEAR HALIBURTON,

As the people of this country know but little of the dissensions in Canada, they very wisely confine their observations to the dissensions of those who govern it. This is a more intelligible as well as a more amusing subject. Every body talks of Lord Brougham and Lord Durham, but nobody speaks of Canada. Instead, therefore, of inquiring what is to become of that valuable colony, what measures are, or ought, to be adopted, to ensure its tranquillity, and to protect British subjects and British property there, people very properly limit their attention to the more interesting question what will the Governor-General do when Parliament meets? To inquire whether the Eng-

lish or the French population of Canada is in the right, requires some investigation to ascertain facts, and some constitutional knowledge to judge of those facts when collected. It is, at best, but a dry subject. But to decide whether Lord Brougham or Lord Durham has the best of the dispute is a matter so well suited for easy conversation and humorous argument, that it is no wonder it has more attractions than the other. Such, however, is the acerbity of politics in this country, that even this affair is made a party question, and the worst motives are imputed for everything that is said or done by either. There are not wanting those who gravely assert, that while Lord Brougham was affecting to brush off the flies from the heels of an old rival, he intentionally switched him so hard as to arouse his temper and induce him to kick. They maintain that there are two sorts of tickling, one that is so delicate as to produce laughter and pleasurable sensations, and another that irritates both the skin and the temper by the coarseness of its application. They say that his lordship is much addicted to the latter species, and applies it equally to both friends and foes ; in short, that his play is too rough to be agreeable. While, on the other hand, there are some who are so unkind as to

insinuate that Lord Durham was very willing to take offence, and to shelter himself under it. That he felt he had voluntarily undertaken a load which he was unable to draw, and that knowing greater expectations had been formed of him than he could ever realise, he had no objection to kick himself out of harness, and extricate himself by overthrowing friend or foe, so long as the public were willing to believe the fault to be that of the teamster, and not of the steed.

Be that as it may, the exhibition has been an entertaining one, and they deserve some credit for having afforded amusement and occupation to the public at this dull season of the year. There they are; the crowd has gathered round them, the idle and the vulgar stand gaping, and each one looks anxiously for what is to follow. What can be more agreeable to a British mob, a people essentially fond of the prize fight, than the contest of these two champions, men who have always courted their applause, and valued their noisy demonstrations of pleasure higher than the quiet respect of those of more taste and more refinement? It affords, however, no pleasure to the colonist. He regards one as a man of splendid talents and no conduct, and the other

as a man who, without the possession of either, has advanced to his present high station merely by the force of extreme opinions. He has no sympathy with either. The one is too much actuated by his implacable hatred, the other by his inordinate pride. The former is dangerous from his disposition to do mischief, and the latter unsafe, from his utter inability to effect any good.

After all the addresses that have been presented by the Canadians, this language may possibly appear strange and strong; but addresses afford no proof. They are cheap commodities everywhere. Place-hunters may flatter, and vulgar men may fawn, and office-holders tremble and obey, but the truth must still be told. A governor is the representative of royalty, and colonists have been taught to venerate the office, whatever they may think of the man. At the present crisis it is the test of loyalty. You will search in vain among those addresses for the names of the disaffected; and if those who signed them have expressed themselves strongly, they felt it was no time to measure words, when hesitation bears so strong a resemblance to a repugnance springing from a different cause. But even among these customary offerings of official respect, you will

find several exhibiting a choice of expression that bespeaks a desire to separate the approbation of measures from the usual deference to rank and station, and others marking the distinction in explicit terms. The colonist by no means regrets his resignation, because he has shewn from his irritable temper, inconsiderate conduct, and crude and dangerous schemes, that, of all men, he was the most unfit depository for the extraordinary powers that were entrusted to him ; but he does regret that public attention should be diverted from so important a subject as our Canadian affairs, to so unimportant a matter as my Lord Durham's private quarrels.

He is desirous that the questions at issue between the people of Canada and Great Britain should be understood, and he doubts not that the good sense and good feeling of this country will apply the proper remedies. In compiling a statement of these grievances, pretensions, or claims (or by whatever other name you may choose to designate them), I shall hope to contribute towards this desirable object. I feel, however, my dear friend, that before I enter upon the subject, I ought to apologise to you for the bulk of this work. Indeed, when you told me at Melrose that you had been in Egypt during nearly the whole period of these Cana-

dian disputes, and therefore wished to have a history of them, I had not the slightest idea that in undertaking to give you one, I was going to write a book. But, though I will fulfil my promise, I will not exceed it. I shall confine myself to a sketch of the origin, progress, and present state of agitation in Lower Canada. I will shew you the pretensions that have been put forth, the concessions that have been made, and the open questions that now remain; you will then be able to judge whether these grievances have led to disaffection, or disaffection has given rise to grievances, and in either case will be able to perceive what ought to be the remedy. Facts and not theories are wanted; you must know the cause and nature of a disease before you can prescribe for it.

If ever you had the misfortune to have the tooth-ache, you have doubtless found that every one of your friends had an infallible remedy, each of which eventually proved, upon trial, to be nothing more than a palliative, a nostrum that soothed the anguish for a time, by conciliating the nerve; but that the pain returned, with every change of atmosphere, with increased power, while the sedative application became less and less efficacious the oftener it was repeated. You have also found, as others have

experienced before you, that while you were thus temporising with an evil which required more prompt and skilful treatment, you had lost the opportunity of filling the cavity and preserving the tooth, by suffering decay to proceed too far to admit of the operation, and, after years of suffering, had to submit at last to cold iron, the ultima ratio of dentists. Whether the system of palliatives and concessions, that has been resorted to in Canada, is a wise and proper one, I shall not presume to say; but all men must agree that it at least has the merit of displaying an amiable inclination to avoid giving pain. Whatever doubts may arise as to the conciliatory measures of past years, none whatever can be entertained that they cannot be persisted in any longer with advantage. I shall content myself, however, with merely presenting you with a statement of the case, and you shall decide for yourself whether *stopping*, or *forcible extraction*, be now the proper remedy.

## LETTER II.

AFTER the late unhappy and wicked rebellion in Canada was suppressed, it was found necessary to punish with death a few of the most conspicuous traitors, for the atrocious murders they had committed. In the colonies, although the justice of this act was fully admitted, the necessity that existed for it was generally deplored. So much blood had been shed in the field, and so much misery entailed upon the country, by that rash and unprovoked revolt, that the people would gladly have been spared the spectacle of a further sacrifice of human life, if the outraged laws of the country had not imperatively called for retribution. They felt, too, that although nothing could justify their having desolated the country with fire and sword, in support of mere speculative points of government, some pity was due to deluded men, who had been seduced from their allegiance by promises of support, and direct encouragement to revolt, by people of influence and standing in the mother country ; but although they knew that mischievous counsels had been given, they certainly were not pre-



pared to hear similar sentiments publicly avowed in the parliament of the nation. It was, therefore, not without mingled feelings of surprise and sorrow that they heard an honourable member invoke defeat and disgrace upon Her Majesty's troops, whose service was already sufficiently painful without this aggravation; and a noble lord, in another branch of the legislature, denounce, with indignant eloquence, the juries who had tried and the judges that had sentenced these convicted criminals. They ought, however, to have known, and certainly a little reflection would have suggested, that the instinctive horror of those distinguished men at such an event was quite natural, and that they who advocate revolutionary doctrines must necessarily shudder at the untimely fate of those who have dared to act upon them. It was a warning not to be disregarded, a consummation that might be their own, and a lesson fraught with a most salutary moral. As their perceptions were acute enough to make the application, it is to be hoped that their prudence be sufficient to avoid a similar result. Nor is the language held by my Lord Durham, in his recent valedictory proclamation, less surprising. He has thought proper, in that extraordinary document, to give the sanction of his high

station to the popular error that the Canadas have been *misgoverned*, and thereby expressed a deliberate censure upon the conduct of abler and better men than himself who have preceded him. Now, there are various kinds of misgovernment, which may be effected by acts of commission or omission, or of both, for a defective form of government and misgovernment are widely different. If his lordship meant to use the word in either of those senses, and considered the French Canadians as the subjects of it, then I beg leave most respectfully to state, that he was not warranted by facts in saying so, and that it is an additional proof, if any were wanting, that he knew as little of the affairs of the colony at his departure from it, as he admits that he did on his arrival there. If, on the other hand, he used it as a cant term to adorn a rhetorical flourish, we shall accept the explanation, and consider it as such, classing it with promises profusely made on his acceptance of office which he has not performed, and similar ones ostentatiously offered on his resignation which he is equally unable to fulfil.

My Lord Brougham has expressed more fully and intelligibly the same opinion in the House of Lords, and has since been at great pains to republish it, first, in the pamphlet form, to cir-

culate as a cheap commodity ; and, secondly, in a collection of his speeches, to be impressed by his friend the schoolmaster, as a specimen of eloquence, on the minds of village Hampdens. Although this statesman is followed by few, and attached to none, he is too eloquent and too powerful not to command the attention of all : he presents the singular anomaly of being unable to add weight or influence to any party to which he may lend his support, and yet of being the most fearful opponent in the House to those whom it may be his pleasure to attack. With respect to Canada, he was pleased to say, “ Another rule prevails—‘ Refuse all they ask ; turn a deaf ear to every complaint ; mock them with hopes never to be realized ; insult them with rights which when they dare to use shall be rudely torn from them ; and for abiding by the law, in seeking redress of their wrongs, punish them by the infliction of a dictator and a despotism.’ ” Truisms are seldom repeated ; they require but to be enounced, to be assented to. Paradoxes are more fortunate ; they startle and perplex, and he who cannot originate can at least copy. I was, therefore, not surprised at hearing an humble imitation of this diatribe at a meeting of the lower orders of Edinburgh at Carlton Hill. That the audience might find

time to attend, the assembly was held by torch-light, a fitting emblem for incendiary doctrines. Tories and Whigs were alike reprobated by an orator, who, when he had exhausted the topics of domestic misrule, deplored in most pathetic terms the lot "of our oppressed and enslaved brethren in Canada." If this be true of them, it is an appeal to humanity, and when in Britain was that appeal made in vain? It is, however, the character of humanity to be credulous. The mendicant impostor, aware of the fact, profits by the knowledge of it, and weaves a tale of misfortune or oppression to excite pity and extort money; the political juggler, in like manner, draws upon his imagination for facts, and having established a grievance, makes a tender of his services as a reformer.

As this charge of misgovernment has been often made of late, it is probable it will be repeated; and as it must materially modify the opinion we are to form, both of the revolt, and of the measures to be adopted hereafter in consequence thereof, I shall now proceed to controvert this assertion. But before I enter upon it, permit me to say, that I shall not treat this as a party question. As a colonist, at once a native and a resident of a distant part of the empire, I am not only unconnected with, but

perfectly independent of either of the great parties of this country, of Tories or Whigs or Radicals ; nor do I consider this as a subject at all involving the principles for which they severally contend. The question is one wholly between the people of this country and the colonists, and must be considered as such ; and so far from my Lord Durham's assertion being true, that there has been misgovernment, I am prepared to show, that every administration in this country, without exception, from the conquest of Canada to the present time, whether Tory or Whig, or mixed, or by whatever name it may be designated, has been actuated but by one feeling, an earnest desire to cultivate a good understanding with its new subjects of French extraction, and on one principle, a principle of concession. Canada has had more privileges and indulgences granted to it than any other of our American colonies: unpopular officers have been removed; obnoxious governors have been recalled; constitutional points abandoned to them; all reasonable changes made (or, as they would express it, grievances redressed); and the interests of commerce and of persons of British origin postponed to suit their convenience, or accommodate their prejudices; in short, every-

thing has been done, and everything conceded to conciliate them, that ingenuity could devise or unbounded liberality grant, and no sacrifice has been considered too great to purchase their affections, short of yielding up the colony to their entire control ; and all this forbearance and liberality has been met with ingratitude, abuse, and rebellion. For the truth of this assertion, I call upon France and the United States to bear me testimony. Hear the Duke de la Rochfoucault Liancourt : “ No Canadian has just grounds of complaint against the British Government ; the inhabitants of Canada acknowledge unanimously that they are better treated than under the ancient French government ; but they love the French, forget them not, long after them, hope for their arrival, will always love them, and betray these feelings too frequently, and in too frank a manner, not to incur the displeasure of the English, who, even in Europe, have not made an equal progress with us in discarding the absurd prejudices of one people against another.

“ They pay no taxes, live well, at an easy rate, and in plenty ; within the compass of their comprehensions they cannot wish for any other good. They are so little acquainted with the principles of liberty, that it has cost a great

deal of trouble to establish juries in their country; they oppose the introduction of the trial by jury; in civil cases these are not yet in use. But they love France; this beloved country engages still their affections. In their estimation a Frenchman is a being far superior to an Englishman.

“ The farmers are a frugal set of people, but ignorant and lazy. In order to succeed in enlarging and improving agriculture in this province, the English Government must proceed with great prudence and perseverance; for in addition to the unhappy prejudices which the inhabitants of Canada entertain in common with the farmers of all other countries, they also foster a strong mistrust against every thing which they receive from the English; and this mistrust is grounded on the idea that the English are their conquerors, and the French their brethren. There are some exceptions from this bad agricultural system, but they are few. The best cultivators are always landholders arrived from England.

“ Upon the whole, the work of education in Lower Canada is greatly neglected. At Sorel and Three Rivers are a few schools, kept by the nuns; in other places men or women instruct children. But the number of schools is,

upon the whole, so very small, and the mode of instruction so defective, that a Canadian who can read is a sort of phenomenon. From the major part of these schools being governed by nuns and other women, the number of the latter who can read is, contrary to the custom of other countries, much greater in Lower Canada than that of men.

“The English Government is charged with designedly keeping the people of Lower Canada in ignorance; but were it sincerely desirous of producing an advantageous change in this respect, it would have as great obstacles to surmount on this head as in regard to agricultural improvements.”

Hear also Professor Silliman, a distinguished American scholar:

“It is questionable whether any conquered country was ever better treated by its conquerors than Canada; the people were left in complete possession of their religion, and revenues to support it—of their property, laws, customs, and manners. Even the defence of their country is without expense to them; and it is a curious fact, that (unless by the great counterbalancing advantages it produces), so far from being a source of revenue, it is a charge on the treasury of the empire. It would seem



as if the trouble and expense of government was taken off their hands, and as if they were left to enjoy their own domestic comforts without a drawback. Such is certainly the appearance of the population; and it is doubtful whether our own favoured communities are politically more happy;—they are not exposed in a similar manner to poverty and the danger of starvation, which so often invade the English manufacturer, and which, aided by their demagogues, goad them on to every thing but open rebellion. Lower Canada is a fine country, and will hereafter become populous and powerful, especially as the British and Anglo-American population shall flow in more extensively, and impart more vigour and activity to the community. The climate, notwithstanding its severity, is a good one, and very healthy and favourable to the freshness and beauty of the human constitution. All the most important comforts of life are easily and abundantly obtained.”

This, you will observe, is but the evidence of opinion; produce your facts. Agreed. To the facts then let us proceed.

## LETTER III.

By the treaty of peace in the year 1763, Canada, the conquest of which had been achieved on the plains of Abraham, by General Wolfe, was ceded, in full sovereignty and right, to his Britannic Majesty by the King of France; and the French inhabitants who chose to remain in the country became subjects of Great Britain, and were secured in the enjoyment of their property and possessions, and the free exercise of their religion. Thus terminated the power of France in that portion of North America; and here it may be useful to pause and consider, with this vast addition of territory, how extensive and important are our transatlantic possessions.

They may be computed, in round numbers, to comprise upwards of four millions of geographical square miles, extending across the whole Continent, from the Atlantic in the east, to the shores of the North Pacific Ocean on the west. On the parallel of the 49° of north latitude their extreme breadth is about 3,066 geographical miles, and their greatest depth from the most southern point of Upper Canada in

Lake Erie, to Smith's Sound in the Polar regions, rather more than 2,150, thus embracing a large portion of the Arctic Seas, and of the Atlantic and Pacific.

The population of this country may be estimated at little short of two millions ; while the export trade to it exceeds that to Russia, Prussia, Denmark, Sweden, Norway, and France collectively, and nearly equals that to the United States, the most commercial country in the world next to Great Britain. These exports have increased above 40 per cent. in three years.

In carrying on this trade, about seven thousand British vessels are employed ; the tonnage of those inwards and outwards being each way nearly 1,000,000 tons annually, either to Great Britain or her other colonies, all of them, be it remembered, navigated by her own seamen, and employing British capital ; and seven-eighths of the whole produce so transported being paid for in labour to her own people, and all the profits, agencies, and brokerages of this enormous trade divided among her own subjects. Can the possible loss of such a trade be contemplated, without apprehending consequences serious to the manufacturing interests, and prejudicial to national prosperity ?

In four years not less than £300,000 has

been paid by emigrants as passage-money to her ship-owners ; and if out of the number of 170,000 who emigrated during that period, only 20,000\* had become burdensome at home, and had cost their parishes only £4 per head per annum, the expenses to the community (which have been saved) would have been £320,000.

Such are the interests now at stake, and which you are called upon to surrender. My Lord Brougham, the advocate “ for the diffusion of useful knowledge,” thus sanctions the doctrine that colonies though large are unwieldy, and though possessing intrinsic value, cost more for their support and protection, than counterbalances any advantage to be derived from them. “ I have always held (he observed on the 2d of February last, when speaking on the Canada question), the severance of a colony to be a benefit and no loss, provided it can be effected in peace, and leave only feelings of kindness on either side.” At the same time he “ hurled defiance” (I use his own words) “ at the head of the premier,” to point out where he had ever changed his principles. The noble viscount was silent, the challenge was not accepted, and his consistency remained unimpeached. I am more interested in colonial

\* See Letter to E. Baines, Esq., M.P.

prosperity than either of them, having no desire to be handed over to the tender mercies of republicans, and will take the liberty to refer to that instance that was so triumphantly demanded. I allude to a more deliberate opinion, the result of study and reflection, emanating not from the excitement of debate and the conflict of party spirit, but from the retirement of his closet. On a former occasion he thus expressed himself on this subject :—

“ Each nation derives greater benefit from having an increasing market in one of its own provinces, than in a foreign country.

“ The colonial trade is always increasing and capable of indefinite augmentation ; every operation of colonial traffic replaces two capitals, the employment and distribution of which puts in motion and supports the labour of the different members of the same state.

“ The increasing wealth of Russia, Prussia, or Denmark, can never benefit Great Britain unless by the increasing demand for British produce which it may occasion. It may, and often is, on the contrary, turned against her wealth and power ; whilst the riches of colonies have a certain tendency to widen the market for British produce, and can never injure the wealth or power of the mother country.

“The possession of remote territories is the only thing which can secure to the population of a country those advantages derived from an easy outlet, or prospect of outlet, to those persons who may be ill provided for at home.

*“ It is absurd to represent the defences and government of colonies as a burden. It is ridiculous for the United Kingdom to complain, that she is at the expense of governing and defending her colonial territories.”*

Among the benefits to be derived from the “diffusion of useful knowledge,” it is certainly not the least that we are enabled to compare the professions of public men with their acts, and the actors with each other. My Lords Brougham and Durham have both travelled the same road—selected similar topics—supported them by the same arguments—and aimed at one conclusion; and yet, strange to say, they stand opposed to each other. Coming from a small province, and a very limited sphere of action, I may be allowed the privilege of a stranger, and be permitted to express my surprise. I had read in the speech to which I have referred, of certain commissioners of inquiry who were placed in an extraordinary situation, “where each one generally differed from his colleague in the views he took of the

argument, and frequently also from himself; but both agreeing in the conclusions at which they arrived, by the course of reasoning one way, and deciding another." It is an awkward position for men to be placed in; but little did I anticipate finding the noble author illustrating, in his own person, the case he has described with such pointed and bitter irony. But this is a digression, and I must return to my subject.

Whether a country extending over such an immense space, containing such a great and growing population, and affording such an extensive and profitable trade, has been misgoverned, is therefore a question of the first importance. The affirmative of this proposition which the governor-general has advanced, has inspired the rebels with new hopes; and forms, no doubt, a principal ingredient of that satisfaction which he says his administration has given to the inhabitants of the neighbouring republic. It is a charge, however, in which the honour of the nation is deeply concerned, and should neither be flippantly made nor easily credited.

In the month of October following the treaty, His Majesty published his proclamation, under the great seal of Great Britain, for erect-

ing four new civil governments, to wit, those of Quebec, East Florida, West Florida, and Granada, in the countries and islands in America, which had been ceded to the Crown by the definitive treaty. In this proclamation the King exhorted his subjects as well of his kingdoms of Great Britain and Ireland, as of his colonies in America, to avail themselves, with all convenient speed, of the great benefits and advantages that would accrue, from the great and valuable acquisitions ceded to his Majesty in America, to their commerce, manufactures, and navigation. As an encouragement to them to do so, he informed them that in the commissions he had forwarded to the civil governors of the said four new provinces, he had given express power and directions that, so soon as the state and circumstances of the said colonies would admit thereof, they should, with the advice and consent of the members of his Majesty's Councils in the said provinces, summon general assemblies of the people within the said governments, in such manner as was used in those colonies and provinces in America which were under his Majesty's immediate government; and that until such assemblies could be called, all persons inhabiting in, or resorting to, his Majesty's said colonies, might confide



in his Majesty's royal protection for the enjoyment of the benefit *of the laws of his realm of England*; that for that purpose his Majesty had given power, under the great seal, to the governors of his Majesty's said new colonies, to erect and constitute, with the advice of his Majesty's said councils respectively, courts of judicature and public justice, within the said colonies, for the hearing and determining all causes, as well criminal as civil, according to law and equity, and as near as may be, *agreeably to the laws of England*; with liberty to all persons who might think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal, under the usual limitations and restrictions, to his Majesty in his Privy Council.

On the 21st day of November 1763,\* about six weeks after the publication of the aforesaid proclamation, his Majesty issued his commission of captain-general and governor-in-chief of the province of Quebec, to Major-general Murray, which was received by him, and published in the province in the month of August 1764. This commission, and the insurrection that accompanied it everywhere, pre-supposed that the laws of England were in force in the province, being

\* See Smith's History of Canada.

full of allusions and references to those laws on a variety of different subjects, and did not contain the least intimation of a saving of any part of the laws and customs that prevailed there in the time of the French government.

It appears, therefore, upon the whole, from the proclamation and commission, to have been his Majesty's intention, with respect to the province of Quebec, to assimilate the laws and government of it to those of the other American colonies and provinces which were under his Majesty's immediate government, and not to continue the municipal laws and customs by which the conquered people had heretofore been governed, any farther than as those laws might be necessary to the preservation of their property. And his Majesty's ministers, at the time of passing those instruments, were evidently of opinion that, by the refusal of General Amherst to grant to the Canadians the continuance of their ancient laws and usages ; and by the reference made in the fourth article of the definitive treaty of peace to the laws of Great Britain, as the measure of the indulgence intended to be shown them with respect to the exercise of their religion, sufficient notice had been given to the conquered inhabitants of that province, that it was his Majesty's plea-

sure that they should be governed for the future according to *the laws of England*. It is evident also, that the inhabitants, after being thus apprised of his Majesty's intention, had consented to be so governed, and had testified their said consent, by continuing to reside in the country, and by taking the oath of allegiance to his Majesty, when they might have withdrawn themselves from the province, with all their effects, and the produce of the sale of their estates, within the eighteen months allowed by his Majesty in the treaty of peace, for that purpose.

In consequence of this introduction of the *laws of England* into the province, by the aforesaid proclamation and commission, Governor Murray and his Council, in the great ordinance dated on the 17th day of September 1764 (passed at the commencement of the civil government of the province, for the establishment of courts of justice in it), directed the chief justice of the province (who was to hold the superior court or Court of King's Bench, established by that ordinance), to determine all criminal and civil causes *agreeable to the laws of England*, and the ordinances of the province; and the judges of the inferior court, established by the said ordinance (which was called the Court of Common Pleas), to determine the

matters before them agreeably to equity, having regard nevertheless to *the laws of England*, as far as the circumstances and situation of things would permit, until such time as proper ordinances for the information of the people could be established by the governor and council, agreeable to the laws of England ; with this just and prudent proviso, ‘ that the French laws and customs should be allowed and admitted in all causes in the said court between the natives of the said province, in which the cause of action arose, before the 1st day of October 1764.’

In consequence of these instruments of government, the *laws of England* were generally introduced into it, and consequently became the rule and measure of all contracts and other civil engagements entered into by the inhabitants after the introduction of them, that is, after the establishment of the civil government of the province, or after the said 1st day of October 1764.

At this time the population of Canada amounted to 65,000 souls, and was confined to the banks of the St. Lawrence and its tributary streams. As the people had now become British subjects, it was deemed expedient to introduce, as soon as possible, emigrants of English

extraction, as well for the purpose of creating a defensive power within the province, as to induce the French to acquire the language, and adopt the habits of their conquerors. The officers and soldiers of the army that had served in America were rewarded with grants of land in the country which they had conquered, and liberal offers were made to people in the other provinces, and to emigrants from Europe to remove thither. The facilities of internal transport, the fertility of the soil, and salubrity of the climate, operated so powerfully, that in a short time the influx of strangers was so great as to induce the hope that it would speedily rival the New England states in population and in wealth; and no doubt can now be entertained that if the terms of the proclamation had been honestly adhered to, these expectations would have been fully realised. As a matter of policy nothing could have been more wise, than since it had now become a British colony, to endeavour, as soon as possible, to make it so in fact as well as in name. The introduction of English laws had a natural tendency to disseminate the language, by rendering the study of it necessary to the Canadian French, and a constant intercourse with the emigrants could not fail, by rendering their

customs familiar, to have gradually led to their adoption. This change, though great in the first instance, and no doubt repugnant to their feelings, would have gradually recommended itself to the French, and by the time a new generation had sprung up, all inconvenience would have ceased to be felt any longer. The first fatal error that was committed was ordering a code of laws to be prepared for the province, with such modifications as would secure to the French the system of tenure and inheritance, to which they had been accustomed. This occasioned much delay, and enabled their leaders to represent that any change would alienate the affections of the inhabitants, who would naturally extend to the government the dislike that they felt to their institutions. Unfortunately, while this was under consideration, the time had arrived when they could enforce their demands with a threat, and the rebellion which shortly afterwards broke out in the English colonies (now constituting the United States), made their conciliation a matter of state policy. It was therefore determined at once to restore the French laws as they existed at the conquest, and the celebrated Quebec Act, 14 Geo. 3, c. 83, was passed for that purpose. This statute enacted, "that his

Majesty's subjects professing the religion of the Church of Rome, in the said province of Quebec, may have, hold, and enjoy, the free exercise of their religion, subject to the King's supremacy, and that the clergy of the said church may hold, receive, and enjoy their accustomed dues and rights, with respect to such persons only as shall profess the said religion; and that it shall be lawful for his Majesty, his heirs or successors, to make such provision for the support of the Protestant clergy within the said province, as he or they shall from time to time think necessary and expedient." But by far the most important clause was that which, after reciting that the English laws which had prevailed there for ten years, administered and regulated under commissions to governors, had been found inapplicable to the state and circumstances of the country, enacted *that from and after the 1st of May, 1775, the said English laws and practice of courts should be annulled.* It is true that the criminal law of England was excepted, and that the system of torture which had been in previous existence was abolished for ever. During the time they were under French domination a person suspected of crime was seized, thrown into prison, and interrogated, without knowing the charge brought

against him, and without being confronted with his accuser. He was deprived of the assistance either of his friends, relations, or counsel. He was sworn to tell the truth, or rather to accuse himself, without any value being attached to his testimony. Questions were then artfully put, which are described as more difficult for innocence to unravel than vice to deny. The prisoner was never confronted with the person who had deposed against him, except at the moment before judgment was pronounced, or when the torture was applied, or at his execution, which judgment in capital cases was invariably followed by confiscation of property. This act also constituted a council with the power to make ordinances, conjointly with the governor, but not to impose taxes except for making roads. The ordinances were to be laid before his Majesty for allowance, and those touching religion not to be in force until formally approved of by the King.

This flagrant violation of the promises held out in the proclamation, and of the terms upon which the people of British origin had settled in the provinces, filled them with dismay. They felt that they had the wretched choice presented to them of abandoning their property and removing from the colony, or of remaining a miserable



minority, to be ruled and governed by foreigners, whose favour could only be conciliated by their forgetting their country, their language, and religion, as soon as possible, and becoming Frenchmen. They accordingly lost no time in forwarding petitions, in which they were joined by the merchants of London, interested in the North American trade, to the King and the two Houses of Parliament, expressive of their sense of the injury they had sustained, and of the misery likely to be entailed by this act upon the province, but no repeal was effected, and the act remained as it was passed.

Importunity often prevails against conviction, and the most noisy applicant is generally the first relieved, not because he is the most deserving, but because he is the most troublesome. The French Canadians appear to have been fully aware of this fact, and to have acted upon it; and the English, finding their opponents first in the field, have been put on the defensive, and instead of seeking what was due to themselves, have been compelled to expostulate that too great a share has been given to their rivals. The advantage gained by this position, the former have constantly maintained; and, it is a singular fact, that while the latter are the *only aggrieved party in the country*, the

former have forestalled the attention of the public, and engrossed the whole of its sympathy. Every page of this work will confirm and illustrate this extraordinary fact. The Quebec Act was obnoxious, not merely to the British party in Canada, but to the inhabitants of those colonies whose gallantry so materially contributed to its conquest. It has been the singular fate of this unfortunate bill to have excited two rebellions. It caused the cup of American grievance, which was already filled to the brim, to overflow into revolt, and has subsequently given rise to a train of events that has induced the very men that it was designed to conciliate, to follow the fatal example that had been set to them by their republican neighbours.

## LETTER IV.

As soon as the struggle had ended in the old colonies, by their successful assertion of independence, a vast emigration of the loyalists took place into Canada, comprising a great number of persons of character and property ; and these people, who had been accustomed to the exercise of the electoral privilege, united with those of their countrymen who had previously settled there in demanding a modification of the Quebec Act, and the establishment of a local legislature. The petitions of these people gave rise to the Act of the 31st Geo. III, c. 31, commonly called the Constitutional Act, to which and to the Quebec Act, of the 14th of the same reign, c. 83, alluded to in my former letter, is to be attributed all the trouble experienced in governing Canada. In the fatal concessions to the Canadians contained in these Acts, is to be found the origin of that anti-British feeling which, engendered by the powers conferred by those Acts, has increased with every exercise of those powers, until it has assumed the shape of concentrated hatred and

open rebellion. By this Act Canada was divided into two provinces, respectively called Upper and Lower Canada. The latter, to which all my remarks will hereafter be confined, lies between the parallels of the  $45^{\circ}$  and  $52^{\circ}$  of North latitude, and the meridian of  $57^{\circ} 50'$  and  $80^{\circ} 6'$  West longitude from Greenwich. It is bounded on the north by the territory of the Hudson's Bay Company, on the east by the Gulph of St. Lawrence, on the south by New Brunswick and part of the United States, and on the west by a line that separates it from Upper Canada, and contains more than 250,000 square miles.

To this country this celebrated Act gave a constitution, consisting of a Governor and Executive Council of eleven members, appointed by the Crown; a Legislative Council, forming the second estate, appointed in like manner by the Crown, consisting of fifteen members (but subsequently, as we shall see, increased to forty); and a Representative Assembly, or House of Commons, composed of fifty members (afterwards increased to eighty-eight), each having powers as nearly analogous to those of King, Lords, and Commons, as the varied circumstances of the two countries and the dependence of the colony would admit.

The enacting power they bestowed upon the colony, introduced from year to year another set of statutes, in addition to what they were subject to already, so that they now have a union of French, English, and provincial law. Such a confusion, you may easily imagine, imposed great difficulties, as well upon those who had to administer, as upon those who were bound to obey those laws; but of the extent of those difficulties, of the impediments they offered to the transfer of real estate, of the frauds to which they gave rise, and the obstacles they presented to the settlement and prosperity of the country, it is impossible for an Englishman to form any idea without first inquiring into the structure of this singular code. The subject, however, is too important to be disposed of in this cursory manner, and I shall, therefore, even at the hazard of being thought tedious, endeavour to give you some general account of the situation of the country in this particular. I am the more induced to do so, because, independently of the explanation which it will give of much that I have to say to you, it appears to be indispensable to the full understanding of the Tenures' Act, which is now one of the great complaints of the disaffected.

There exists in Lower Canada no regular

code in which the laws of the land are systematically incorporated, nor would it indeed be a task of ordinary difficulty to collect and condense them, so diverse are their elements, and so complex their character.\* The jurisprudence of the country may be said to embrace the French, the English, and the Roman or civil laws, and these are all so blended in practice, that it is often doubtful whence the rule of decision will be drawn, although the line of distinction is better defined in theory. The statute law of the province may be stated under five heads:—1st, The articles of capitulation, that form part of the guaranteed rights of the inhabitants; 2d, The 31st Geo. III. cap. 31, or the constitutional act, and all other British statutes expressly extending to the colonies; 3d, The edicts, declarations, and ordinances of the Kings of France officially registered in the province; 4th, The ordinances of the Governor and Council anterior to 1792; and 5th, The acts of the provincial legislature subsequent to 1792. The common law is the custom of Paris as modified by the customs of the country, and this law was co-extensive with the whole province until the passing of the Canada

\* See Bouchette.

tenures' bill in 1825, which restricted the application of the French law to the feudal section of the colony, and introduced bodily the English laws to the remainder of the province. The criminal law of the province is the English code as it stood in 1774, and the statutes of a declaratory or modifying nature that have since passed the local legislature.

When the country was first settled by the French, the feudal tenure was in full vigour on the continent of Europe, and was naturally transplanted by the colonizers to the new world. The King of France, as feudal lord, granted to nobles and respectable families, or to officers of the army, large tracts of land, termed seigniories, the proprietors of which were termed seigniors; and held immediately from the King *en fief*, or *en roture*, on condition of rendering fealty and homage on accession to seigniorial property; and in the event of a transfer, by sale, or gift, or otherwise (except in hereditary succession), the seignior was subject to the payment of a *quint*, or fifth part of the whole purchase-money; and which, if paid by the purchaser immediately, entitled him to the *rabat*, or a reduction of two-thirds of the *quint*. The custom still prevails, the King of Great

Britain having succeeded to the claims of the King of France.\*

The position and extent of these seigniorial grants are :—

Territorial Division.	Number of Seigniories.	Extent of Seigniorial Grants.		Almost unfit for cultivation in the Seigniories and Fiefs.
		Arpents.	Acres.	
Quebec, including Anticosti and other Isles. }	79	5,639,319	5,656,699	2,600,000
Montreal and Islands - }	63	3,269,966	2,786,011	500,000
Three Rivers and St. Francis, &c. - }	25	1,220,308	1,039,707	400,000
Gaspé and Isles - - }	1	1,547,086	1,318,117	600,000
	168	12,676,679	10,800,534	4,100,000

Estimating the number of acres of land in Lower Canada under cultivation, at 4,000,000, it will be perceived what a large portion of territory is embraced under the seigniories.

*Quints* is a fifth-part of the purchase-money of an estate held *en fief* which must be paid by the purchaser to the feudal lord, that is, to the King. If the feudal lord believes the *fief* to be sold under value, he can take the estate to himself by paying the purchaser the price he gave for it, with all reasonable expenses. *Relief* is the rent or revenue of one year for

\* See Martin's 'Canada,' and House of Commons Report.



mutation fine, when an estate is inherited only by collateral descent. *Lods et ventes*, are fines of alienation of one-twelfth part of the purchase-money, paid to the seigneur by the purchaser, on the transfer of property, in the same manner as *quints* are paid to the King on the mutation of *fief*; and are held *en roture*, which is an estate to which heirs succeed equally. *Franc aleu noble*, is a *fief*, or freehold estate, held subject to no seigniorial rights or duties, and acknowledging no lord but the King. The succession to *fiefs* is different from that of property held *en roture* or by *villainage*. The eldest son, by right, takes the chateau, and the yard adjoining it; also an *arpent* of the garden joining the manor-house; the mills, ovens, or presses within the seigniority, belong to him; but the profit arising from these is to be divided among the other heirs. Females have no precedence of right, and when there are only daughters, the *fief* is equally divided among them. When there are only two sons, the eldest takes two-thirds of the lands, besides the chateau, mill, &c., and the younger, one-third. When there are several sons, the elder claims half the lands, and the rest have the other half divided among them. *Censive* is an estate held in the feudal manner, subject to the seigniorial fines or dues.

All the Canadian *habitans*, small farmers, are *censitaires*. Property, according to the laws of Canada, is either *propre*, that is held by descent, or *acquits*, which expresses being acquired by industry or other means. *Communauté de bien* is partnership in property by marriage; for the wife, by this law, becomes an equal partner in whatever the husband possessed before and acquires after marriage, and the husband is placed in the same position in respect to the wife's dowry property. This law might operate as well as most general laws, if both *husband* and *femme* came to the *finale* of life on the same day; but very unhappy consequences have arisen when the one died before the other. For instance, when the wife dies before the husband, the children may claim half of the father's property, as heirs to the mother; and the mother's relations have often persuaded and sometimes compelled them so to do.

The dot or dowry, is the property which the wife puts into the *communauté de bien*: moveable or immoveable property, falling to her by descent, is a *propre*, and does not merge in the *communauté*. Dower in Canada, is either customary or stipulate. The first consists of half the property which the husband was possessed of at the time of marriage, and half of all the

property which he may inherit or acquire—of this the wife has the use for life, and the children may claim it at her death. If they be not of age, the wife's relations can take it out of the father's hands for them, and may compel him to sell his property to make a division. Stipulated dower is a portion which the husband gives instead of the customary dower.

Those farmers who hold land from the seigneur *en roture*, and who are termed tenants or censitaires, do so subject to certain conditions, viz. : a small annual rent from 2s. 6d. to 5s. (or perhaps more of late years) for each arpent in front; to this is added some articles of provision annually, according to the means of the farmer, who is also bound to grind his corn at the *moulin banal*, or the seigneur's mill, when one-fourteenth is taken for the lord's use as a *mouture* or payment for grinding. The *lods et ventes* form another part of the seigneur's revenue : it consists of a right to one-twelfth part of the purchase money of every estate within his seigniory that changes its owner by sale or other means equivalent to sale : this twelfth, to be paid by the purchaser, is exclusive of the sum agreed on between the latter and the seller, and if promptly paid, a reduction of one-fourth is usually made (in

the same manner as two-thirds of the *quint* due to the Crown is made.) On such an occasion a privilege but seldom exercised, remains with the seigneur, called the *droit de retrait*, which confers the right of pre-emption at the highest bidden price within forty days after the sale has taken place.

All the fisheries within the seignories contribute also to the lord's income, as he receives a share of the fish caught, or an equivalent in money for the same : the seigneur is also privileged to fell timber any where within his seignory for the purpose of erecting mills, constructing new, or repairing old roads, or for other works of public and general utility. In addition to the foregoing obligations on the farmer, he is, if a Roman Catholic, bound to pay to his curate one twenty-sixth part of all grain produced, and to have occasional assessments levied on him for building and repairing churches, parsonage houses, &c.

The duties of the seigneur to his tenants are also strictly defined,—he is bound in some instances to open roads to the remote parts of his fief, and to provide mills for the grinding of the feudal tenants' corn ;—he cannot dispose by sale of forest lands, but is bound to concede them, and upon his refusal to do so, the appli-

cant may obtain from the Crown the concession he requires, under the usual seigniorial stipulations, in which case the rents and dues appertain to the King.

The *soccage* tenure, like the *franc aleu roturier*, leaves the farmer or landholder wholly unshackled by any conditions whatsoever as to rents, *corvées*, mutation fines, *banalelé* (corn-grinding obligation) without in fact any other obligation than allegiance to the King, and obedience to the laws. The quantity of land thus granted in Lower Canada amounts to upwards of 7,000,000 acres—while under the seigniorial grants there are nearly 11,000,000 acres held by a vast number of small proprietors.

It is very difficult to conceive how the statesman who sanctioned the act that substituted this extraordinary code for that of England, could have imagined it could ever be productive of anything but discord in a country inhabited by two races of different origin and different language. Any person at all acquainted with the prejudices and passions that operate on man, will easily understand that the French, jealous of any innovation, are constantly suspicious of an intention on the part of the English to infringe upon their rights, and intro-

duce their own system of jurisprudence, to which they are accustomed and attached, instead of that which they neither understand nor approve; and, on the other hand, that the English, naturally an enterprising and commercial people, find the feudal tenure an intolerable burden, and spurn with indignation the idea of being subjected to the government of a race whom they have conquered, and to the operation of laws, which even the people with whom they originated have rejected as unsuited to the exigencies of the times. In addition to this grievous error of establishing a code of laws that exists nowhere else, three others were committed of equal magnitude: first, in dividing Canada into two provinces, and thus separating the French from the majority of the English; secondly, in permitting the language of the courts, and the records of the legislature, to be French; and, thirdly, in giving at so early a period, and before the people were fitted to receive it, a constitutional government.

The concentrated settlement of the French along the shores of the St. Lawrence necessarily excluded the English emigrants from that fertile territory, and compelled them to remove to the borders of the lakes. In addition

to this obvious cause of their not settling in the immediate neighbourhood of the Canadians, it is evident that the nature of the feudal tenure to which those lands were subject, and the introduction of French laws in direct contravention of the proclamation, rendered such a separation of the two races inevitable. Under these circumstances one would naturally have supposed that a wise government would have endeavoured, as far as possible, to counteract the tendency of these causes, to alienate, as well as separate, these people of different origin. But, alas, the fatal principle of conciliation had now been adopted as the rule of action, and the favourable opportunity of Anglifying the colony, and amalgamating the population, by identifying the interests of both, was not only neglected, but the most effectual mode was adopted to make the distinction as marked and as permanent as possible. Not content with this act of folly and injustice, the French were entrusted with an almost exclusive possession of the popular branch of the legislature, and were even constituted, at the same time, toll-keepers to the adjoining province. Both the ports of Quebec and Montreal were assigned to the French, and the inhabitants of Upper Canada were thus cut off from all com-

munication with the mother country, but such as might be granted by the Americans or their Gallic neighbours. If the persons who framed that act had compared the state of the revolted colonies with that of Canada, and reflected that they were settled nearly a century later than the other, they certainly never would have attempted to do such injustice as to subject the trade of another colony to the exactions of an illiterate and prejudiced people. If, however, the necessities of the times demanded a sacrifice on this important point, surely they should have paused before they gave them a constitutional government, and enquired whether they were sufficiently intelligent to receive the institutions of a free and enlightened people. The experiment of constitutional government was never tried by a people less qualified for the task than the Canadians.

Until the conquest they may be said to have known no other form of government than a despotic one; few of them could read or write, and the habits of implicit obedience to their superiors, in which they had been trained, rendered them unable to comprehend the nature of their own rights, or those of the other branches of the legislature. The powers exercised by the several French governors and intendants knew



no bounds ; and, unrestrained by law, their decisions were dictated by the caprice of the moment. The inhabitants were compelled to serve as soldiers without pay, in the frequent wars with the English, and were treated with the greatest severity by their superiors. The exactions of the military, instead of being restrained were encouraged, and on all occasions the protection of the governor or intendant was necessary to insure success, while merit in every instance was overlooked. Remonstrances against oppression had frequently been transmitted to the government in France, but were always either suppressed or disregarded. Their character at this period is thus drawn by the Abbé Raynal, whose account, as his partialities must have been all in their favour, I prefer as the most unobjectionable. He observes :

“ That those whom rural labour fixed in the country, allowed only a few moments to the care of their flocks and to other indispensable occupations during winter. The rest of the time was passed in idleness at public-houses, or in running along the snow and ice in sledges, in imitation of the most distinguished citizens. When the return of spring called them out to the necessary labours of the field, they ploughed

the ground superficially, without ever manuring it, sowed it carelessly, and then returned to their former indolent manner of life till harvest time.

“ This amazing negligence might be owing to several causes. They contracted such a habit of idleness during the continuance of the severe weather, that labour appeared insupportable to them even in the finest weather. The numerous festivals prescribed by their religion, which owed its increase to their establishment, prevented the first exertion, as well as interrupted the progress of industry. Men are ready enough to comply with that species of devotion that flatters their indolence. Lastly, a passion for war, which had been purposely encouraged among these bold and courageous men, made them averse from the labours of husbandry. Their minds were so entirely captivated with military glory that they thought only of war, though they engaged in it without pay.

“ The inhabitants of the towns, especially of the capital, spent the winter as well as the summer in a constant scene of dissipation. They were alike insensible of the beauties of nature or of the pleasures of the imagination.

They had no taste for arts or science, for reading or instruction. Their only passion was amusement.

“ There appeared in both sexes a greater degree of devotion than virtue, more religion than probity ; a higher sense of honour than of real honesty. Superstition took place of morality, which will always be the case whenever men are taught to believe that ceremonies will compensate for good works, and that crimes are expiated by prayers.”

A greater folly can hardly be conceived than conferring a constitutional government upon a people so situated. Wherever the experiment has been tried, whether in France, in the republic of South America, in Spain, in Portugal, Greece, Newfoundland, or Lower Canada, it has invariably failed. The constitution of England, as it now exists, is the growth of ages, and would have been as unsuitable to our ancestors five hundred years ago as it is to the Lower Canadians of the present day. Regard must be had to the character and condition of the people to whom such a form of government is offered. What may suit the inhabitants of England may be, and is, very unsuitable to those of any other country. It is not sufficient that the machinery be good, but, if we desire

to avoid accidents and insure success, we must place skilful people in the management of it, who are thoroughly acquainted with its power, and have a perfect knowledge of its principle of action. The limited monarchy of England was found unsuited to America, although the people were of British extraction, accustomed to free institutions, and perfectly instructed in its practical operation. They were so unfortunat  as not to possess any materials out of which to construct a House of Lords, and therefore so modified their constitution as to meet the altered circumstances of the country. This humble imitation is a cheap article, and good of its kind, though badly put together; but a better and more costly one would not have corresponded with the limited means and humble station of a poor people. Their choice is a proof of their wisdom, and their having the opportunity to choose, at a time of life when they were able to make a judicious selection, is a proof of their good fortune. Had the Canadians been called upon, at the time of the conquest, to point out what government they would have preferred, they would unquestionably have solicited that of a single intendant; they had never known any other, and it was the only one for which they

were fitted. So strong, indeed, is the force of habit, that rejecting the constitution, which they cannot understand, and do not appreciate, they have, after a vain attempt to accommodate themselves to it, resorted to the usage of former days, and (however unfortunate they may have been in the character and conduct of the person they selected as their leader) have adopted the usage of their forefathers, and implicitly yielded their confidence and obedience to *one man*.

## LETTER V.

HAVING thus traced historically the measures of government, from the conquest of the country to the time when the Constitutional Act went into operation in the province (26th December 1791), which forms the first important epoch in the history of the colony, I shall divide the time that intervened between that period and the present into four other portions: The second extends from the meeting of the first provincial House of Assembly in December 1792 to 1818, when a demand was made for a civil list; the third from thence to 1828, when the pretensions of the Assembly had assumed a distinct and definite form, and were referred to a committee of Parliament; the fourth from thence to 1834, when a further reference of additional grievances was made to another parliamentary committee; and the fifth from 1834 to the present period. Such a division will elucidate the growth and increase of those revolutionary principles (the natural and obvious result of such a form of government) which first appeared in an insidious attempt to monopolise the whole civil power by such

a complete control in matters of legislation and finance as would render her Majesty's representative, and the Legislative Council, subservient to the interests, prejudices, and passions of the French Canadian majority, and finally terminated in open rebellion. I do not mean by this to affirm that all that has since transpired was the result of a preconceived design, systematically acted upon ; but as uncontrolled power was given by the constitution to the French party, that these pretensions were the natural result of such a power, and that they were unhesitatingly put forward as soon as their leaders had become acquainted with the working of the constitution, and aware that they were invested with the means of imposing their own terms upon government.

The first assembly met on the 17th of December 1792, and as the representation had been most injudiciously based on the principle of population, thirty-five out of the fifty members of this first house were French, and fifteen only English, a minority too large and respectable to be suffered to continue longer than to teach the majority the forms of business, and we accordingly find, at a subsequent period, that it was *reduced to three*. The change from arbitrary to constitutional government was so great, that

the French were for some time under the influence of those grateful feelings which such a state of things so naturally engendered. In one of their addresses to his Majesty, soliciting the establishment of a legislature, they thus express their sense of his mild and paternal government :

“ Sir,—Your most obedient and faithful new subjects in the province of Canada take the liberty to prostrate themselves at the foot of your throne, in order to lay before you the sentiments of respect, affection, and obedience towards your august person, with which their hearts overflow, and to return to your Majesty their most humble thanks for your paternal care of their welfare.

“ Our gratitude obliges us to acknowledge, that the appearances of conquest by your Majesty’s victorious arms did not long continue to excite our lamentations and tears. They grew every day less and less, as we gradually became more acquainted with the happiness of living under the wise regulations of the British empire. And even in the very moment of the conquest we were far from feeling the melancholy effects of restraint and captivity ; for the wise and virtuous general who conquered us, being a worthy representa-



tive of the glorious sovereign who entrusted him with the command of his armies, left us in possession of our laws and customs ; the free exercise of our religion was preserved to us, and afterwards was confirmed by the treaty of peace ; and our own former countrymen were appointed judges of our disputes concerning civil matters. This excess of kindness towards us we shall never forget. These generous proofs of the clemency of our benign conqueror will be carefully preserved in the annals of our history ; and we shall transmit them from generation to generation to our remotest posterity. These, Sir, are the pleasing ties by which, in the beginning of our subjection to your Majesty's government, our hearts were so strongly bound to your Majesty ; ties which can never be dissolved, but which time will only strengthen and draw closer."

Impressed with a sense of the benefits conferred upon them by this great change, trammelled by parliamentary forms with which they were wholly unacquainted, and not yet aware of the unlimited means of annoyance, if not of controul, with which they were invested, we find them for some time proceeding with decorum and moderation. But there were not wanting those in the colony who were filled

with alarm at the sight of the first Canadian assembly, which, even with the largest minority ever known, contained a majority of more than twice as many Frenchmen as Englishmen, and possessed the power to increase that majority at its pleasure. Even those whose faith in the operation of British institutions, had led them to hold a different opinion as to the result, were constrained to admit their error, when they found the house proceeding to choose a speaker, who admitted his inability to express himself in English (a precedent of choosing that officer from the majority, which has ever since been followed), and also resorting to the expensive mode of recording their proceedings in their own language. They perceived with grief that the natural tendency of those things, instead of stimulating the new subjects to the study of constitutional law in its original sources, was to force Englishmen to study French, and in no small degree to become Frenchmen, and coalesce with the Nation Canadienne, to give a complete ascendancy to those of foreign origin, their laws, language, and characteristics, in the popular branch of the legislature, and to encourage in the leaders, at a future day, that exclusive ambition that now distinguishes them. They could not fail,

also, to draw an unfavourable contrast between this extraordinary concession, and the more provident conduct of the American Congress, which, while admitting the territory of Louisiana, inhabited by Frenchmen, as one of the states of the confederation, enacted that all minutes of proceedings in the court and legislature of their sister state should be exclusively recorded in the language of the constituency of the United States. This judicious enactment has naturally made the study of the English tongue a primary object with the Louisianians, and, though in numbers, at the time of admission, they were about half the amount of the Canadians in 1791, they now generally speak or understand English, and have changed their old laws for a new code, while the legislature and people of Canada remain as much French as the inhabitants of Normandy.

It was felt that, as far as Englishmen and their descendants were concerned, this constitution was a mere delusion. At a very early period we find them putting in practice that manœuvre, which became so common afterwards, of absenting themselves from the house, when measures were to be considered to which they were averse, and thereby compelling the speaker to adjourn the debate for want of a quorum.

This first House of Assembly, after four sessions, terminated on the 4th of May, 1796. The conduct of the members, though respectful both to the governor and the other branch of the legislature, gave evident proof that they would afford no encouragement to English commerce or English settlers. The principle adopted and acted upon most pertinaciously was to avoid direct assessment, and throw all public burthens, as well as local charges, upon the revenue, to be derived from duties levied off of trade. It was in some measure owing to chance, but mainly to the influence of the governor, that a road act, so important to the country, which imposed a moderate contribution of money or labour on the people, for the improvement of their property, was carried through the Assembly. But an appeal to the passions and prejudices of the people by their embryo demagogues was so successful on this occasion, in representing this necessary act as the commencement of foreign taxation and English oppression, that they attempted to starve out the inhabitants of Quebec and Montreal, by withholding all the usual supplies of food. A bankrupt law was refused to the request of the merchants, and they also declined to sanction " An Act to Amend the Laws,

Customs, and Usages in force in the Province, relative to the Tenure of Lands, and the rights derived therefrom," refusing to make the smallest sacrifice to what they called the cupidity of English landholders, and the prejudices of American settlers. So peremptory, indeed, was the refusal, that the faction was considered decisive as to any innovation upon the French laws, which, with the feudal tenures of lands, were cherished as the means of deterring emigrants from seeking an asylum in the province; thus rendered French in fact, though British in name. During the existence of this house, also, is to be found the first pretension to encroach on the right of the Crown, in an enquiry into the forfeited lands of the Jesuits, and a claim for their restoration to French controul. It is, however, worthy of remark, as forming a complete contrast with recent conduct, that of eleven acts sanctioned at the end of the session, all were permanent but one.

Thus, my dear friend, do you see that the causes of the present posture of affairs are to be traced back to a very early period; not as my Lord Durham has asserted, to misgovernment of the Canadians, but to inconsiderate concessions, which though designed to conciliate them, have not only signally failed of their object,

but been productive of mischief to themselves, and incalculable injury to the colony. That this is the view which impartial men take of the subject, appears from the following extract from the work of a distinguished foreigner, the author of the *Resources of America* :\*

“The unwise act of Lord Grenville, passed through Parliament in the year 1794, permitting the people of Lower Canada to conduct their pleadings and promulgate their laws in the French language, has prevented them from ever becoming British, and so far weakened the colony as an outwork of the mother country. It has always been the policy of able conquerors, as soon as possible, to incorporate their vanquished subjects with their own citizens, by giving them their own language and laws, and not suffering them to retain those of their pristine dominion. These were among the most efficient means by which ancient Rome built up and established her empire over the whole world; and these were the most efficient aids by which modern France spread her dominion so rapidly over the continent of Europe. While Lower Canada continues to be French in language, religion, laws, habits, and manners, it is obvious that her people will not be good British subjects; and Britain may most

\* Bristow.

assuredly look to the speedy loss of her North American colonies, unless she immediately sets about the establishment of an able, statesmanlike government there, and the direction thitherward of that tide of emigration from her own loins, which now swells the strength and resources of the United States. Her North American colonies gone, her West India islands will soon follow."

The second House of Assembly was opened on the 25th of January, 1797, and ended in 1801. The privilege of participating in the legislative power of the country for four years, had awakened the members to a sense of their own importance, and the Canadian French to a knowledge of their supremacy; and they accordingly returned a more democratic house than the preceding, and representatives pledged to an exclusive devotion to the interests of their own party. The prejudices awakened by the Road Act, and the fraternising doctrines of the French revolution, contributed also to produce this result. It is true the minority were only reduced to fourteen; but the attorney-general was defeated as a candidate for the county of Quebec, and several influential members of the late house shared a similar fate; so that although the numerical proportions were nearly

similar, the British interest was evidently already on the decline.

A manifest change had taken place in the feelings of the different branches of the legislature. The governor, acting on the defensive, no longer proposed measures of internal improvement, which he knew would provoke angry discussions, or be met with a refusal; but relied more upon the Legislative Council, which alone represented or protected British interests, while the house, finding that temporary acts had a direct tendency to lessen the influence and independence of the executive, discontinued the practice of passing permanent laws. To remedy the evil of having so many prejudiced and illiterate members in the assembly, it was proposed by the minority to establish a qualification, which, although it could not possibly increase their own numbers, it was hoped might at least have the advantage of affording them more liberal and enlightened colleagues; but this measure, like all others introduced by them, was considered of foreign origin, and excluded accordingly. The majority, however, though pertinacious, still preserved appearances, and as the minority felt themselves unequal to procure the passage of any bill, either of internal improvement or for



the facilitating the foreign trade, they forbore to provoke the discussion, and preferred using their influence to the mere preservation of what few privileges were left to them. The third provincial parliament began on the 1st of January 1801, and terminated, after five sessions, on the 2d of May 1804. The temper of this house, and the proportion of its parties, were similar to that of the last.

Among the topics insisted upon in the governor's speech, was a recommendation for a grant of money for free schools for the instruction of the rising generation in the first rudiments of useful learning, and *in the English tongue*; and it was noticed with feelings of grief, though not with surprise, that the house, in their reply, omitted the words "English tongue," and shortly afterwards applied the commentary by a vote for the purchase of "French books," for the use of the members. Although there were not a few of their number who were unfortunately incapable, from a deficiency of education, of using them, yet it was evident that there existed as little inclination to adopt the language, as there was to introduce the laws of Great Britain.

In accordance with this spirit of preference for French laws, an act was passed to revive

the *serment décisoire*, or oath, by which, under certain circumstances, a debtor may be permitted to clear himself of a commercial debt, by simply swearing to its having been paid and satisfied, without even stating the time or place of payment; an act which has been described as a most prolific source of fraud and perjury, and deeply injurious to the mercantile interests of the country, as well as to the character of the people. Such, indeed, was the jealousy of the majority of the English, that they were not inclined to pass even those laws, which had an exclusive application to them and their tenures. Thus a bill was introduced for registering deeds of lands in free and common soccage, which only affected the English, but it met with the customary fate of all such attempts.

The leaders began now to affect to perceive a latent danger in every act of the government, and a bill requiring rectors, curates, and priests to read certain laws after divine service, was denounced as opening a door for exercising an influence over the clergy; and an effort was made to introduce in their stead the captains of militia, which was only relinquished to avoid the awkward admission that too many of those officers were deficient in the necessary qualification to perform the duty. The great in-

crease of the trade of the province at this time, in consequence of the war, so far from exciting the emulation of the French, and stimulating them to participate in its advantages, awakened their jealousy, and they stigmatised it as the parent of crime, the source of undue distinctions, and the means of filling the country with persons of foreign origin. They not only declined in any way to aid its extension, but imposed taxes upon it for all those objects that elsewhere in America are provided for by local assessment. Such conduct could not fail to retard the improvement of the country, by preventing the investment of capital, and discouraging enterprise; and that it had this effect is evident from the slow growth of Lower Canada, when compared with that of the adjoining colony, where a different system prevailed. The fourth house of assembly met on the 11th January, 1805, and terminated, after four sessions, on the 14th April, 1808.

The pressure of the feudal tenure becoming daily more and more severely felt by the inhabitants of the cities, two unsuccessful attempts were now made to obtain some mitigation of it. The first was a bill to abolish the *retrait lignager*, or right of redemption by the relations of seignoral lands. Any relation, it

was stated, of the seller, if of the same line, in which the property descended, may, within a year and a day, by this law, take it from the purchaser of the property, on condition of returning the price. A person, therefore, buying a lot of land for one hundred pounds, and expending upon it one thousand in buildings, may be deprived of the whole, by a relation of the seller\* refunding the original purchase-money, buildings not being considered necessary expenses.

The second was "a bill to enable the seigneurs to compound for their feudal rights and dues with their vassals and censitaires." This was particularly intended as a relief against the discouraging effects of *lods* and *ventes*, by which the twelfth part of the labour and expense of erecting buildings (however expensive) on ground, subject to the imposition, is for the benefit of the seigneur. These bills, however, like all that had preceded them, for similar purposes, did not receive a second reading, nor was any remedy applied until the Imperial Parliament interfered nearly twenty years afterwards. To show, however, the nature of the change which these leaders were disposed to patronise, they voted £750 for translating Hattell's Parliamentary Proceedings into French,

See "Political Annals;" also Canadian Magazine.

and to rebut the charge of their aversion to internal improvement, and to shew they were not inattentive to the agricultural prosperity of the province, they passed a bill enjoining the application of tar to apple trees for the destruction of caterpillars. From a body thus constituted little good could be expected. The merchants and other British subjects resident in Canada, finding all attempts in the legislature useless, appealed, through the medium of the press, to the sympathies of the English public. They contended that if the support of the civil government were not to rest on direct taxes, it should at least be secured by permanent acts of indirect taxation—that local establishments, such as court-houses, gaols, and houses of correction, should be defrayed by assessments on the districts for whose benefit they were required, and that recourse should be had to indirect taxes of temporary duration, only for the general improvement of the country in its internal communications with the adjoining states and colonies, or its agriculture and commerce.

This was denounced by the demagogues of the day as an attack upon the liberties of the subject ; and certain toasts at a public dinner, approving of those commercial and financial

views of the minority, were voted to be an insult to the majesty of the house, and warrants were issued against the printers, who were taken into custody, and compelled to apologise for their conduct.\* It is worthy of remark, that at this time the first attempt was made to procure a drawback of duties on articles that were exported after having first paid a duty ;

\* That "*our oppressed and enslaved brethren in Canada*" knew how to vindicate themselves, and entertained just notions on the subject of the liberty of the press, will appear from a perusal of the toasts that called down the indignation of the house, and occasioned the issuing of warrants to apprehend the president of the social meetings that sanctioned, and the printers that dared to disseminate such wicked doctrines.

1. The honourable members of the legislative council, who were friendly to constitutional taxation as proposed by our worthy members in the House of Assembly.

2. Our representatives in provincial parliament, who proposed a constitutional and proper mode of taxation, for building gaols, and who opposed a tax on commerce for that purpose, as contrary to the sound practice of the parent state.

3. May our representatives be actuated by a patriotic spirit for the good of the province, as dependant on the British empire, and divested of local prejudices.

4. Prosperity to the agriculture and commerce of Canada, and may they aid each other as their true interests dictate, by sharing a due proportion of advantages and burthens.

5. The city and county of Montreal, and the grand juries of the district, who recommended local assessment for local purposes.

6. May the city of Montreal be enabled to support a newspaper, though deprived of its natural and useful advantages, apparently for the benefit of an individual.

7. May the commercial interests of this province have its due influence on the administration of its government.

but, as usual, it failed in a body whose whole spirit was anti-commercial. These instances are adduced, not for their intrinsic importance, but as illustrative of the question proposed by me for your consideration in my first letter, whether disaffection has not given rise to grievances, rather than grievances to disaffection.

Having now tasted the sweets of power in the punishment of the printers, the house commenced a system of high-handed measures with any person who obstructed their views; and followed it up by removing from the house all persons attached to the executive, and impeaching others holding high official stations, in the hope that, by representing the adherents of government as enemies to the country, the affections of the people would be gradually alienated from their rulers, and ultimately prepare them to join in those measures of forcible resistance, which now, for the first time, appear to have been contemplated. The first experiment was made by the expulsion from the house, contrary to the constitutional act, of Ezekiel Hart, on account of his professing the Jewish religion. This measure naturally alarmed the British inhabitants, and gave them a melancholy foreboding of the events that were in reserve for them. The violent language of debate, the

constant appeal to popular prejudice, the undisguised anti-English feeling of the legislative demagogues, and the seditious and revolutionary language of the "Canadian" newspaper, devoted to their interests, left no room to hope that the constitution could long work, in such unskilful and unprincipled hands. The fifth provincial parliament was opened by Sir James Craig on the 10th of April, 1809, when their attention was called to the unsettled state of affairs with the Americans, and they were required to consider of such means as might be necessary to place the province in a posture of defence. Instead of proceeding, according to the urgency of the case, to deliberate on this pressing emergency, they commenced by an attack on the judges, and devising the means of removing them from the legislature; and manifested so much heat in their proceedings, and such a disrespectful inattention to the subject submitted to them, that, after five weeks wasted in angry discussions, the governor was under the necessity of expressing his displeasure by a dissolution. On meeting the sixth parliament, which assembled on the 29th of January, 1810, he informed them that he was instructed to assent to any bill for rendering the judges, in future, ineligible to seats



in the House of Assembly, in which the two houses should concur. This house, though a little moderated in tone by the firmness exhibited in dissolving them, were not to be diverted from its schemes of ambition ; and now, for the first time, was developed that deep-laid plan, which has since so signally succeeded, of placing every officer of the government at the mercy of the popular branch, and rendering the arm of the executive perfectly powerless. On the 10th of February they resolved, most unexpectedly, “ that this house will vote in this session the necessary sums for defraying the civil expenses of the government of this province.” Animated by the prosperous state of the revenue, in consequence of the American embargo, the opportunity was considered a favourable one, by assuming the civil list, to get a controul over the officers of government, *who, being servants of the imperial state as well as the colony*, would, by this measure, be at the mercy of the house, which would thus become alike independent of foreign or domestic controul. As long as the expenditure of the civil establishment exceeded the revenue, derived from taxes on commerce, their liberality was content to permit the deficiency to be supplied by parliament ; but now that the treasury was

more than adequate to the task, they thought that a voluntary offer of this kind would throw the government off of its guard, and be probably accepted. The governor at once penetrated their designs, and very prudently and properly answered, that it would be necessary to have the concurrence of the Legislative Council, "in a matter in which, not merely as a co-ordinate branch of the legislature, but as composed of individuals having a large stake in the country, it was interested;" but that he would transmit to his Majesty their address as a proof of their ability and their willingness to provide for the civil expenditure when called upon so to do.

In this year (1810) the treasury receipts were,  
£70,398 13 7  
 And the expenditure..... 58,564 14 3

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Leaving a clear surplus revenue of 11,833 19 4

A bill disqualifying the judges was passed, and sent to the Legislative Council, who agreed to it, with a clause suspending its operation to the end of the present House of Assembly. Anxious to shew their contempt of the Legislative council, and forgetful, as well of the respect due to the representative of the King, as of constitutional rights, they immediately expelled the judges by resolution, as they had

previously done Mr. Hart, leaving the governor in the dilemma of sanctioning the act by issuing new writs for elections, or of dissolving the house. It is needless to say that he adopted the latter course, and appealed again to the sense of the public. But here, unhappily, there was no public opinion to appeal to, which, in the words of a very able provincial writer,\* is explained:—"by the peculiar habits of thought and character, which distinguish the French Canadians. These habits and this character, originally formed by the despotic government, civil, military, and ecclesiastical, of Louis the Fourteenth of France, induced the French Canadian population chiefly to regard the immediate agents of authority, who came in daily or frequent contact with them, by oral command or communication. Thus, long after the conquest, the lowest agent of authority had only to present himself, in the name of the King, to be instantly obeyed. It was not a king, a governor, a general, a judge, or a bishop, with whom they had personal communication; these awful authorities they surveyed at a distance, with due reverence; but their immediate obedience was considered as due to a seigneur, a justice of peace, an officer of militia, a bailiff, and a curé, or priest. When the British Parliament, there-

\* Mr. Flemming.

fore, established a house of assembly, the members of that newly constituted authority, though chosen by themselves, were admitted to a great share of the habitual submission which their constituents were accustomed to pay to every agent of authority, who came into immediate contact with them. By the new constitution, the habitants, in fact, supposed that they were commanded by the governor, at every election, to choose rulers over themselves; and, having once chosen them, they readily admitted them to great authority and influence over their opinions and conduct. Believing this to be the disposition of the ignorant peasantry of Lower Canada, we can have no difficulty in supposing that what, in a free and intelligent community, is properly called Public Opinion, is in this province merely the effect of the opinions of the immediate agents of authority, including the members of the assembly, operating upon the natural desires of a people attached to the laws, language, habits, manners, and prejudices of their French ancestors. The immediate agents of authority, therefore, who interfere the least with those characteristics, will be the most favoured by them. We flatter ourselves that these explanations have enabled our readers to recognise the influ-

ence which predominated at the new election in April 1810. The sovereign was a Protestant king of a Protestant nation; the governor was a Protestant, as was the majority of his executive council; the majority of the legislative council was also Protestant, and partly composed of persons in office, who received salaries. On the other hand, the members of the dissolved assembly were persons who professed the Romish religion, who held no lucrative office under the government, and who had been chosen as friendly to their civil and religious rights, and opposed to every measure which could disturb the routine of their hereditary labours and enjoyments. Indolent, particularly in mind, they could not analyze the conduct of their representatives, and discriminate the parts which belonged to inordinate and selfish ambition, from those which might be ascribed to zeal for their service. The old members were so confident of the effects of those characteristics of their constituents, that they derided every doubt of re-election."

These expectations were justified by the event. The new and seventh house assembled on the 12th of December 1810, and the English minority were now reduced to *nine* members. In the interim, Sir James Craig, and the sup-

porters of his government, were continual objects of obloquy and ridicule, and reports of the disapprobation of his conduct, and of his speedy recal and disgrace by his Majesty, were fabricated, as a means of enlisting the peasantry on the side of those who were determined systematically to oppose the King's representative, whenever he would not consent to become the tool of their ambition.

The seditious and revolutionary doctrines disseminated through "the Canadian," a paper devoted to this purpose, induced the governor to seize the press and imprison the conductors, and we are probably indebted to this firm and decided measure, and to the determination\*

\* The nature of the arts used by the demagogues to inflame the minds, and alienate the affections of the peasantry, will appear from the following extracts from the governor's proclamation :

"It is true, the most base and diabolical falsehoods are industriously promulgated and disseminated. In one part it is announced as my intention to embody and make soldiers of you, and that having applied to the late house of representatives to enable me to assemble twelve thousand of you for that purpose, and they having declined to do so, I had therefore dissolved them. This is not only directly false, such an idea never having entered into my mind, nor the slightest mention having ever been made of it; but it is doubly wicked and atrocious, because it has been advanced by persons who must have been supposed to speak with certainty on the subject, and was therefore the more calculated to impose upon you. In another part you are told that I wanted to tax your lands, and that the late house of assembly would consent only to tax wine, and upon that account, I had dissolved the house. Inhabitants of St. Denis! this is also directly false; I never had the most distant idea of taxing you at all; such had never been

manifested in these two successive dissolutions of the assembly to the subdued and altered tone of their debates. It is observable that in their reply to his speech, they admit the fact here contended for, and which they have since so strenuously denied. "That harmony and a good understanding so conducive to the prosperity and happiness of the colony, are more difficult to be maintained in this province than in any other of his Majesty's colonies, from the difference in opinions, customs, and prejudices

for a moment the subject of my deliberations, and when the late house offered to pay the civil list, I could not have taken any step in a matter of such importance without the King's instructions, and therefore it was still long before we came to the consideration of how it was to be paid. In truth, not one word was ever, to my knowledge, mentioned on the subject.

"In other parts, despairing of producing instances from what I have done, recourse is had to what I intend to do, and it is boldly told you that I mean to oppress you.

"For what purpose should I oppress you? Is it to serve the King? Will that monarch, who during fifty years has never issued one order, that had you for its object, that was not for your benefit and happiness,—will he now, beloved, honoured, adored by his subjects, covered with glory, descending into the vale of years, accompanied with the prayers and blessings of a grateful people,—will he, contrary to the tenor of a whole life of honour and virtue, now give orders to his servants to oppress his Canadian subjects? It is impossible that you can for a moment believe it. You will spurn from you with just indignation the miscreant who will suggest such a thought to you.

"These personal allusions to myself, these details, in any other case might be unbecoming, and beneath me; but nothing can be unbecoming, or beneath me, that can tend to save you from the gulf of crime and calamity into which guilty men would plunge you."  
—See *Christie's 'Canada.'*

of his Majesty's subjects residing therein." The prompt check interposed by the executive to the violation of constitutional rights, in the expulsion of the judges\* had the desired effect, and they now passed a bill to disqualify them, to which the governor assented, as he said, "with peculiar satisfaction, not only because I think the matter right in itself, but because I consider passing an act for the purpose as a complete renunciation of an erroneous principle, which put me under the necessity of dissolving the last parliament." Feeling that nothing was to be gained from such a man by intimidation, they proceeded to the usual business with more decency of conduct and more dispatch, than had characterised any session

\* Nothing can be more painful and humiliating than the situation of the judges of Lower Canada since this period. They have been kept in a state of great pecuniary distress by the house withholding their salaries, and their peace of mind destroyed by the most unfounded attacks on their character. If an attorney be detected in fraudulent proceedings, and punished, or be dissatisfied with a judgment of the court, the judge is at once impeached amidst the plaudits of the house. After preliminary proceedings, and an opportunity offered of abuse, the proceedings are generally dropt, on the ground that government is partial and corrupt. By a singular fatality, every man that accuses a judge finds it a step to preferment. Judge Vallieres was the accuser of Judge Kerr, on charges sixteen years old. Philip Parret, a party and witness thereto, was made a judge in 1832. Ebenezer Peck, who brought charges against Judge Fletcher, was presented with a silk gown in 1832. And A. Quesnel, the same. See 'Canada Question' for more particulars.



since the constitutional act had gone into operation. In the mean time, Sir George Provost arrived to take the command of the government, and we are indebted to the determined attitude assumed by his predecessor, to the hereditary hatred borne by the Canadians to the Americans, to the fear they entertained of passing into the hands of an uncompromising people, and to the large sum expended upon the embodied militia, that they did not then avail themselves of the opportunity of throwing off the dependence, which it has since been their unceasing object to effect. But though their attention was in some measure directed to the protection of their property from the common enemy, they did not fail to convince impartial men, by their conduct, that they were preserving the country for themselves, and not for the empire, of which they then formed a part, by the fortune of war and not from choice. To bring the government of the country into contempt, it was necessary to impugn the integrity of the bench and the impartial administration of the law, and they therefore impeached the judges; and when the governor, whose liberal patronage had hitherto shielded him from attack, declined to suspend these functionaries till the result of their complaint should be

known, and refused to make their punishment precede their trial, they resolved "that his excellency the governor-in-chief, by his answer to the address of the house, had violated the constitutional rights and privileges thereof."

Sufficient has now been said to show you that the evils of Canada have their origin in the defects of the constitutional act, which by substituting French for English laws, by securing to them an overwhelming majority in the assembly, and in separating them from Upper Canada, have had the effect of making them a French and not an English colony. National antipathies, added to a difference in religion, laws, and language, have contributed to engender and foster a feeling of hostility between the two races, until it has found vent in open collision. It would exceed the limits I have assigned to myself to review the proceedings of each separate house: suffice it to say, that the system of persecution, the commencement of which I have exhibited in the foregoing pages, was subsequently pursued with unremitting zeal. Having driven the judges from the house, (though they failed in their impeachment,\*) they succeeded in extorting from

\* "The administrator-in-chief has received the commands of his Royal Highness the Prince Regent, to make known to the house

government, their discharge from the council. They then vacated the seats of executive councillors by the unconstitutional mode of resolution, and finding there was no means of controlling their power, proceeded by repeated expulsions

of assembly of this province his pleasure, on the subject of certain charges preferred by that house against the chief justice of the province, and the chief justice of the Court of King's Bench for the district of Montreal.

“ With respect to such of those charges as relate to acts done by a former governor of the province, which the assembly, assuming to be improper or illegal, imputed, by a similar assumption, to advice given by the chief justice to that governor, his Royal Highness has deemed that no inquiry could be necessary, inasmuch as none could be instituted without the admission of the principle, that the governor of a province might, at his own discretion, divest himself of all responsibility, on points of political government.

“ With a view, therefore, to the general interests of the province, his Royal Highness was pleased to refer for consideration to the lords of the privy council such only of the charges brought by the assembly as related to the rules of practice established by the judges in their respective courts, those being points upon which, if any impropriety had existed, the judges themselves were solely responsible.

“ By the annexed copy of his Royal Highness's Order in Council, dated the 29th June 1815, the administrator-in-chief conveys to the assembly the result of this investigation, which has been conducted with all that attention and solemnity which the importance of the subject required.

“ In making this communication to the assembly, it now becomes the duty of the administrator-in-chief, in obedience to the commands of his royal highness the Prince Regent, to express the regret with which his royal highness has viewed their late proceedings against two persons who have so long and so ably filled the highest judicial offices in the colony, a circumstance the more to be deplored as tending to disparage, in the eyes of the inconsiderate

to drive out a member, for advice offered to the governor in a ministerial capacity; and reprimanded another officer for legal opinions given to the executive in the usual course of his profession. Every thing was done that ingenuity could devise, not only to weaken the influence of government, but to represent that influence as unfriendly to the country and prejudicial to its interests. Nothing, however, occurred until the year 1818, to bring them into direct collision with the mother country, until Sir John Sherbrooke demanded that they should provide for the civil expenses of the province.

and ignorant, their character and services, and thus to diminish the influence to which, from their situation and their uniform propriety of conduct, they are justly entitled.

“The above communication, embracing such only of the charges preferred against the said chief justices as relate to the rules of practice, and as are grounded on advice assumed to have been given by the chief justice of the province to the late Sir James Craig, the administrator-in-chief, has been further commanded to signify to the assembly, that the other charges appeared to his Majesty’s government to be, with *one* exception, too inconsiderable to require investigation, and that *that*, (namely the one against the chief justice of the court of King’s Bench for the district of Montreal, which states him to have refused a writ of habeas corpus), was, in common with all the charges which do not relate to the rules of practice, totally unsupported by any evidence whatever.

(Signed) GORDON DRUMMOND,  
Administrator-in-Chief”

## LETTER VI.

THE opportunity had now arrived that designing men had so craftily sought for, of fastening a quarrel upon the government, of involving it in a defence of its officers, and of making their promised compliance a condition for obtaining any change that might be thought conducive to the great ends of weakening British influence. After discussions, first on the gross amount to be granted, and then on the specific appropriation, had excited and consolidated the party, they took the higher ground of disputing the right of the crown to those revenues which were secured to it by permanent grants. In order that you may clearly understand the question, it is necessary to state that the public income of Lower Canada arises from three sources :—

1st. *The crown duties*, levied under the British statute of the 14 Geo. III, or the imperial act of 3 Geo. IV.

2d. *Provincial duties*, payable in virtue of local laws, proceeding immediately from the provincial legislature, or rendered permanent

without their consent, by the last-mentioned imperial act.

3d. The Queen's casual and territorial revenue, which arises from her Majesty's landed property; namely, the Jesuits' estates, the Queen's posts, the forges of St. Maurice, the Queen's wharf, *droit de quents, lods and ventes*, land fund, and timber fund.

With respect to crown duties, levied under 14 Geo. III, until they were unwisely surrendered in 1831, they were, with the territorial revenue, controlled and dispensed by her Majesty's responsible servants, while those levied under the imperial act of 3 Geo. IV, and all provincial acts, have always been under the disposal of the legislature. As the crown duties, levied under the 14 Geo. III, had generally, if not always, been inadequate to the support of the civil government and the administration of justice, Sir John Sherbrooke was instructed, in pursuance of the general system of retrenchment adopted throughout the empire, to call upon the legislature to appropriate, out of the provincial duties, a sum equal to the annual deficiency. To this reasonable request they have manifested a uniform repugnance, sometimes granting it, always objecting, and, finally, refusing altogether. They alleged now, for the first

time, that the crown duties were illegal, inasmuch as the statute under which they were levied had been repealed. The reason of their making this objection was, because the proceeds were not under their control, and their object was to make the executive dependent upon them for its support, by an annual vote. The existence of this statute was an insurmountable difficulty, and as they had not the power to repeal it, their only resource was to impugn its legality. The appropriation of the duties was thus provided for in the Act :—

“That all the monies that shall arise by the said duties, except the necessary charges of raising, collecting, levying, recovering, answering, paying and accounting for the same, shall be paid by the collector of his Majesty’s customs into the hands of his Majesty’s receiver-general in the said province for the time being, and shall be applied in the first place in making a more certain and adequate provision towards defraying the expenses of the administration of justice, and of the support of civil government in that province ; and that the lord high treasurer, or commissioners of his Majesty’s treasury, or any three or more of them for the time being, shall be, and is or are hereby empowered from time to time, by any warrant or

warrants under his or their hand or hands, to cause such money to be applied out of the said produce of the said duties towards defraying the said expenses ; and that the residue of the said duties shall remain and be reserved in the hands of the said receiver-general for the future disposition of parliament."

The statute on which they relied was the 18th Geo. III. The history of that act of parliament you will doubtless recollect. Great Britain had set up a claim to impose taxes, for the purpose of general revenue, upon the colonies (now forming the United States), which, as might naturally be supposed, excited universal opposition—causing at first, popular tumult, and afterwards open rebellion. Finding that this claim could neither be justified nor enforced, it was expressly renounced, in the following words :—

“Whereas taxation by the parliament of Great Britain for the purpose of raising a revenue in his Majesty’s colonies, provinces, and plantations in North America, has been found by experience to occasion great uneasiness and disorders among his Majesty’s faithful subjects, who may nevertheless be disposed to acknowledge the justice of contributing to the common defence of the empire, provided such contribu-



tion should be raised under the authority of the general court or general assembly of each respective colony, province, or plantation ; and, whereas, in order as well to remove the said uneasiness and to quiet the minds of his Majesty's subjects who may be disposed to return to their allegiance, as to restore the peace and welfare of all his Majesty's dominions, it is expedient to declare that the king and parliament of Great Britain will not impose any duty, tax, or assessment for the purpose of raising a revenue in any of the colonies, provinces, or plantations.

“ That from and after the passing of that act, the king and parliament of Great Britain would not impose any duty, tax, or assessment whatever, payable in any of his Majesty's colonies, provinces, and plantations in North America, and the West Indies, except only such duties as it might be expedient to impose for the regulation of commerce ; the net produce of such duties to be always paid and applied to and for the use of the colony, province, and plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective general courts, or general assemblies of such colonies, provinces, or plantations are ordinarily paid and applied.”

That the renunciation of a right to impose taxes hereafter involves a repeal of those in existence, is an assumption which it is not necessary to refute. Indeed, no person did the party the injustice to believe that they sincerely thought so themselves, especially as in that province there was a local act, 35 Geo. III, c. 9, adopting its phraseology, and recognizing its existence and validity, by raising an additional revenue, *for the further support* of the government, to which purpose this act alone had any reference. It answered, however, the purposes of the party; it disorganized the government, and prevented English emigrants from removing to a colony in which evident preparation was making for a separation from the parent state. It also served to scatter the seeds of complaints, which soon germinated, and ripened into a plentiful harvest. It is the fashion in this country to call every change reform, the exercise of every acknowledged right, an abuse, and every salutary restraint a grievance. In the colonies we have long looked to Great Britain as our model, and we have imported this fashion from her, as well as many other modern innovations. If agitation is successful here, why may not it be so there!—if popular clamour requires and obtains conces-

sions at home, there is no good reason why it should not be equally fortunate abroad; if those who are the most clamorous, are first attended to, because they are the most distinctly heard, why may not the colonists learn to exalt their voices also, in hopes of similar success?—as the old cock crows so does the young. The English have long held themselves up as models, and such distinguished people must not be surprised if they who ape their manners, occasionally copy some of their follies also. The force of example is too strong to be restrained by precept. These financial disputes extended over the whole period of the administration of the Duke of Richmond, Lord Dalhousie, and Sir James Kempt, with more or less intensity, according to the supply of fresh fuel furnished by irritating matter of an extraneous nature. Complaints soon multiplied upon complaints; public meetings were held; violent speeches made; valiant resolutions passed; and, finally, delegates chosen to demand a redress of grievances from the Imperial Parliament.

When the delegates arrived in this country, they found public opinion with them. It is the interest, as well as the duty of the English to govern their colonies justly and kindly; and no man but a Frenchman would affirm that their inclination requires the incitement of either. Their

complaints were referred to a committee composed of persons by no means indisposed towards the petitioners, who, after a patient and laborious investigation of the subjects in dispute, made a report, which was acknowledged by the assembly to be both an able and an impartial one, and quite satisfactory. It will be unnecessary to recapitulate the subjects referred, or to transcribe the report, because both the one and the other will be best understood by a minute of Lord Aberdeen, to which I shall hereafter allude more particularly, wherein he distinctly proves that the recommendations of that committee, so far as depended upon the government, were most strictly and fully complied with. By adopting this course, I shall be able to spare you a great deal of useless repetition.

The manner in which the report of the committee was received by the dominant party in Canada, the praise bestowed upon its authors, and the exultation they expressed at their success, deceived the government as to the source of these noisy demonstrations of pleasure. They conceived it to be the natural impulse of generous minds towards those who had thus kindly listened to their solicitations, and liberally granted even more than they had required. But they knew not their men. It was the shout

of victory that they mistook for the plaudits of loyalty. It was not designed to greet the ears of benefactors with grateful acknowledgments, but to wound the feelings of their neighbours with the cheers of triumph. They devoted but little time to mutual congratulations. Sterner feelings had supplied the place of rejoicing. They set themselves busily to work to improve their advantage ; and, having established themselves in the outworks which were thus surrendered to them, they now turned their attention to storming the citadel. While government was engaged in carrying into execution the recommendations of the committee with as much dispatch as the peculiar state of politics in Great Britain at that time permitted, the assembly put themselves in a posture of complaint again. Fourteen resolutions were passed, embodying some of the old and embracing some new grievances, and an agent appointed to advocate their claims.

While representations in the name of the whole population were thus sent to England, expressing only the sentiment of one portion of the people, the settlers of British origin were loud in their complaints that they were unrepresented, and that they had no constitutional means of being heard. Fearing that this re

monstrance, which was so well founded, might be redressed in the same quarter to which they had applied so successfully for relief themselves, the assembly affected to listen to their petitions, and made a new electoral division of the province. Territories inhabited principally by persons of French origin, they divided into numerous small counties; while others, where a large body of those of British origin resided, they so divided that, by joining that territory with another more numerous in French inhabitants, the votes of the British were rendered ineffectual. The proportion stood thus:

	British.	Foreign.
Say 32 counties, returning two members each, by French majorities - - -	- - -	64
2 Ditto - - ditto, one each (say Montmorenci and Drummond) - - -	- - -	2
1 English majority, Megantic - - -	1	-
5 Ditto - - - - Sherbrooke, Stanstead, Missisquoi, Ottawa, and Shefford, 2 each - - -	10	-
<u>Total - 40 Counties.</u>		
Two cities, French majority, Quebec and Montreal, 4 each - - - - -	- - -	8
Two towns - ditto - Three Rivers, 2; and William Henry, 1 - - - - -	- - -	3
	11	77

Total, 88 Members.

Of the extreme partiality of this division there never has been but one opinion in the colonies, until they were so fortunate as to be favoured with the distinction drawn by the commissioners, who admitted that its operation was a practical exclusion, but exonerated the bill from a charge of unfairness—an instance of even-handed justice (deciding in favour of both parties) which ought to have won them the praise of all men. In addition to this exclusion, so extraordinarily designated as unjust but not unfair, they established the quorum of the house for the transaction of business at forty, being only four less than a moiety of the whole body. The large number thus required to be present to constitute a house still further depressed the influence of the minority, and enabled the majority to deprive them of their parliamentary privileges at pleasure, by rendering the transaction of business impossible, except when it suited the convenience of the stronger party to allow it.

Having disposed of the complaints of the British settlers in a way to prevent them from being troublesome in the house, they returned to the consideration of their own grievances; and that the motives actuating the party might not be disclosed, and to prevent any member

of the opposition from being present at their deliberations, they adopted the extraordinary mode of permitting a person moving for a committee to name all the individuals whom he desired to be appointed as members. They also resolved that, if the legislative council did not concur in a bill for paying their emissary to England, they would, in the plenitude of their power, pay him themselves out of the public revenue without their concurrence. This singular assumption stands recorded thus :—

“ Monday, 28th March 1831.—Resolved : that in the present state of the public affairs of this province, it is indispensably necessary that some person, having the confidence of this house, should proceed forthwith to England, to represent to his Majesty’s government the interests and sentiments of the inhabitants of the province, and support the petitions of this house to his Majesty and both Houses of Parliament.

“ Resolved :—That in the event of the bill sent up by this house to the legislative council, on the 5th instant, not receiving the concurrence of that house in the present session, the Honourable Denis B. Viger, Esq., member of the legislative council, named agent of the province in the said bill, be requested to proceed



to England without delay, for the purposes mentioned in the foregoing resolution.

“ Resolved :—That it is expedient that the necessary and unavoidable disbursements of the said Denis Benjamin Viger, for effecting the purposes aforesaid, not exceeding £1,000, be advanced, and paid to him by the clerk of this house, out of the contingent fund thereof, till such time as the said disbursements can be otherwise provided for.”

And to shew their contempt of that co-ordinate branch of the legislature, and their determination to legislate for the colony without their concurrence, and by their own sole authority, as well as to stigmatize the officers of the government as enemies of the country, they further resolved—

“ That until such time as the royal assent shall be given to a bill, conformable to a resolution of this house of the 17th March 1825, for vacating the seats of members accepting offices, and similar to the bills passed by this house in the years 1826, 1827, 1828, and 1830, the second and fourth of which were reserved for the signification of his Majesty’s pleasure, the seat of any member of this house who shall accept of any office or place of profit under the crown in this province, or become accountable for any

public money hereafter appropriated within this province, shall, by this acceptance, be deemed by this house to be vacant, and a new writ shall be issued for a new election, as if such person so accepting was naturally dead; nevertheless such person shall be capable of being again re-elected, and of sitting and voting in this house, as if his seat had not been vacated as aforesaid.

“ Resolved :—That any member of this house sitting and voting therein after such acceptance, be expelled this house.”

At the same time, while they refused to government the means of paying its officers, they were most prodigal of the public money upon themselves and their dependants. There are certain funds appropriated for the contingent expenses of the house; and, legally, neither the house nor any of its officers have any right to apply them to any other purposes. It is a trust fund, on the expenditure of which doubtless a certain degree of discretion may be exercised, but still a discretion having certain limits. It is quite manifest that if the house could legally apply this fund to other objects than those for which it was specifically appropriated, they would, for all the purposes of such application, exercise sole legislative power,

to the exclusion of the other two branches of the legislature. The case of Mr. Viger, above referred to, is a flagrant violation of this principle. The expenses for printing alone during this year (1831) for the assembly, at one only of its favourite establishments, was considerably over £5,000, exclusive of other presses; and this enormous sum is also exclusive of the cost of printing the laws, or of the expenses of the council. Pretexts were not wanted, where the disposition existed, to provide for their dependants. A subpoena was all that was necessary to obtain a warrant for a gratuity, which, to one individual, covered a charge of £120, and on one petition amounted to £700. "Some witnesses," says a gentleman of the bar at Quebec, "one sees as regularly about a fortnight after the sessions as swallows in the spring; and although they do not last quite so long, yet they hardly leave Quebec before either the house or the roads break up."

It will hardly be credited, that this house, which is so clamorous for cheap government, expends on itself *thirteen thousand pounds a year*—one thousand of which is paid to Mr. Papineau, the patriot; and that the gross amount of the legislative expenses is £18,000. Some idea of the purity "of our enslaved and

oppressed brethren " may be formed from the fact that, previously to 1829, the amount of monies voted for education had not exceeded £2,500. At that period it was found it could be turned to a better account than education ; they therefore constituted *the members of the house visitors of the schools in the counties they represent*, the money being drawn on their certificates only, to which *by law they are privileged to affix their crosses, instead of the more difficult process of writing their names*. Since then the grants have wonderfully increased.

In 1830	.	.	£27,840
1831	.	.	25,261
1832	.	.	29,233
1833	.	.	22,500

When the fourteen resolutions above referred to were passed, the governor, Lord Aylmer, who had recently arrived, could not but feel astonished that the same people who had so lately expressed their delight and satisfaction at the report of the proceedings of parliament, and who knew that the recommendations of the committee were in a train of execution, should be again as clamorous as ever, and very prudently and properly entreated them to put an end to complaint, by bringing forward at once

every grievance they had, that it might be met and redressed at the same time. The earnest manner in which this is pressed upon them is worthy of notice. What were the sources of his lordship's satisfaction, which he twice expresses in this answer, I am utterly at a loss to imagine, unless we may conjecture it to have arisen from the consciousness of possessing a philosophy which enabled him to subdue and control his indignation at the insatiable demands and gross ingratitude of those whom it was his duty to address.

“ I can assure you,” he said, “ gentlemen, that I have derived *satisfaction* from listening to the petition which has just been read by Mr. Speaker, because the subject-matter of it is distinct and tangible, and because I feel assured that of the causes of complaint therein set forth, many will be eventually removed, and others modified ; in the meanwhile it is very agreeable to me to have it in my power to state that some of those causes of complaint have been already put by me in a train of amelioration at least, if not of removal altogether ; and I beg the House of Assembly to believe that my efforts shall be unremitting in pursuing the same course to the utmost extent of my authority as the King's representative. Thus far I

can, with a safe conscience, declare, that the present communication is satisfactory to me ; but I cannot conceal from the house, that it would have been infinitely more so, could I feel assured that the whole matter of their complaints is comprised in this petition. Gentlemen, I must go a step further than this, and confess to you, that I cannot divest my mind of anxiety on this subject ; it is with the view of being relieved from this state of anxiety that I now come forward to entreat you will admit me to your confidence, and acquaint me whether I am to expect any, and what further, communications on the subject of complaints and grievances.

“ I think I have even a claim upon you for the confidence I now solicit. The propositions which upon a recent occasion I was commanded by the King to make to you on the subject of finance, were laid before you in the plainest and most straightforward manner—nothing was concealed—nothing was glossed over ; and I even believe that I should have been justified had I made those propositions more palatable to you than I have done ; but I considered that anything which could bear, even for a moment, the appearance of trick or manœuvre on so grave an occasion, was unworthy of his Majes-

ty's government, and an injustice to the rank and loyal character of the Canadian people. What I now ask in return for this fair dealing, is a corresponding proceeding on the part of the House of Assembly. Am I to understand, that the petition which I have just heard read conveys all that the House of Assembly have to complain of up to this day? Or am I to understand that there remains something behind—some unripe grievance or complaint which it may be intended to bring forward hereafter, when those now produced shall have been disposed of? This is the information I ask of you. This, gentlemen, is the information which I will even implore you to afford me, in the name of the King, our sovereign, who is sincerity itself, and in the name of the brave and honest people of Canada, who are so well entitled to expect fair dealing in every quarter: and now, if there be any stray complaint, any grievance, however inconsiderable in itself, which may have been overlooked when this petition was adopted by the house, I beseech you, gentlemen, to take it back again, in order that the deficiency may be supplied, and that thus both King and people may be enabled at one view to see the whole extent of what you complain of, and what you require.

“ Whether this appeal to your candour shall draw from you any further declaration, stating that your petition contains the whole matter of your complaints and grievances, or that you shall maintain silence, I shall equally consider that I have acquired a full and distinct knowledge of the whole of your complaints and grievances up to the present period ; and your petition will be accompanied by an assurance from me to that effect, and my most fervent wishes that it may be productive of such measures as shall restore perfect harmony to this favoured land, where I firmly believe a larger share of happiness and prosperity is to be found than amongst any people in the universe.

“ Castle of St. Louis, Quebec,  
23d March 1831.”

Having given them this gracious reception, his lordship communicated these resolutions to the secretary for the colonies ; to whose answer, as it enumerates the complaints for the purpose of giving to each a distinct and separate answer, I refer you for the particulars as well of the resolutions as of the remedies.

“ The King has been graciously pleased to express his approbation of the efforts made by your lordship to ascertain, with precision, the full extent of the grievances of which the



Assembly consider themselves entitled to complain ; and assuming, in concurrence with your lordship, that the address of the Assembly contains a full development of those grievances, the exposition which is to be found there of the views of that body, justifies the satisfactory inference that there remains scarcely any question upon which the wishes of that branch of the legislature are at variance with the policy which his Majesty has been advised to pursue ; and I therefore gladly anticipate the speedy and effectual termination of those differences, which have heretofore so much embarrassed the operations of the local government.

“ No office can be more grateful to the King than that of yielding to the reasonable desires of the representative body of Lower Canada ; and whilst his Majesty’s servants have the satisfaction of feeling, that upon some of the most important topics referred to in the address of the assembly, its wishes have been anticipated, they trust that the instructions which I am now about to convey to you, will still further evince their earnest desire to combine with the due and lawful exercise of the constitutional authority of the crown, an anxious solicitude for the well-being of all classes of his faithful subjects in the province.

“ I proceed to notice the various topics embraced in the address of the assembly to the King. I shall observe the order which they have followed ; and, with a view to perspicuity, I shall preface each successive instruction, which I have his Majesty’s commands to convey to your lordship, by the quotation of the statements made upon the same topic by the Assembly themselves.

“ First, it is represented that the progress which has been made in the education of the people of the province, under the encouragement afforded by the recent acts of the legislature, has been greatly impeded by the diversion of the revenues of the Jesuits’ estates, originally destined for this purpose.

“ His Majesty’s government do not deny that the Jesuits’ estates were, on the dissolution of that order, appropriated to the education of the people ; and I readily admit, that the revenue which may result from that property should be regarded as inviolably and exclusively applicable to that object.

“ It is to be regretted, undoubtedly, that any part of those funds were ever applied to any other purpose ; but although, in former times, your lordship’s predecessors may have had to contend with difficulties which caused and ex-

cused that mode of appropriation, I do not feel myself now called upon to enter into any consideration of that part of the subject.

“ If, however, I may rely on the returns which have been made to this department, the rents of the Jesuits’ estates have, during the few last years, been devoted exclusively to the purposes of education, and my despatch, dated 24th December last, marked ‘ separate,’ sufficiently indicates that his Majesty’s ministers had resolved upon a strict adherence to that principle several months before the present address was adopted.

“ The only practical question which remains for consideration is, whether the application of these funds for the purpose of education should be directed by his Majesty or by the provincial legislature. The King cheerfully and without reserve confides that duty to the legislature, in the full persuasion that they will make such a selection amongst the different plans which may be presented to their notice, as may most effectually advance the interests of religion and sound learning amongst his subjects ; and I cannot doubt that the Assembly will see the justice of continuing to maintain, under the new distribution of these funds, those scholastic establishments to which they are now applied.

“ I understand that certain buildings on the Jesuits’ estates which were formerly used for collegiate purposes, have since been uniformly employed as a barrack for the King’s troops. It would obviously be highly inconvenient to attempt any immediate change in this respect, and I am convinced that the Assembly would regret any measure which might diminish the comforts or endanger the health of the King’s forces. If, however, the Assembly should be disposed to provide adequate barracks so as permanently to secure those important objects, his Majesty will be prepared (upon the completion of such an arrangement in a manner satisfactory to your lordship) to acquiesce in the appropriation of the buildings in question to the same purposes as those to which the general funds of the Jesuits’ estates are now about to be restored.

“ I should fear that ill-founded expectations may have been indulged respecting the value and productiveness of these estates ; in this, as in most other cases, concealment appears to have been followed by exaggeration, as its natural consequence. Had the application of the assembly for an account of the proceeds of these estates been granted, much misapprehension would probably have been dispelled. My

regret for the effect of your decision to withhold these accounts, does not, however, render me insensible to the propriety and apparent weight of the motives by which your judgment was guided. Disavowing, however, every wish for concealment, I am to instruct your lordship to lay these accounts before the Assembly in the most complete detail, at the commencement of their next session, and to supply the house with any further explanatory statements which they may require respecting them.

“ It appearing that the sum of £7,154. 15s. 4½*d.* has been recovered from the property of the late Mr. Caldwell, in respect to the claims of the crown against him on account of the Jesuits' estates, your lordship will cause that sum to be placed at the disposal of the legislature for general purposes. The sum of £1,200. 3s. 4*d.*, which was also recovered on account of the same property, must also be placed at the disposal of the legislature, but should, with reference to the principles already noticed, be considered as applicable to the purposes of education exclusively.”

“ Secondly.—The House of Assembly represent that the progress of education has been impeded by the withholding grants of land promised for schools in the year 1801.

“ On reference to the speech delivered in that year by the then governor to the two houses of provincial legislature, I find that such an engagement as the address refers to was actually made; it of course therefore is binding on the crown, and must now be carried into effect, unless there be any circumstances of which I am not apprised, which may have cancelled the obligation contracted in 1801, or which may have rendered the fulfilment of it at the present time impracticable. If any such circumstances really exist, your lordship will report them to me immediately, in order that the fit course to be taken may be further considered.

“ Thirdly.—The rejection by the Legislative Council of various bills in favour of education is noticed as the last of the impediments to the progress of education.

“ Upon this subject it is obvious that his Majesty’s government have no power of exercising any control, and that they could not interfere with the free exercise of the discretion of the Legislative Council, without the violation of the most undoubted maxims of the constitution. How far that body may have actually counteracted the wishes of the Assembly on this subject I am not very exactly informed, nor

would it become me to express an opinion on the wisdom or propriety of any decision which they may have formed of that nature. The assembly may, however, be assured, that whatever legitimate influence his Majesty's government can exercise, will always be employed to promote in every direction all measures which have for their object the religious, moral, or literary instruction of the people of Lower Canada.

“ Fourthly.—The address proceeds to state, that the management of the waste lands of the crown has been vicious and improvident, and still impedes the settlement of those lands.

“ This subject has engaged, and still occupies, my most anxious attention, and I propose to address your lordship upon it at length in a separate despatch. The considerations connected with the settlement of waste lands are too numerous and extensive to be conveniently embodied in a despatch embracing so many other subjects of discussion.

“ Fifthly.—The exercise by Parliament of its power of regulating the trade of the province, is said to have occasioned injurious uncertainty in mercantile speculations, and prejudicial fluctuations in the value of real estate, and of the different branches of industry connected with trade.

“ It is gratifying to find that this complaint is connected with a frank acknowledgment that the power in question has been beneficially exercised on several occasions for the prosperity of Lower Canada. It is, I fear, an unavoidable consequence of the connexion which happily subsists between the two countries, that Parliament should occasionally require of the commercial body of Lower Canada, some mutual sacrifices for the general good of the empire at large : I therefore shall not attempt to deny, that the changes in the commercial policy in this kingdom during the few last years may have been productive of occasional inconvenience and loss to that body, since scarcely any particular interest can be mentioned in Great Britain of which some sacrifice has not been required during the same period. The most which can be effected by legislation on such a subject as this, is a steady though gradual advance towards those great objects which an enlightened regulation contemplates. The relaxation of restrictions on the trade of the British Colonies, and the development of their resources, have been kept steadfastly in view amidst all the alterations to which the address refers, and I confidently rely on the candour of the House of Assembly, to admit that, upon the



whole, no inconsiderable advance towards those great ends has been made. They may rest assured, that the same principles will be steadily borne in mind by his Majesty's government, in every modification of the existing law which they may at any future period have occasion to recommend to Parliament.

“ Sixthly.—The Assembly in their address proceed to state that the inhabitants of the different towns, parishes, townships, extra-parochial places and counties of the province, suffer from the want of sufficient legal powers for regulating and managing their local concerns.

“ I am happy in the opportunity which at present presents itself, of demonstrating the desire of his Majesty's government to co-operate with the local legislature in the redress of every grievance of this nature. The three bills which your lordship reserved for the signification of his Majesty's pleasure in the last session of the Assembly, establishing the parochial divisions of the province, and for the incorporation of the cities of Quebec and Montreal, will be confirmed and finally enacted by his Majesty in Council, with the least possible delay, and I expect to be able very shortly to transmit to your lordship the necessary orders in council for that purpose.

“ I very sincerely regret that the bill passed for the legal establishment of parishes in the month of March 1829, should have been defeated by the delay which occurred in transmitting the official confirmation of it to the province. The case appears to have been, that owing to the necessity, whether real or supposed, of laying the act before both houses of Parliament for six weeks before its confirmation by the King in Council, many months elapsed after its arrival in this kingdom before that form could be observed, and his late Majesty's protracted illness delayed still longer the bringing it under the consideration of the King in Council.

“ If it should be the opinion of the Colonial legislature that additional provisions are wanting to enable the local authorities in counties, cities, or parishes, to regulate their own more immediate affairs, your lordship will understand, that you are at liberty, in his Majesty's name, to assent to any well-considered laws which may be presented to you for that purpose.

“ Seventhly.—I proceed to the next subject of complaint, which is, that uncertainty and confusion has been introduced into the laws for the security and regulation of property, by the

intermixture of different codes of laws and rules of proceeding in the courts of justice.

“The intermixture to which the address refers, so far as I am aware, arises from the English criminal code having been maintained by the British statute of 1774, and from the various acts of parliament which have introduced into the province the soccage tenure, and subjected all lands so holden to the English rules of alienation and descent.

“As a mere matter of fact, there can be no doubt that the infusion of these parts of the law of England into the provincial code, was dictated by the most sincere wish to promote the general welfare of the people of Lower Canada; this was especially the case with regard to the criminal law, as is sufficiently apparent from the language of the 11th section of the 14 Geo. III, c. 83. With regard to the advantage to be anticipated from the substitution of tenure in soccage for feudal services, I may remark, that Parliament could scarcely be otherwise than sincerely convinced of the benefits of that measure, since the maxims upon which they proceeded are in accordance with the conclusion of almost all theoretical writers and practical statesmen. I am not indeed, anxious to show that these were just,

but I think it not immaterial thus to have pointed out that the errors, if any, which they involve, can be attributed only to a sincere zeal for the good of those whom the enactments in question more immediately affect.

“I fully admit, however, that this is a subject of local and internal policy, upon which far greater weight is due to the deliberate judgment of enlightened men in the province than to any external authority whatever. Your lordship will announce to the Council and Assembly, his Majesty’s entire disposition to concur with them in any measures which they may think best adapted for insuring a calm and comprehensive survey of these subjects in all their bearings. It will then remain with the two houses to frame such laws as may be necessary to render the provincial code more uniform, and better adapted to the actual condition of society in Canada. To any laws prepared for that most important purpose, and calculated to advance it, his Majesty’s assent will be given with the utmost satisfaction. It is possible that a work of this nature would be best executed by commissioners, to be specially designated for the purpose; should such be your lordship’s opinion, you will suggest that mode of proceeding to both houses of the provincial legisla-

ture, who, I am convinced, would willingly incur whatever expense may be inseparable from such an undertaking, unless they should themselves be able to originate any plan of inquiry and proceeding, at once equally effective and economical.

“ Eighthly.—The administration of justice is said to have become inefficient and unnecessarily expensive.

“ As the provincial tribunals derive their present constitution from local statute, and not from any exercise of his Majesty’s prerogative, it is not within the power of the King to improve the mode of administering the law, or to diminish the costs of litigation. Your lordship will, however, assure the House of Assembly, that his Majesty is not only ready, but most desirous, to co-operate with them in any improvements of the judicial system which the wisdom and experience of the two houses may suggest. Your lordship will immediately assent to any bills which may be passed for that purpose, excepting in the highly improbable event of their being found open to some apparently conclusive objection ; even in that case, however, you will reserve any bills for improving the administration of the law for the signification of his Majesty’s pleasure.

“ Ninthly.—The address then states, that the confusion and uncertainty of which the House complain has been greatly increased by enactments affecting real property in the colony made in the Parliament of the United Kingdom since the establishment of the provincial legislature, without those interested having even had an opportunity of being heard; and particularly by a recent decision on one of the said enactments in the provincial court of appeals.

“ His Majesty’s Government can have no controversy with the House of Assembly upon this subject. The house cannot state in stronger terms, than they are disposed to acknowledge, the fitness of leaving to the legislature of Lower Canada exclusively the enactment of every law which may be required respecting real property within that province. It cannot be denied, that at a former period a different opinion was entertained by the British government; and that the statute-book of this kingdom contains various regulations on the subject of lands in Lower Canada, which might, perhaps, have been more conveniently enacted in the province itself: I apprehend, however, that this interference of Parliament was never invoked, except on the pressure of some supposed neces-

sity; and that there never was a period in which such acts were introduced by the ministers of the crown without reluctance.

“To a certain extent, the statute 1 Will. IV, c. 20, which was passed at the instance of his Majesty’s Government in the last session of Parliament, has anticipated the complaint to which I am now referring, and has prevented its recurrence, by authorizing the local legislature to regulate whatever relates to the incidents of soccage tenure in the province, without reference to any real or supposed repugnancy of any such regulations to the law of England. If there is any other part of the British statute law, bearing upon this topic, to which the Council and Assembly shall object, his Majesty’s Government will be prepared to recommend to Parliament that it should be repealed.”

“Tenthly.—It is stated that several of the judges of the courts in the province have long been engaged in, and have even taken a public part in the political affairs and differences of the province, at the same time holding offices during pleasure, and situations incompatible with the due discharge of the judicial functions.

“Under this head again, it is very gratifying to the ministers of the Crown to find, that they

had, in a great measure, obviated by anticipation the complaint of the House of Assembly. In the despatch which I addressed to your lordship, on the 8th February, No. 22, every arrangement was made which could be either suggested or carried into effect by his Majesty's authority, for removing the judges of the province from all connection with its political affairs, and for rendering them independent at once of the authority of the Crown, and the control of the other branches of the legislature; thus placing them exactly in the same position as that of the judges of the supreme courts at Westminster.

“The judges themselves have, it appears, with laudable promptitude, concurred in giving effect to these recommendations by discontinuing their attendance at the executive council. Nothing therefore, in fact, remains for terminating all discussions upon this subject, but that the House of Assembly should make such a permanent provision for the judges as, without exceeding a just remuneration, may be adequate to their independent maintenance in that rank of life which belongs to the dignity of their station.

“I am not aware that any judge in Lower Canada holds any office, excepting that of ex-



ecutive councillor, during the pleasure of the Crown, or which is in any respect incompatible with the due discharge of his official functions; if any such case exists, your lordship will have the goodness immediately to report to me all the circumstances by which it may be attended, in order that the necessary instructions on the subject may be given. In the mean time I may state, without reserve, that no judge can be permitted to retain any office corresponding with the description thus given by the House of Assembly, in combination with that independent position on the bench to which I have referred.

“Eleventhly.—The address proceeds to state that, during a long series of years, executive and judiciary offices have been bestowed almost exclusively upon one class of subjects in the province, and especially upon those least connected by property, or otherwise, with its permanent inhabitants, or who have shown themselves the most averse to the rights, liberties, and interests of the people. It is added, that several of these persons avail themselves of the means afforded by their situations to prevent the constitutional and harmonious co-operation of the government and the house of assembly, and to excite ill-feeling and discord

between them, while they are remiss in their different situations to forward the public business.

“ I quote thus largely the language of the address, because I am desirous to meet every part of it in the most direct manner, as well as in the most conciliatory spirit. It is not from any want of that spirit that I recommend you to suggest for the consideration of the House of Assembly, how far it is possible that his Majesty should clearly understand, or effectually redress a grievance which is brought under his notice in terms thus indefinite. If any public officers can be named who are guilty of such an abuse of their powers, and of such remissness in their duties as are implied in the preceding quotation, his Majesty would not be slow to vindicate the public interest by removing any such persons from his service. If it can be shown that the patronage of the Crown has been exercised upon any narrow and exclusive maxims, they cannot be too entirely disavowed and abandoned ; especially if it be true that the permanent inhabitants of the colony do not enjoy a full participation in all public employments, the house of assembly may be assured that his Majesty can have no desire that any such invidious distinctions

should be systematically maintained. Beyond this general statement it is not in my power to advance. I am entirely ignorant of the specific cases to which the general expressions of the Assembly point. I can only state, that since his Majesty was pleased to intrust to myself the seals of this department, no opportunity has occurred for exercising the patronage of the Crown in Lower Canada, to which it is possible that the Assembly can refer, nor have my inquiries brought to light any particular case of a more remote date to which their language would appear to be applicable.

“ Twelfthly.—The next subject of complaint is developed in the following words:—“ That there exists no sufficient responsibility on the part of the persons holding these situations, nor any adequate accountability amongst those of them intrusted with public money; the consequence of which has been the misapplication of large sums of public money, and of the money of individuals by defaulters, with whom deposits were made under legal authority, hitherto without reimbursement or redress having been obtained, notwithstanding the humble representations of your petitioners.”

It would be impossible, without a violation of truth, to deny that at a period not very remote

heavy losses were sustained both by the public and by individuals, from the want of a proper system of passing and auditing their accounts. I find, however, that in his despatch of the 29th September, Sir George Murray adverted to this subject in terms to which I find it difficult to make any useful addition. His words are as follows :—“The complaints which have reached this office respecting the inadequate security given by the receiver-general and by the sheriffs, for the due application of public money in their hands, have not escaped the very serious attention of the ministers of the Crown ; the most effectual security against abuses of this nature would be to prevent the accumulation of balances in the hands of public accountants, by obliging them to exhibit their accounts to some competent authority at short intervals, and immediately to pay over the ascertained balance. The proof of having punctually performed this duty should be made the indispensable condition of receiving their salaries, and of their continuance in office.

“ In the colony of New South Wales a regulation of this nature has been established under his Majesty’s instructions to the governor of that settlement, and has been productive of great public convenience. If a similar practice

were introduced in Lower Canada for the regulation of the office of receiver-general, and for that of sheriff, the only apparent difficulty would be to find a safe place of deposit for their balances. I am, however, authorised to state, that the lords' commissioners of his Majesty's Treasury will hold themselves responsible to the province for any sums which the receiver-general or sheriff may pay over to the commissary-general. Your excellency will, therefore, propose to the Legislative Council and Assembly the enactment of a law binding these officers to render an account of their receipts at short intervals, and to pay over the balances in their hands to the commissary-general, upon condition that that officer should be bound, on demand, to deliver a bill on his Majesty's Treasury for the amount of his receipts. I trust that, in this proposal, the legislature will find a proof of the earnest desire of his Majesty's government to provide, as far as may be practicable, an effectual remedy for every case of real grievance.

“ If the preceding instructions have proved inadequate to the redress of the inconvenience to which they refer, I can assure your lordship of the cordial concurrence of his Majesty's government in any more effective measures

which may be recommended for that purpose, either by yourself or by either of the houses of the provincial legislature.

“ The losses which the province sustained by the default of the late Mr. Caldwell is a subject which his Majesty’s Government contemplate with the deepest regret—a feeling enhanced by the painful conviction of their inability to afford to the provincial revenues any adequate compensation for so serious an injury ; what is in their power they have gladly done by the instruction conveyed to your lordship in the early part of this despatch, to place at the disposal of the legislature, for general purposes, the sum of £7,154. 15s. 4½*d.*, recovered from Mr. Caldwell’s property. The assembly will, I trust, accept this as a proof of the earnest desire of his Majesty’s Government to consult to the utmost of their ability the pecuniary interests of the province.

“ Thirteenthly. The address proceeds to state that “ the evils of this state of things have been greatly aggravated by enactments made in the Parliament of the United Kingdom, without even the knowledge of the people of this colony, which enactments have rendered temporary duties imposed by the provincial legislature permanent, leaving in the hands of public

officers, over whom the assembly has no effectual control, large sums of money arising within this province, which are applied by persons subject to no sufficient accountability.”

“ I understand this complaint to refer to the 28th clause of the Stat. 3 Geo. IV, c. 119. The duties mentioned in that enactment are continued until some act for repealing or altering them shall be passed by the Legislative Council and Assembly of Lower Canada, and until a copy of any such new act shall have been transmitted to the governor of Upper Canada, and shall have been laid before both Houses of Parliament, and assented to by his Majesty. The motive for this enactment is explained in the preamble, to have been the necessity of obviating the evils experienced in the Upper Province from the exercise of an exclusive control by the legislature of Lower Canada over imports and exports at the port of Quebec. I acknowledge without reserve, that nothing but the necessity of mediating between the two provinces would have justified such an interference by Parliament ; and if any adequate security can be devised against the recurrence of similar difficulties, the enactment ought to be repealed. The peculiar geographical position of Upper Canada, enjoying no access to the

sea, except through a province wholly independent on itself, on the one hand or through a foreign state on the other, was supposed in the year 1822 to have created the necessity for enacting so peculiar a law for its protection. I should be much gratified to learn, that no such necessity exists at present, or can be reasonably anticipated hereafter; for upon sufficient evidence of that fact, his Majesty's Government would at once recommend to Parliament the repeal of that part of the statute to which the address of the House of Assembly refers. The ministers of the Crown would even be satisfied to propose to Parliament the repeal of the enactment in question, upon proof that the legislature of the Upper Province deem such protection superfluous; perhaps it may be found practicable to arrange this matter by communications between the legislatures of the two provinces. The ministers of the Crown are prepared to co-operate to the fullest extent in any measure which the two legislatures shall concur in recommending for the amendment or repeal of the Statute 3 Geo. IV, c. 119, s. 28.

“ Fourteenthly.—The selection of the legislative councillors and the constitution of that body, which forms the last subject of complaint in the address, I shall not notice in this place,



any further than to say, that it will form the matter of a separate communication, since the topic is too extensive and important to be conveniently embraced in my present despatch.

“The preceding review of the questions brought by the House of Assembly, appears to me entirely to justify the expectations which I have expressed at the commencement of this despatch, of a speedy, effectual, and amicable termination of the protracted discussions of several years. It would be injurious to the House of Assembly to attribute to them any such captious spirit as would keep alive a contest upon a few minor and insignificant details, after the statement I have made of the general accordance between the views of his Majesty’s government and their own, upon so many important questions of Canadian policy. Little indeed remains for debate, and that little will, I am convinced, be discussed with feelings of mutual kindness and good will, and with an earnest desire to strengthen the bonds of union already subsisting between the two countries. His Majesty will esteem it as amongst the most enviable distinctions of his reign, to have contributed to so great and desirable a result.

“ Your lordship will take the earliest opportunity of transmitting to the house of assembly a copy of this despatch.

“ I have, &c.

“ (signed)      GODERICH.”

## LETTER VII.

THE time had now arrived (1832) when every grievance, so far as the remedy lay with the government, had been removed, according to the recommendations of the committee. Whatever required the co-operation of the Assembly themselves, remained untouched. They had asked what they did not require, and hoped would not be granted, so that the odium of refusal might serve as a pretext for further agitation. Several of the changes solicited would have weakened their influence, and they preferred to suffer things to remain as they were. There now existed no impediment to the public tranquillity; and, if their intentions had been honest, we should have heard no more of Canadian discontent. Several men of character and standing in the colony, who had hitherto acted with the French faction, now separated themselves from them, declaring that they had obtained all, and even more than they had sought, and that they had now nothing further to ask but to enjoy in tranquillity the fruits of their labour. When they found there was no corresponding feeling in the breasts of their colleagues, and that these concessions were merely used as the groundwork of further

changes, they became alarmed, and for the first time were made sensible of what the public had always known with unfeigned sorrow, that they had been all along the dupes of their own liberal notions and the artifices of others. They had now full time to reflect upon the mischief they had done and upon their own inability to make reparation ; and have added another illustration to the numbers we already have on record of how much easier it is to open the flood-gates of popular prejudice and passion, than to close them against the force of the current. They are now likely to become the victims of their own folly, and to be overwhelmed in the ruins caused by the inundation to which they have unfortunately contributed, by cutting away the embankments. It is to be hoped that the lesson will not be lost upon England ; and it may, perhaps, afford these unhappy men some consolation if the safety of others is confirmed by the contemplation of the fatal effects of their folly. The request of Lord Aylmer, that they would bring forward all their demands, and, if they had any further ones, to add them to their catalogue, or that he should feel himself entitled to report there were none others, was received with surprise, but in silence, and he very fairly concluded that they

had exhausted their budget. This was the natural inference, and it appears that Parliament flattered itself also that the whole subject was now fully before them. It is true the tone and temper of the House of Assembly were not materially altered, and that the next four years were consumed in local disputes, during which no appropriation was made for the public service; but all this was charitably supposed to be the effect of previous excitement, and it was thought not unnatural that some time should elapse before their angry feelings could wholly subside. But what was their astonishment, after their declining the unprecedented request of the governor to exhibit any further complaints if they had any, to find that, in 1834, they were prepared to come forward with ninety-two resolutions of fresh grievance! This extraordinary step revived the hopes of every loyalist throughout the adjoining colonies. Surely, they said, this last ungrateful, unprovoked attempt will open the eyes of the English nation to the ulterior views of Papineau and his party! It takes much provocation to arouse the British lion; but, surely, this last thrust will be more than he can bear! He will make his voice to be heard across the waters, and sedition will fly terrified to its cover.

But, alas! they were mistaken. Noble and spirited as the animal once was, he is now old and infirm—a timid people have filed his teeth, and shortened his claws, and stupefied him with drugs, and his natural pride disdains to exhibit an unsuccessful imbecility. It was received with a meekness and mildness that filled every body that had known him in former years with astonishment and pity; they could not recognise, in the timid and crouching creature before them, the same animal whose indomitable courage and muscular strength had formerly conquered these same Canadians, even when supported by all the resources of France, who now, single-handed and alone, defied him to combat. But this is too painful a picture to dwell upon.

This singular document is well worthy of your perusal; its want of intrinsic weight is more than compensated by its prolixity. The astounding number of ninety-two resolutions was well calculated to delude strangers, and to induce them to think that the evils under which they laboured were almost too many for enumeration. As imagination is always more fertile than truth, they very wisely resorted to the former, and were thus enabled to supply themselves with any charge they required. It

would doubtless have appeared singular to the sympathisers of England, if the aggregate had amounted to so remarkable a number as one hundred : it would have struck them as a suspicious coincidence that they should have exactly reached "a round number," and filled a well known measure, and therefore, with an acuteness peculiar to people accustomed to fabricate tales of fictitious distress, they wisely stopped at *ninety-two*. But it must not be supposed that even Canadian exaggeration could find a grievance for each number. Some were merely declamatory, and others personal ; some complimented persons on this side of the water, whose politics they thought resembled their own, and others expressed or implied a censure against obnoxious persons, while not a few were mere repetitions of what had been previously said. Such a state paper, drawn up on such an occasion by the most eminent men in the house for the perusal of such a body of men as the members of the Imperial Parliament, is of itself a proof how little fitted the Canadians are for constitutional government.

1. Resolved, That His Majesty's loyal subjects, the people of this Province of Lower Canada, have shown the strongest attachment to the British Empire, of which they are a portion : that they have repeatedly defended

it with courage in time of war ; that at the time which preceded the independence of the late British Colonies on this continent, they resisted the appeal made to them by those colonies to join their confederation.

2. Resolved, That the people of this province have at all times manifested their confidence in His Majesty's Government, even under circumstances of the greatest difficulty, and when the government of the province has been administered by men who trampled under foot the rights and feelings dearest to British subjects ; and that these sentiments of the people of this province remain unchanged.

3. Resolved, That the people of this Province have always shown themselves ready to welcome and receive as brethren those of their fellow subjects who, having quitted the United Kingdom or its dependencies, have chosen this province as their home, and have earnestly endeavoured (as far as on them depended) to afford every facility to their participating in the political advantages, and in the means of rendering their industry available, which the people of this province enjoy ; and to remove for them the difficulties arising from the vicious system adopted by those who have administered the government of the province, with regard to those portions of the country in which the new-comers have generally chosen to settle.

4. Resolved, That this House, as representing the people of this province, has shown an earnest zeal to advance the general prosperity of the country, by securing the peace and content of all classes of its inhabitants, without any distinction of origin or creed, and upon the solid and durable basis of unity of interest, and equal confidence in the protection of the mother country.



5. Resolved, That this House has seized every occasion to adopt, and firmly to establish by law in this province, not only the constitutional and parliamentary law of England, which is necessary to carry the Government into operation, but also all such parts of the public law of the United Kingdom as have appeared to this house adapted to promote the welfare and safety of the people, and to be conformable to their wishes and their wants; and that this house has, in like manner, wisely endeavoured so to regulate its proceedings as to render them, as closely as the circumstances of this colony permit, analogous to the practice of the House of Commons of the United Kingdom.

6. Resolved, That in the year 1827 the great majority of the people of this province complained, in petitions signed by 87,000 persons, of serious and numerous abuses which then prevailed, many of which had then existed for a great number of years, and of which the greater part still exist, without correction or mitigation.

7. Resolved, That the complaints aforesaid, and the grievances which gave rise to them, being submitted to the consideration of the Parliament of the United Kingdom, occasioned the appointment of a committee of the House of Commons, of which the Honourable Edward Geoffrey Stanley, now his Majesty's principal secretary of state for the colonial department, and several others, who are now members of his Majesty's government, formed part; and that, after a careful investigation and due deliberation, the said committee, on the 18th July 1828, came to the following very just conclusions:

1stly. " That the embarrassments and discontents that had long prevailed in the Canadas, had arisen from serious defects in the system of laws, and the constitutions established in those colonies.

2dly. "That these embarrassments were in a great measure to be attributed to the manner in which the existing system had been administered.

3dly. "That they had a complete conviction that neither the suggestions which they had made, nor any other improvements in the laws and constitutions of the Canadas, will be attended with the desired effect, unless an impartial, conciliating, and constitutional system of government were observed in these royal and important colonies."

8. Resolved. That since the period aforesaid, the constitution of this province, with its serious defects, has continued to be administered in a manner calculated to multiply the embarrassments and discontents which have long prevailed; and that the recommendations of the Committee of the House of Commons have not been followed by effective measures of a nature to produce the desired effect.

9. Resolved, *That the most serious defect in the Constitutional Act—its radical fault—the most active principle of evil and discontent in the province; the most powerful and most frequent cause of abuses of power; of infractions of the laws; of the waste of the public revenue and property, accompanied by impunity to the governing party, and the oppression and consequent resentment of the governed, is that injudicious enactment, the fatal results of which were foretold by the Honourable Charles James Fox at the time of its adoption, which invests the Crown with that exorbitant power, (incompatible with any government duly balanced and founded on law and justice, and not on force and coercion) of selecting and composing, without any rule or limitation, or any predetermined qualification, an entire branch of the legislature, supposed from the*

*nature of its attributions to be independent, but inevitably the servile tool of the authority which creates, composes and decomposes it, and can on any day modify it to suit the interests or the passions of the moment.*

10. Resolved, That with the permission of a power so unlimited, the abuse of it is inseparably connected; and that it has always been so exercised in the selection of the Members of the Legislative Council of this province, as to favour the spirit of monopoly and despotism in the executive, judicial, and administrative departments of government, and never in favour of the public interests.

11. Resolved, That the effectual remedy for this evil was judiciously foreseen and pointed out by the Committee of the House of Commons, who asked John Neilson, Esquire (one of the agents who had carried to England the petition of the 87,000 inhabitants of Lower Canada), whether he had turned in his mind any plan by which he conceived the Legislative Council might be better composed in Lower Canada; whether he thought it possible that the said body could command the confidence and respect of the people, or go in harmony with the House of Assembly, unless the principle of election were introduced into its composition in some manner or other; and also, whether he thought that the colony could have any security that the legislative council would be properly and independently composed, unless the principle of election were introduced into it in some manner or other; and received from the said John Neilson answers, in which (among other reflections) he said in substance, that there were two modes in which the composition of the Legislative Council might be bettered; the one by appointing men who were independent of the

executive, (but that to judge from experience there would be no security that this would be done), and that if this mode were found impracticable, the other would be to render the Legislative Council elective.

12. Resolved, That, judging from experience, this house likewise believes there would be no security in the first mentioned mode, the course of events having but too amply proved what was then foreseen; and that this house approves all the inferences drawn by the said John Neilson from experience and facts; but that with regard to his suggestion that a class of electors of a higher qualification should be established, or a qualification in property fixed for those persons who might sit in the council, this house have, in their address to his Most Gracious Majesty, dated the 20th March 1833, declared in what manner this principle could, in their opinion, be rendered tolerable in Canada, by restraining it within certain bounds, which should in no case be passed.

13. Resolved, That even in defining bounds of this nature, and requiring the possession of real property as a condition of eligibility to a legislative council, chosen by the people, which most wisely and happily has not been made a condition of eligibility to the House of Assembly, this house seems rather to have sought to avoid shocking received opinions in Europe, where custom and the law have given so many artificial privileges and advantages to birth and rank and fortune, than to consult the opinions generally received in America, where the influence of birth is nothing, and where, notwithstanding the importance which fortune must always naturally confer, the artificial introduction of great political privileges in favour of the possessors of large property, could not long resist the preference given at free

elections to virtue, talents, and information, which fortune does not exclude but can never purchase, and which may be the portion of honest, contented, and devoted men, whom the people ought to have the power of calling and consecrating to the public service, in preference to richer men, of whom they may think less highly.

14. Resolved, *That this house is no wise disposed to admit the excellence of the present constitution of Canada, although his Majesty's Secretary of State for the Colonies has unseasonably and erroneously asserted, that it has conferred on the two Canadas the institutions of Great Britain ; nor to reject the principle of extending the system of frequent elections much further than it is at present carried ; and this system ought especially to be extended to the Legislative Council, although it may be considered by the colonial secretary incompatible with the British government, which he calls a monarchical government, or too analogous to the institutions which the several states, composing the industrious, moral, and prosperous confederation of the United States of America, have adopted for themselves.*

15. Resolved, That in a dispatch, of which the date is unknown, and of which a part only was communicated to this House by the governor-in-chief on the 14th January 1834, his Majesty's Secretary of State for the Colonial Department (this House having no certain knowledge whether the said despatch is from the present colonial secretary or from his predecessor) says, that an examination of the composition of the Legislative Council at *that* period (namely, at the time when its composition was so justly censured by a Committee of the House of Commons) and at the *present*, will sufficiently show in what spirit his Majesty's Government

has endeavoured to carry the wishes of Parliament into effect.

16. Resolved, That this House receives with gratitude this assurance of the just and benevolent intentions, with which, in the performance of their duty, his Majesty's ministers have endeavoured to give effect to the wishes of Parliament.

17. Resolved, That unhappily it was left to the principal agent of his Majesty's Government in this province to carry the wishes of the Imperial Parliament into effect; but that he has destroyed the hope which his Majesty's faithful subjects had conceived of seeing the Legislative Council reformed and ameliorated, and has confirmed them in the opinion that the only possible mode of giving to that body the weight and respectability which it ought to possess, is to introduce into it the principle of election.

18. Resolved, That the Legislative Council, strengthened by a majority inimical to the rights of this House and of the people whom it represents, has received new and more powerful means than it before possessed of perpetuating and of rendering more offensive and more hurtful to the country the system of abuses of which the people of this province have up to this day ineffectually complained, and which up to this day, Parliament and his Majesty's government in England have ineffectually sought to correct.

19. Resolved, That since its pretended reform the Legislative Council has, in a manner more calculated to alarm the inhabitants of this province, and more particularly in its address to his Majesty of the 1st of April 1833, renewed its pretension of being specially appointed to protect one class of his Majesty's subjects in this province, as supposing them to have interests

which could not be sufficiently represented in the assembly, seven-eighths of the members of which are by the said council most erroneously stated to be of French origin and speak the French language: that this pretension is a violation of the constitution, and is of a nature to excite and perpetuate among the several classes of the inhabitants of this province mutual distrust and national distinctions and animosities, and to give one portion of the people an unjust and factious superiority over the other, and the hope of domination and undue preference.

20. Resolved, That by such claim the legislative council, after a reform which was held up as one adapted to unite it more closely with the interests of the colony in conformity with the wishes of parliament, calls down as one of its first acts, the prejudices and severity of his Majesty's Government upon the people of this province and upon the representative branch of the legislature thereof, and that by this conduct the legislative council has destroyed amongst the people all hope which was left them of seeing the said council, so long as it shall remain constituted as it now is, act in harmony with the House of Assembly.

21. Resolved, That the Legislative Council of this province has never been any thing else but an impotent screen between the governor and the people, which *by enabling the one to maintain a conflict with the other* has served to perpetuate a system of discord and contention; that it has unceasingly acted with avowed hostility to the sentiments of the people as constitutionally expressed by the House of Assembly; that it is not right under the name of a legislative council to impose an aristocracy on a country which contains no natural materials for the composition of such a body; that *the*

*Parliament of the United Kingdom, in granting to his Majesty's Canadian subjects the power of revising the constitution under which they hold their dearest rights, would adopt a liberal policy, free from all consideration of former interests and of existing prejudices ; and that by this measure, equally consistent with a wise and sound policy, and with the most liberal and extended views, the Parliament of the United Kingdom would enter into a noble rivalry with the United States of America, would prevent his Majesty's subjects from seeing any thing to envy there ; and would preserve a friendly intercourse between Great Britain and this province, as her colony so long as the tie between us shall continue, and as her ally whenever the course of events may change our relative position.*

22. Resolved, That this House so much the more confidentially emits the opinions expressed in the preceding resolution, because, if any faith is to be placed in the published reports, they were at no distant period emitted with other remarks in the same spirit, in the Commons' House of the United Kingdom, by the Right Honourable Edward Geoffrey Stanley, now his Majesty's principal secretary of state for the Colonial department, and by several other enlightened and distinguished members, some of whom are among the number of his Majesty's present ministers ; and because the conduct of the Legislative Council since its pretended reform, demonstrates that the said opinions are in no wise rendered less applicable or less correct by its present composition.

23. Resolved, That the Legislative Council has at the present time less community of interest with the province than at any former period ; that its present composition, instead of being calculated to change the character of



the body, to put an end to complaints, and to bring about that co-operation of the two houses of the legislature which is so necessary to the welfare of the country, is such as to destroy all hope that the said council will adopt the opinions and sentiments of the people of this province, and of *this House* with regard to the inalienable *right of the latter to the full and entire control of the whole revenue raised in the province*, with regard to the necessity under which this House has found itself (for the purpose of effecting the reformation which it has so long and so vainly demanded of existing abuses) to provide for the expenses of the civil government by annual appropriations only, as well with regard to a variety of other questions of public interest, concerning which the executive government, and the legislative council which it has selected and created, differ diametrically from the people of this province and from this house.

24. Resolved, That such of the recently appointed councillors as were taken from the majority of the Assembly, and had entertained the hope that a sufficient number of independent men, holding opinions in unison with those of the majority of the people and of their representatives, would be associated with them, must now feel that they are overwhelmed by a majority hostile to the country, and composed of men who have irretrievably lost the public confidence, by showing themselves the blind and passionate partisans of all abuses of power, by encouraging all the acts of violence committed under the administration of Lord Dalhousie, by having on all occasions outraged the representatives of the people of the country ; of men, unknown in the country until within a few years, without landed property or having very little, most of whom have never been re-

turned to the Assembly (some of them having even been refused by the people), and who have never given any proofs of their fitness for performing the functions of legislators, but merely of their hatred to the country ; and who, by reason of their community of sentiment with him, have found themselves, by the partiality of the governor-in-chief, suddenly raised to a station in which they have the power of exerting during life, an influence over the legislation and over the fate of this province, the laws and institutions of which have ever been the objects of their dislike.

25. Resolved, That in manifest violation of the constitution, there are among the persons last mentioned several who were born citizens of the United States, or are natives of other foreign countries, and who at the time of their appointment had not been naturalized by Acts of the British Parliament ; that the residence of one of these persons (Horatio Gates) in this country during the last war with the United States was only *tolerated* ; he refused to take up arms for the defence of the country in which he remained merely for the sake of lucre ; and after these previous facts, took his seat in the legislative council on the 16th March 1833 ; and fifteen days afterwards, to wit, on the 1st April, voted for the address before-mentioned, censuring those who during the last war were under arms on the frontiers to repulse the attacks of the American armies and of the fellow-citizens of the said Horatio Gates : that another (James Baxter) was resident during the said late war within the United States, and was bound by the laws of the country of his birth, under certain circumstances, forcibly to invade this province, to pursue, destroy, and capture, *if possible*, his Majesty's armies, and such of his Cana-

dian subjects as were in arms upon the frontiers to repulse the attacks of the American armies, and of the said James Baxter, who (being at the said time but slightly qualified as far as property is concerned) became, by the nomination of the governor-in-chief, a legislator for life in Lower Canada, on the 22d of March 1833; and eight days afterwards, on the 1st of April aforesaid, voted that very address which contained the calumnious and insulting accusation which called for the expression of his Majesty's just regret, "that any word had been introduced which should have the appearance of ascribing to a class of his subjects of one origin, views at variance with the allegiance which they owe to his Majesty."

26. Resolved, That it was in the power of the present governor-in-chief, more than in that of any of his predecessors (by reason of the latitude allowed him as to the number and the selection of the persons whom he might nominate to be members of the Legislative Council) to allay, for a time at least, the intestine divisions which rend this colony, and to advance some steps towards the accomplishment of the wishes of Parliament, by inducing a community of interest between the said council and the people, and by giving the former a more independent character by judicious nominations.

27. Resolved, That although sixteen persons have been nominated in less than two years by the present governor to be members of the said council (a number greater than that afforded by any period of ten years under any other administration), and notwithstanding the wishes of Parliament, and the instructions given by his Majesty's government for the removal of the grievances of which the people had complained, the same malign influence which has been exerted to perpetuate in

the country a system of irresponsibility in favour of public functionaries, has prevailed to such an extent as to render the majority of the Legislative Council more inimical to the country than at any former period ; and that this fact confirms with irresistible force the justice of the censure passed by the committee of the House of Commons on the constitution of the Legislative Council as it had theretofore existed, and the correctness of the opinion of those members of the said committee who thought that the said body could never command the respect of the people, nor be in harmony with the House of Assembly, unless the principle of election was introduced into it.

28. Resolved, *That even if the present governor-in-chief had, by making a most judicious selection, succeeded in quieting the alarm and allaying for a time the profound discontent which then prevailed, that form of government would not be less essentially vicious which makes the happiness or misery of a country depend on an executive over which the people of that country have no influence, and which has no permanent interest in the country, or in common with its inhabitants ; and that the extension of the elective principle is the only measure which appears to this House to afford any prospect of equal and sufficient protection in future to all the inhabitants of the province without distinction.*

29. Resolved, That the accusations preferred against the House of Assembly by the Legislative Council, as recomposed by the present governor-in-chief, would be criminal and seditious, if their very nature did not render them harmless, since they go to assert, that if in its liberality and justice the Parliament of the United Kingdom

had granted the earnest prayer of this House in behalf of the province (and which this House at this solemn moment, after weighing the dispatches of the secretary of state for the colonial department, and on the eve of a general election, now repeats and renews), that the constitution of the Legislative Council may be altered by rendering it elective, the result of this act of justice and benevolence would have been to inundate the country with blood.

30. Resolved, That by the said address to his Majesty, dated the 1st of April last, the Legislative Council charges this house with having calumniously accused the King's representative of partiality and injustice in the exercise of the powers of his office, and with deliberately calumniating his Majesty's officers, both civil and military, as a faction induced by interest alone to contend for the support of a government inimical to the rights and opposed to the wishes of the people : with reference to which this house declares that the accusations preferred by it have never been calumnious, but are true and well founded, and that a faithful picture of the executive government of this province in all its parts is drawn by the Legislative Council in this passage of its address.

31. Resolved, That if, as this House is fond of believing, his Majesty's government in England does not wish systematically to nourish civil discord in this colony, the contradictory allegations thus made by the two houses make it imperative on it to become better acquainted with the state of the province than it now appears to be, if we judge from its long tolerance of the abuses which its agents commit with impunity ; that it ought not to trust to the self-praise of those who have the management of the affairs of a colony, passing ac-

ording to them into a state of anarchy ; that it ought to be convinced that if its protection of public functionaries, accused by a competent authority (that is to say by this House, in the name of the people), could for a time, by force and intimidation, aggravate, in favour of those functionaries and against the rights and interests of the people, the system of insult and oppression which they impatiently bear, the result must be to weaken our confidence in, and our attachment to his Majesty's government, and to give deep root to the discontent and insurmountable disgust which have been excited by administrations deplorably vicious, and which are now excited by the majority of the public functionaries of the colony, combined as a faction, and induced by interest alone to contend for the support of a corrupt government, inimical to the rights and opposed to the wishes of the people.

32. Resolved, That in addition to its wicked and calumnious address of the 1st April 1833, the Legislative Council, as recomposed by the present governor-in-chief, has proved how little community of interest it has with the colony, by the fact that out of sixty-four bills which were sent up to it, twenty-eight were rejected by it, or amended in a manner contrary to their spirit and essence ; that the same unanimity which had attended the passing of the greater part of these bills in the Assembly, accompanied their rejection by the Legislative Council, and that an opposition so violent shows clearly that the provincial executive and the council of its choice, in league together against the representative body, do not, or *will* not, consider it as the faithful interpreter and the equitable judge of the wants and wishes of the people, nor as fit to propose laws conformable to the public will ; and that under such circumstances it would have

been the duty of the head of the executive to appeal to the people, by dissolving the provincial parliament, had there been any analogy between the institutions of Great Britain and those of this province.

33. Resolved, That the Legislative Council, as recomposed by the present governor-in-chief, must be considered as embodying the sentiments of the colonial executive government, and that from the moment it was so recomposed the two authorities seem to have bound and leagued themselves together for the purpose of proclaiming principles subversive of all harmony in the province, and of governing and domineering in a spirit of blind and invidious national antipathy.

34. Resolved, That the address voted unanimously on the 1st April 1833, by the Legislative Council, as recomposed by the present governor-in chief, was concurred in by the honourable the chief justice of the province, Jonathan Sewell, to whom the right honourable Lord Viscount Goderich, in his dispatch, communicated to the house on the 25th November 1831, recommended “ *a cautious abstinence* ” from all proceedings by which he might be involved in any contention of a party nature ; by John Hale, the present receiver-general, who, in violation of the laws, and of the trust reposed in him, and upon illegal warrants issued by the governor, has paid away large sums of the public money, without any regard to the obedience which is always due to the law ; by Sir John Caldwell, baronet, the late receiver-general, a peculator, who has been condemned to pay nearly £100,000 to reimburse a like sum levied upon the people of this province, and granted by law to his Majesty, his heirs and successors, for the public use of the province, and for the support of his Majesty’s govern-

ment therein, and who has diverted the greater part of the said sum from the purposes to which it was destined, and appropriated it to his private use ; by Mathew Bell, a grantee of the crown, who has been unduly and illegally favoured by the executive, in the lease of the forges of St. Maurice, in the grant of large tracts of waste lands, and in the lease of large tracts of land formerly belonging to the order of Jesuits ; by John Stewart, an executive councillor, commissioner of the Jesuits' estates, and the incumbent of other lucrative offices: all of whom are placed by their pecuniary and personal interests, under the influence of the executive ; and by the honourable George Moffatt, Peter M'Gill, John Molson, Horatio Gates, Robert Jones, and James Baxter, all of whom, as well as those before mentioned, were, with two exceptions, born out of the country, and all of whom, except one, who for a number of years was a member of the Assembly, and has extensive landed property, are but slightly qualified in *that* respect, and had not been sufficiently engaged in public life to afford a presumption that they were fit to perform the functions of legislators for life ; and by Antoine Gaspard Couillard, the only native of the country, of French origin, who stooped to concur in the address, and who also had never been engaged in public life, and is but very moderately qualified with respect to real property, and who, after his appointment to the council, and before the said 1st of April, rendered himself dependent on the executive by soliciting a paltry and subordinate place of profit.

35. Resolved, That the said address, voted by seven councillors, under the influence of the present head of the executive, and by five others of his appointment,



(one only of the six others who voted it, the Hon. George Moffatt, having been appointed under his predecessor) is the work of the present administration of this province, the expression of its sentiments, the key to its acts, and the proclamation of the iniquitous and arbitrary principles, which are to form its rule of conduct for the future.

36. Resolved, That the said address is not less injurious to the small number of members of the legislative council who are independent, and attached to the interests and honour of the country, who have been members of the Assembly, and are known as having partaken its opinions and seconded its efforts, to obtain for it the entire control and disposal of the public revenue ; as having approved the wholesome, constitutional, and not, as styled by the council, the daring steps taken by this House, of praying by address to his Majesty that the Legislative Council might be rendered elective ; as condemning a scheme for the creation of an extensive monopoly of lands in favour of speculators residing out of the country ; as believing that they could not have been appointed to the council with a view to increase the constitutional weight and efficacy of that body, in which they find themselves opposed to a majority hostile to their principles and their country ; as believing that the interests and wishes of the people are faithfully represented by their representatives, and that the connexion between this country and the parent state will be durable in proportion to the direct influence exercised by the people in the enactment of laws adapted to insure their welfare ; and as being of opinion, that his Majesty's subjects recently settled in this country will share in all the advantages of the free institutions and of the improve-

ments which would be rapidly developed if, by means of the extension of the elective system, the administration were prevented from creating a monopoly of power and profit in favour of the minority who are of one origin, and to the prejudice of the majority, who are of another ; and from buying, corrupting, and exciting a portion of this minority in such a manner as to give to all discussions of local interest the alarming character of strife and national antipathy ; and that the independent members of the Legislative Council, indubitably convinced of the tendency of that body, and undeceived as to the motives which led to their appointment as members of it, now refrain from attending the sittings of the said council, in which they despair of being able to effect any thing for the good of the country.

37. Resolved, *That the political world in Europe is at this moment agitated by two great parties, who in different countries appear under the several names of serviles, royalists, tories, and conservatives on the one side, and of liberals, constitutionals, republicans, whigs, reformers, radicals, and similar appellations on the other ; that the former party is, on this continent, without any weight or influence, except what it derives from its European supporters, and from a trifling number of persons who become their dependents for the sake of personal gain, and from others, who from age or habit cling to opinions which are not partaken by any numerous class ; while the second party overspreads all America. And that the colonial secretary is mistaken if he believes that the exclusion of a few salaried officers from the Legislative Council could suffice to make it harmonise with the wants, wishes, and opinions of the people, as long as the colonial governors retain*

*the power of preserving in it a majority of members rendered servile by their antipathy to every liberal idea.*

38. Resolved, That this vicious system, which has been carefully maintained, has given to the Legislative Council a greater character of animosity to the country than it had at any former period, and is as contrary to the wishes of Parliament, as *that* which, in order to resist the wishes of the people of England for the parliamentary reform, should have called into the House of Lords a number of men notorious for their factious and violent opposition to that great measure.

39. Resolved, *That the legislative council, representing merely the personal opinions of certain members of a body so strongly accused at a recent period by the people of this province, and so justly censured by the report of the committee of the House of Commons, is not an authority competent to demand alterations in the constitutional Act of the 31st Geo. III., c. 31, and that the said act ought not to be and cannot be altered, except at such time and in such manner as may be wished by the people of this province, whose sentiments this house is alone competent to represent; that no interference on the part of the British legislature with the laws and constitution of this province, which should not be founded on the wishes of the people, freely expressed either through this house, or in any other constitutional manner, could in any wise tend to settle any of the difficulties which exist in this province, but, on the contrary, would only aggravate them and prolong their continuance.*

40. Resolved, *That this House expects from the justice of the Parliament of the United Kingdom, that no*

*measure of the nature aforesaid, founded on the false representations of the Legislative Council and of the members and tools of the colonial administration, all interested in perpetuating existing abuses, will be adopted to the prejudice of the rights, liberties, and welfare of the people of this province; but that on the contrary, the Imperial Legislature will comply with the wishes of the people, and of this House, and will provide the most effectual remedy for all evils present and future, either by rendering the Legislative Council elective, in the manner mentioned in the Address of this House to his most gracious Majesty, of the 20th March 1833, or by enabling the people to express still more directly their opinions as to the measures to be adopted in that behalf, and with regard to such other modifications of the constitution as the wants of the people and the interest of his Majesty's government in the province may require; and that this house perseveres in the said Address.*

41. Resolved, That his Majesty's Secretary of State for the Colonial department has acknowledged in his despatches, that it has frequently been admitted that the people of Canada ought to see nothing in the institutions of the neighbouring states which they could regard with envy, and that he has yet to learn that any such feeling now exists among his Majesty's subjects in Canada: to which this House answers, that the neighbouring States have a form of government very fit to prevent abuses of power, and very effective in repressing them; that the reverse of this order of things has always prevailed in Canada under the present form of government; that there exists in the neighbouring States a stronger and more general attachment to the national

institutions than in any other country, and that there exists also in those States a guarantee for the progressive advance of their political institutions towards perfection, in the revision of the same at short and determinate intervals, by conventions of the people, in order that they may, without any shock or violence, be adapted to the actual state of things.

42. Resolved, That it was in consequence of a correct idea of the state of the country and of society generally in America, that the committee of the House of Commons asked, whether there was not in the two Canadas a growing inclination to see the institutions become more and more popular, and in that respect more and more like those of the United States; and that John Neilson, Esq., one of the agents sent from this country, answered, that the fondness for popular institutions had made great progress in the two Canadas; and that the same agent was asked, whether he did not think that it would be wise that the object of every change made in the institutions of the province should be to comply more and more with the wishes of the people, and to render the said institutions extremely popular: to which question this House, for and in the name of the people whom it represents, answers, solemnly and deliberately, "Yes, it would be wise; it would be excellent."

43. Resolved, That the constitution and form of government which would best suit this colony are not to be sought solely in the analogies offered by the institutions of Great Britain, where the state of society is altogether different from our own; and that it would be wise to turn to profit by the information to be gained by observing the effects produced by the different and infinitely varied constitutions which the Kings and Parliament of

England have granted to the several plantations and colonies in America, and by studying the way in which virtuous and enlightened men have modified such colonial institutions, when it could be done with the assent of the parties interested.

44. Resolved, That the unanimous consent with which all the American states have adopted and extended the elective system, shows that it is adapted to the wishes, manners, and social state of the inhabitants of this continent ; that this system prevails equally among those of British and those of Spanish origin, although the latter, during the continuance of their colonial state had been under the calamitous yoke of ignorance and absolutism ; and that we do not hesitate to ask from a prince of the House of Brunswick, and a reformed Parliament, all the freedom and political powers which the princes of the House of Stuart and their parliaments granted to the most favoured of the plantations formed at a period when such grants must have been less favourably regarded than they would now be.

45. Resolved, That it was not the best and most free systems of colonial government which tended most to hasten the independence of the old English colonies ; since the province of New York, in which the institutions were most monarchical in the sense which that word appears to bear in the despatch of the Colonial Secretary, was the first to refuse obedience to an act of the Parliament of Great Britain ; and that the colonies of Connecticut and Rhode Island, which, though closely and affectionately connected with the mother country for a long course of years, enjoyed constitutions purely democratic, were the last to enter into a confederation rendered necessary by the conduct of bad servants of the

Crown, who called in the supreme authority of the Parliament and the British constitution to aid them to govern arbitrarily, listening rather to the governors and their advisers than to the people and their representatives, and shielding with their protection those who consumed the taxes rather than those who paid them.

46. Resolved, That with a view to the introduction of whatever the institutions of the neighbouring States offered that was good and applicable to the state of the province, this House had among other measures passed during many years, a bill founded on the principle of proportioning arithmetically the number of representatives to the populace of each place represented; and that if, by the pressure of circumstances and the urgent necessity which existed that the number of representatives should be increased, it has been compelled to assent to amendments which violate that principle, by giving to counties containing a population of little more than 4,000 souls, the same number of representatives as to several others of which the population is five times as great, this disproportion is, in the opinion of this House, an act of injustice, for which it ought to seek a remedy: and that in new countries where the population increases rapidly, and tends to create new settlements, it is wise and equitable that by a frequent and periodical census, such increase and the manner in which it is distributed should be ascertained, principally for the purpose of settling the representation of the province on an equitable basis.

47. Resolved, That the fidelity of the people and the protection of the government are co-relative obligations, of which the one cannot long subsist without the other; that by reason of the defects which exist in the laws and

constitution of this province, and of the manner in which those laws and that constitution have been administered, the people of this province are not sufficiently protected in their lives, their property, and their honour; and that the long series of acts of injustice and oppression of which they have to complain, have increased with alarming rapidity in violence and in number under the present administration.

48. Resolved, That in the midst of these disorders and sufferings, this house and the people whom it represents, had always cherished the hope and expressed their faith that his Majesty's government in England did not knowingly and wilfully participate in the political immorality of its colonial agents and officers; and that it is with astonishment and grief that they have seen in the extract from the despatches of the Colonial Secretary, communicated to this house by the governor-in-chief, during the present session, that one at least of the members of his Majesty's government entertains towards them feelings of prejudice and animosity, and inclines to favour plans of oppression and revenge, ill adapted to change a system of abuses, the continuance of which would altogether discourage the people, extinguish in them the legitimate hope of happiness which, as British subjects, they entertained, and would leave them only the hard alternative of submitting to an ignominious bondage, or of seeing those ties endangered which unite them to the mother country.

49. Resolved, That this House, and the people whom it represents, do not wish or intend to convey any threat; but that, relying, as they do, upon the principles of law and justice, they are, and ought to be, politically strong enough not to be exposed to receive insult from



any man whomsoever, or bound to suffer it in silence ; that the style of the said extracts from the despatches of the colonial secretary, as communicated to this House, is insulting and inconsiderate to such a degree, that no legally constituted body, although its functions were infinitely subordinate to those of legislation, could or ought to tolerate them ; that no similar example can be found, even in the despatches of those of his predecessors in office, least favourable to the rights of the colonies ; that the tenor of the said despatches is incompatible with the rights and privileges of this House, which ought not to be called in question or defined by the colonial secretary, but which, as occasion may require, will be successively promulgated and enforced by this House.

50. Resolved, That with regard to the following expressions in one of the said despatches, “ Should events unhappily force upon Parliament the exercise of its supreme authority, to compose the internal dissensions of the colonies, it would be my object and my duty, as a servant of the Crown, to submit to Parliament such modifications of the charter of the Canadas as should tend, not to the introduction of institutions consistent with monarchical government, but to maintaining and strengthening the connexion with the mother country, by a close adherence to the spirit of the British constitution, and by preserving in their proper place and within their due limits the mutual rights and privileges of all classes of his Majesty’s subjects ;”—if they are to be understood as containing a threat to introduce into the constitution any other modifications than such as are asked for by the majority of the people of this province, whose sentiments cannot be legitimately expressed by any other authority than its representatives, this House

would esteem itself wanting in candour to the people of England, if it hesitated to call their attention to the fact, that in less than twenty years the population of the United States of America will be as great or greater than that of Great Britain, and that of British America will be as great or greater than that of the former English colonies was when the latter deemed that the time was come to decide that the inappreciable advantage of governing themselves instead of being governed, ought to engage them to repudiate a system of colonial government which was, generally speaking, much better than that of British America now is.

51. Resolved, That the approbation expressed by the colonial secretary, in his said despatch, of the present composition of the Legislative Council, whose acts since its pretended reform, have been marked by party spirit and by invidious national distinctions and preferences, is a subject of just alarm to his Majesty's Canadian subjects in general, and more particularly to the great majority of them, who have not yielded at any time to any other class of the inhabitants of this province in their attachment to his Majesty's government, in their love of peace and order, in respect for the laws, and in their wish to effect that union among the whole people which is so much to be desired, to the end that all may enjoy freely and equally the rights and advantages of British subjects, and of the institutions which have been guaranteed to and are dear to the country; that the distinctions and preferences aforesaid have almost constantly been used and taken advantage of by the colonial administration of this province, and the majority of the legislative councillors, executive councillors, judges, and other functionaries dependent upon

it ; and that nothing but the spirit of the union among the several classes of the people, and their conviction that their interests are the same, could have prevented collisions incompatible with the prosperity and safety of the province.

52. Resolved, That since a circumstance, which did not depend upon the choice of the majority of the people, their French origin and their use of the French language, has been made by the colonial authorities a pretext for abuse, for exclusion, for political inferiority, for a separation of rights and interests ; this House now appeals to the justice of his Majesty's government and of Parliament, and to the honour of the people of England ; that the majority of the inhabitants of this country are in nowise disposed to repudiate any one of the advantages they derive from their origin and from their descent from the French nation, which, with regard to the progress, of which it has been the cause, in civilization, in the sciences, in letters, and in the arts, has never been behind the British nation, and is now the worthy rival of the latter in the advancement of the cause of liberty and of the science of government ; from which this country derives the greater portion of its civil and ecclesiastical law, and of its scholastic and charitable institutions, and of the religion, language, habits, manners, and customs of the great majority of its inhabitants.

53. Resolved, That our fellow-subjects of British origin, in this province, came to settle themselves in a country, " the inhabitants whereof, professing the religion of the church of Rome, enjoyed an established form of constitution and system of laws, by which their persons and their property had been protected, governed,

and ordered during a long series of years, from the first establishment of the province of Canada;" that prompted by these considerations and guided by the rules of justice and of the law of nations, the British Parliament enacted that, "in all matters of controversy, relative to property and civil rights, resort should be had to the laws of Canada;" that when Parliament afterwards departed from the principle thus recognised, firstly, by the introduction of the English criminal law, and afterwards by that of the representative system, with all the constitution and parliamentary law necessary to its perfect action, it did so in conformity to the sufficiently expressed wish of the Canadian people; and that every attempt on the part of public functionaries or of other persons (who on coming to settle in the province, made their condition their own voluntary act) against the existence of any portion of the laws and institutions peculiar to the country, and any preponderance given to such persons in the legislative and executive councils, in the courts of law, or in other departments, are contrary to the engagements of the British Parliament, and to the rights guaranteed to his Majesty's Canadian subjects, on the faith of the national honour of England, and on that of capitulations and treaties.

54. Resolved, That any combination, whether effected by means of acts of the British Parliament, obtained in contravention to its former engagements, or by means of the partial and corrupt administration of the present constitution and system of law, would be a violation of those rights, and would, as long as it should exist, be obeyed by the people, from motives of fear and constraint, and not from choice and affection; that the conduct of the colonial administrations, and of their

agents and instruments in this colony, has, for the most part, been of a nature unjustly to create apprehensions as to the views of the people and government of the mother country, and to endanger the confidence and content of the inhabitants of this province, which can only be secured by equal laws, and by the observance of equal justice, as the rule of conduct in all the departments of the government.

55. Resolved, That whether the number of that class of his Majesty's subjects in this province, who are of British origin, be that mentioned in the said address of the Legislative Council, or whether (as the truth is) it amounts to less than half that number, the wishes and interests of the great majority of them are common to them and to their fellow-subjects of French origin, and speaking the French language; that the one class love the country of their birth, the other that of their adoption; that the greater portion of the latter have acknowledged the generally beneficial tendency of the laws and institutions of the country, and have laboured in concert with the former to introduce into them gradually, and by the authority of the provincial parliament, the improvements of which they have, from time to time, appeared susceptible, and have resisted the confusion which it has been endeavoured to introduce into them, in favour of schemes of monopoly and abuse, and that all without distinction wish anxiously for an impartial and protecting government.

56. Resolved, That in addition to administrative and judicial abuses, which have had an injurious effect upon the public welfare and confidence, attempts have been made, from time to time, to induce the Parliament of the United Kingdom, by deceiving its justice and abus-

ing its benevolent intentions, to adopt measures calculated to bring about combinations of the nature above-mentioned, and to pass acts of internal legislation for this province, having the same tendency, and with regard to which, the people of the country had not been consulted; that, unhappily, the attempts to obtain the passing of some of these measures were successful, especially that of the act of the 6 Geo. IV., c. 59, commonly called the "Tenures' Act," the repeal of which was unanimously demanded by all classes of the people, without distinction, through their representatives, a very short time after the number of the latter was increased; and that this House has not yet been able to obtain from his Majesty's representative in this province, or from any other source, any information as to the views of his Majesty's government in England, with regard to the repeal of the said act.

57. Resolved, That the object of the said act was, according to the benevolent intentions of parliament, and as the title of the act sets forth, the extinction of feudal and seigniorial rights and dues on land held *en fief* and *à cens* in this province, with the intention of favouring the great body of the inhabitants of the country, and protecting them against the said dues, which were regarded as burdensome; but that the provisions of the said act, far from having the effect aforesaid, afford facilities for seigniors to become, in opposition to the interests of their *censitaires*, the absolute proprietors of the extensive tracts of unconceded lands which, by the law of the country, they held only for the benefit of the inhabitants thereof, to whom they were bound to concede them in consideration of certain limited dues; that the said act, if generally acted upon,

would shut out the mass of the permanent inhabitants of the country from the vacant lands in the seigniories, while, at the same time, they have been constantly prevented from settling on the waste lands of the Crown on easy and liberal terms, and under a tenure adapted to the laws of the country, by the partial, secret, and vicious manner in which the crown land department has been managed, and the provisions of the act aforesaid, with regard to the laws applicable to the lands in question ; and that the application made by certain seigniors for a change of tenure, under the authority of the said act, appear to prove the correctness of the view this House has taken of its practical effect.

58. Resolved, That it was only in consequence of an erroneous supposition that feudal charges were inherent in the law of this country, as far as the possession and transmission of real property, and the tenures recognized by that law, were concerned, that it was enacted in the said act that the lands, with regard to which a change of tenure should be effected, should thereafter be held under the tenure of free and common soccage ; that the seigniorial charges have been found burdensome in certain cases, chiefly by reason of the want of adequate means of obtaining the interference of the colonial government and of the courts of law, to enforce the ancient law of the country in that behalf, and that the provincial legislature was, moreover, fully competent to pass laws, providing for the redemption of the said charges in a manner which should be in accordance with the interests of all parties, and for the introduction of the free tenures recognized by the laws of the country ; that the House of Assembly has been repeatedly occupied, and now is occupied about this important subject ;

but that the said Tenures' Act, insufficient of itself to effect equitably the purpose for which it was passed, is of a nature to embarrass and create obstacles to the effectual measures which the legislature of the country, with a full knowledge of the subject, might be disposed to adopt ; and that the application thus made (to the exclusion of the provincial legislature) to the Parliament of the United Kingdom, which was far less competent to make equitable enactments on a subject so complicated in its nature, could only have been made with a view to unlawful speculations and the subversion of the laws of the country.

59. Resolved, That independently of its many other serious imperfections, the said act does not appear to have been founded on a sufficient knowledge of the laws which govern persons and property in this country, when it declares the laws of Great Britain to be applicable to certain incidents to real property therein enumerated ; and that it has only served to augment the confusion and doubt which had prevailed in the courts of law, and in private transactions, with regard to the law which applied to lands previously granted in free and common soccage.

60. Resolved, That the provision of the said act which has excited the greatest alarm, and which is most at variance with the rights of the people of the country, and with those of the provincial parliament, is that which enacts that lands previously held *en fief* or *en censine* shall, after a change of tenure shall have been effected with regard to them, be held in free and common soccage, and thereby become subject to the laws of Great Britain, under the several circumstances therein mentioned and enumerated ; that besides being insufficient in itself, this provision is of a nature to bring into collision, in the old



settlements, at multiplied points of contiguity, two opposite systems of laws, one of which is entirely unknown to this country, in which it is impossible to carry it into effect; that from the feeling manifested by the colonial authorities and their partisans towards the inhabitants of the country, the latter have just reason to fear that the enactment in question is only the prelude to the final subversion, by Acts of Parliament of Great Britain, fraudulently obtained in violation of its former engagements, of the system of laws by which the persons and property of the people of this province were so long happily governed.

61. Resolved, That the inhabitants of this country have just reason to fear that the claims made to the property of the seminary of St. Sulpice, at Montreal, are attributable to the desire of the colonial administration, and its agents and tools, to hasten this deplorable state of things; and that his Majesty's government in England would, by reassuring his faithful subjects on this point, dissipate the alarm felt by the clergy, and by the whole people without distinction, and merit their sincere gratitude.

62. Resolved, *That it is the duty of this House to persist in asking for the absolute repeal of the said Tenures' Act, and until such repeal shall be effected, to propose to the other branches of the provincial parliament such measures as may be adapted to weaken the pernicious effects of the said act.*

63. That this House has learned with regret, from one of the said despatches of the colonial secretary, that his Majesty has been advised to interfere in a matter which concerns the privileges of this House: that in the case there alluded to, this House exercised a privilege solemnly

established by the House of Commons, before the principle on which it rests became the law of the land; that this privilege is essential to the independence of this House, and to the freedom of its votes and proceedings; that the resolutions passed by this House, on the 15th of February 1831, are constitutional and well-founded, and are supported by the example of the Commons of Great Britain; that this House has repeatedly passed bills for giving effect to the said principle, but that these bills failed to become law, at first from the obstacles opposed to them in another branch of the provincial legislature, and subsequently by reason of the reservation of the last of the said bills for the signification of his Majesty's pleasure in England, whence it has not yet been sent back; that until some bill to the same effect shall become law, this House persists in the said resolutions; and that the refusal of his excellency, the present governor-in-chief, to sign a writ for the election of a knight representative for the county of Montreal, in the place of Dominique Mondelet, Esq., whose seat had been declared vacant, is a grievance of which this house is entitled to obtain the redress, and one which would alone have sufficed to put an end to all intercourse between it and the colonial executive, if the circumstances of the country had not offered an infinite number of other abuses and grievances against which it is urgently necessary to remonstrate.

64. Resolved, *That the claims which have for many years been set up by the executive government to that control over and power of appropriating a great portion of the revenues levied in this province, which belong of right to this House, are contrary to the rights and to the constitution of the country; and that with*

*regard to the said claims, this House persists in the declarations it has heretofore made.*

65. Resolved, That the said claims of the executive have been vague and varying; that the documents relative to the said claims, and the accounts and estimates of expenses laid before this House have likewise been varying and irregular, and insufficient to enable this House to proceed with a full understanding of the subject on the matters to which they related; that important heads of the public revenue of the province, collected either under the provisions of the law or under arbitrary regulations made by the executive, have been omitted in the said accounts; that numerous items have been paid out of the public revenue without the authority of this house, or any acknowledgment of its control over them, as salaries for sinecure offices, which are not recognized by this House, and even for other objects for which, after mature deliberation, it had not deemed it expedient to appropriate any portion of the public revenue; and that no accounts of the sums so expended have been laid before this house.

66. Resolved, *That the executive government has endeavoured, by means of the arbitrary regulations aforesaid, and particularly by the sale of the waste lands of the Crown, and of the timber on the same, to create for itself out of the revenue which this House only has the right of appropriating, resources independent of the control of the representatives of the people; and that the result has been a diminution of the wholesome influence which the people have constitutionally the right of exercising over the administrative branch of the government, and over the spirit and tendency of its measures.*

67. Resolved, That this House having, from time to time, with a view to proceed by bill, to restore regularity to the financial system of the province, and to provide for the expences of the administration of justice and of his Majesty's civil government therein, asked the provincial government by address for divers documents and accounts relating to financial matters, and to abuses connected with them, has met with repeated refusals, more especially during the present session and the preceding one; that divers subordinate public functionaries, summoned to appear before committees of this House to give information on the said subject, have refused to do so in pursuance of the said claim set up by the provincial administrations to withdraw a large portion of the public income and expenditure from the control and even from the knowledge of this House; that during the present session one of the said subordinate functionaries of the executive being called upon to produce the originals of sundry registers of warrants and reports, which it was important to this House to cause to be examined, insisted on being present at the deliberations of the committee appointed by the House for that purpose; and that the head of the administration being informed of the fact, refrained from interfering, although in conformity to parliamentary usage, this House had pledged itself that the said documents should be returned, and although the governor-in-chief had himself promised communication of them.

68. Resolved, That the result of the secret and unlawful distribution of a large portion of the public revenue of the province has been, that the executive government has always, except with regard to appropriations for objects of a local nature, considered itself

bound to account for the public money to the lords commissioners of the treasury in England, and not to this House, nor according to its votes, or even in conformity to the laws passed by the provincial legislature ; and that the accounts and statements laid before this House from time to time have never assumed the shape of a regular system of balanced accounts, but have been drawn up, one after another, with such alterations and irregularities as it pleased the administration of the day to introduce into them, from the accounts kept with the lords of the treasury, in which the whole public money received was included, as well as all the items of expenditure, whether authorized or unauthorized by the provincial legislature.

69. Resolved, That the pretensions and abuses aforesaid have taken away from this House even the shadow of control over the public revenue of the province, and have rendered it impossible for it to ascertain at any time the amount of revenue collected, the disposable amount of the same, and the sums required for the public service ; and that the House having during many years passed bills, of which the models are to be found in the statute-book of Great Britain, to establish a regular system of accountability and responsibility in the department connected with the receipt and expenditure of the revenue ; these bills have failed in the Legislative Council.

70. Resolved, That since the last session of the provincial parliament, the governor-in chief of this province, and the members of his executive government, relying on the pretensions above-mentioned, have, without any lawful authority, paid large sums out of the public revenue, subject to the control of this House ; and that

the said sums were divided according to their pleasure, and even in contradiction to the votes of this House, as incorporated in the supply bill passed by it during the last session, and rejected by the Legislative Council.

71. Resolved, That this House will hold responsible for all monies which have been, or may hereafter be paid, otherwise than under the authority of an act of the legislature, or upon an address of this House, out of the public revenue of the province, all those who may have authorized such payments, or participated therein, until the said sums shall have been reimbursed, or a bill or bills of indemnity freely passed by this House shall have become law.

72. Resolved, That the course adopted by this House in the supply bill, passed during the last session, of attaching certain conditions to certain votes, for the purpose of preventing the accumulation of incompatible offices in the same persons, and of obtaining the redress of certain abuses and grievances, is wise and constitutional, and has frequently been adopted by the House of Commons, under analogous circumstances: and that if the commons of England do not now so frequently recur to it, it is because they have happily obtained the entire control of the revenue of the nation, and because respect shewn to their opinions with regard to the redress of grievances and abuses, by the other constituted authorities, has regulated the working of the constitution in a manner equally adapted to give stability to his Majesty's government, and to protect the interests of the people.

73. Resolved, That it was anciently the practice of the House of Commons to withhold supplies until grievances were redressed; and that in following this course

in the present conjuncture, we are warranted in our proceeding, as well by the most approved precedents, as by the spirit of the constitution itself.

74. Resolved, That if hereafter, when the redress of all grievances and abuses shall have been effected, this House shall deem it fit and expedient to grant supplies, it ought not to do so otherwise than in the manner mentioned in its fifth and sixth resolutions of the 16th March 1833, and by appropriating by its votes in an especial manner, and in the order in which they are enumerated in the said resolutions, the full amount of those heads of revenue, to the right of appropriating which claims have been set up by the executive government.

75. Resolved, That the number of the inhabitants of the country being about 600,000, those of French origin are about 525,000, and those of British or other origin 75,000; and that the establishment of the civil government of Lower Canada for the year 1832, according to the yearly returns made by the provincial administration, for the information of the British Parliament, contained the names of 157 officers and others receiving salaries, who are apparently of British or foreign origin, and the names of 47 who are apparently natives of the country, of French origin: that this statement does not exhibit the whole disproportion which exists in the distribution of the public money and power, the latter class being for the most part appointed to the inferior and less lucrative offices, and most frequently only obtaining even these by becoming the dependants of those who hold the higher and more lucrative offices; that the accumulation of many of the best paid and most influential, and at the same time incompatible offices, in the same person, which is forbidden by the laws and by sound policy,

exists especially for the benefit of the former class ; and that two-thirds of the persons included in the last commission of the peace issued in the province are apparently of British or foreign origin, and one-third only of French origin.

76. Resolved, That this partial and abusive practice of bestowing the great majority of official places in the province on those only who are least connected with its permanent interests, and with the mass of its inhabitants, had been most especially remarkable in the judicial department, the judges for the three great districts having, with the exception of one only in each, been systematically chosen from that class of persons, who, being born out of the country, are the least versed in its laws, and in the language and usages of the majority of its inhabitants ; that the result of their intermeddling in the politics of the country, of their connexion with the members of the Colonial administration, and of their prejudices in favour of institutions foreign to and at variance with those of the country, is that the majority of the said judges have introduced great irregularity into the general system of our jurisprudence, by neglecting to ground their decisions on its recognised principles ; and that the claim laid by the said judges to the power of regulating the forms of legal proceedings in a manner contrary to the laws, and without the interference of the legislature, has frequently been extended to the fundamental rules of the law and of practice ; and that in consequence of the same system, the administration of the criminal law is partial and uncertain, and such as to afford but little protection to the subject, and has failed to inspire that confidence which ought to be its inseparable companion.



77. Resolved, That in consequence of their connection with the members of the provincial administrations, and of their antipathy to the country, some of the said judges have, in violation of the laws, attempted to abolish the use in the courts of law of the language spoken by the majority of the inhabitants of the country, which is necessary to the free action of the laws, and forms a portion of the usages guaranteed to them in the most solemn manner by the law of nations and by the statutes of the British Parliament.

78. Resolved, That some of the said judges, through partiality, for political purposes, and in violation of the criminal law of England as established in this country, of their duty, and their oath, have connived with divers law officers of the crown, acting in the interest of the provincial administration, to allow the latter to engross and monopolize all criminal prosecutions of what nature soever, without allowing the private prosecutor to intervene or be heard, or any advocate to express his opinion *amicus curiæ*, when the Crown officers opposed it; that in consequence of this, numerous prosecutions of a political nature have been brought into the courts of law by the Crown officers against those whose opinions were unfavourable to the administration for the time being; while it was impossible for the very numerous class of his Majesty's subjects to which the latter belonged, to commence with the slightest confidence any prosecution against those who, being protected by the administration, and having countenanced its acts of violence, had been guilty of crimes or misdemeanors; that the tribunals aforesaid have, as far as the persons composing them are concerned, undergone no modification whatever, and inspire the same fears for the future.

79. Resolved, That this House, as representing the people of this province, possesses of right, and has exercised within this province when occasion has required it, all the powers, privileges, and immunities claimed and possessed by the Commons' House of Parliament in the kingdom of Great Britain and Ireland.

80. Resolved, That it is one of the undoubted privileges of this house to send for all persons, papers, and records, and to command the attendance of all persons, civil or military, resident within the province, as witnesses in all investigations which this House may deem it expedient to institute ; and to require such witnesses to produce all papers and records in their keeping, whenever it shall deem it conducive to the public good to do so.

81. Resolved, That as at the grand inquest of the province, it is the duty of this House to inquire concerning all grievances, and all circumstances which may endanger the general welfare of the inhabitants of the province, or be of a nature to excite alarm in them with regard to their lives, their liberty, and their property, to the end that such representations may be made to our most gracious Sovereign, or such legislative measures introduced, as may lead to the redress of such grievances, or tend to allay such alarm ; and that far from having a right to impede the exercise of these rights and privileges, the governor-in-chief is deputed by his Sovereign, is invested with great powers, and receives a large salary, as much for defending the rights of the subject and facilitating the exercise of the privileges of this House and of all constituted bodies, as for maintaining the prerogatives of the Crown.

82. Resolved, That since the commencement of the

present session, a great number of petitions relating to the infinite variety of objects connected with the public welfare, have been presented to this House, and many messages and important communications received by it, both from his Majesty's government in England and from his Majesty's provincial government; that many bills have been introduced in this House, and many important inquiries ordered by it, in several of which the governor-in-chief is personally and deeply implicated; that the said petitions from our constituents, the people of all parts of this province; the said communications from his Majesty's government in England and from the provincial government; the said bills already introduced or in preparation; the said inquiries commenced and intended to be diligently prosecuted, may and must necessitate the presence of numerous witnesses, the production of numerous papers, the employment of numerous clerks, messengers, and assistants, and much printing, and lead to inevitable and daily disbursements, forming the contingent expenses of this house.

83. Resolved, That from the year 1792 to the present, advances had constantly been made to meet these expenses, on addresses similar to that presented this year by this House to the governor-in-chief, according to the practice adopted by the House of Commons; that an address of this kind is the most solemn vote of credit which this house can pass, and that almost the whole amount of the sum exceeding £277,000 has been advanced on such votes by the predecessors of his excellency the governor-in-chief, and by himself (as he acknowledges by his message on the 18th January 1834), without any risk having ever been incurred by any other governor on account of any such advance, although

several of them have had differences, attended by violence and injustice on *their* part, with the House of Assembly, and without their apprehending that the then next parliament would not be disposed to make good the engagements of the House of Assembly for the time being; and that this refusal of the governor-in-chief, in the present instance, essentially impedes the dispatch of the business for which the parliament was called together, is derogatory to the rights and honour of this House, and forms another grievance for which the present administration of this province is responsible.

84. Resolved, That besides the grievances and abuses before-mentioned, there exist in this province a great number of others (a part of which existed before the commencement of the present administration, which has maintained them, and is the author of a portion of them), with regard to which this House reserves to itself the right of complaining and demanding reparation, and the number of which is too great to allow of their being enumerated here: that this House points out as among that number,

1stly. The vicious composition and the irresponsibility of the executive council, the members of which are at the same time judges of the court of appeals, and the secrecy with which not only the functions, but even the names of the members of that body have been kept from the knowledge of this House, when inquiries have been instituted by it on the subject.

2dly. The exorbitant fees illegally exacted in certain of the public offices, and in others connected with the judicial department, under regulations made by the executive council, by the judges, and by other functionaries usurping the powers of the legislature.

3dly. The practice of illegally calling upon the judges to give their opinions secretly on questions which may be afterwards publicly and contradictorily argued before them ; and the opinions themselves so given by the said judges, as political partizans, in opposition to the laws, but in favour of the administration for the time being.

4thly. The cumulation of public places and offices in the same persons, and the efforts made by a number of families connected with the administration to perpetuate this state of things for their own advantage, and for the sake of domineering for ever, with interested views and in the spirit of party, over the people and their representatives.

5thly. The intermeddling of members of the Legislative Council in the elections of the representatives of the people, for the purpose of influencing and controlling them by force, and the selection frequently made of returning officers for the purpose of securing the same partial and corrupt ends ; the interference of the present governor-in-chief himself in the said elections ; his approval of the intermeddling of the said legislative councillors in the said elections ; the partiality with which he intervened in the judicial proceedings connected with the said elections, for the purpose of influencing the said proceeding in a manner favourable to the military power, and contrary to the independence of the judicial power ; and the applause which, as commander of the forces, he bestowed upon the sanguinary execution of the citizens by the soldiery.

6thly. The interference of the armed military force at such elections, through which three peaceable citizens, whose exertions were necessary to the support of their families, and who were strangers to the agitation of the

election, were shot dead in the streets; the applause bestowed by the governor-in-chief and commander of the forces on the authors of this sanguinary military execution (who had not been acquitted by a petty jury), for the firmness and discipline displayed by them on that occasion.

7thly. The various faulty and partial systems which have been followed ever since the passing of the constitutional act, with regard to the management of the waste lands in this province, have rendered it impossible for the great majority of the people of the country to settle on the said lands; the fraudulent and illegal manner in which, contrary to his Majesty's instructions, governors, legislative and executive councillors, judges, and subordinate officers have appropriated to themselves large tracts of the said lands; the monopoly of an extensive portion of the said lands in the hands of speculators residing in England, with which the province is now threatened; and the alarm generally felt therein with regard to the alleged participation of his Majesty's government in this scheme, without its having deigned to re-assure his faithful subjects on this head, or to reply to the humble address to his Majesty adopted by this House during the last session.

8thly. The increase of the expenses of the government without the authority of the legislature, and the disproportion of the salaries paid to public functionaries to the services performed by them, to the rent of real property, and to the ordinary income commanded by the exertions of persons possessing talent, industry, and economy, equal to or greater than those of the said functionaries.

9thly. The want of all recourse in the courts of law on the part of those who have just and legal claims on the government.

10thly. The too frequent reservation of bills for the signification of his Majesty's pleasure, and the neglect of the Colonial Office to consider such bills, a great number of which have never been sent back to the province, and some of which have even been returned so late that doubts may be entertained as to the validity of the sanction given to them ; a circumstance which has introduced irregularity and uncertainty into the legislation of the province, and is felt by this house as an impediment to the re-introduction of the bills reserved during the then preceding sessions.

11thly. The neglect on the part of the Colonial Office to give any answer to certain addresses transmitted by this House on important subjects ; the practice followed by the administration of communicating in an incomplete manner, and by extracts, and frequently without giving their dates, the despatches received from time to time on subjects which have engaged the attention of this House ; and the too frequent references to the opinion of his Majesty's ministers in England, on the part of the provincial administration, upon points which it is in their power and within their province to decide.

12thly. The unjust retention of the college at Quebec, which forms part of the estates of the late order of Jesuits, and which from a college has been transformed into a barrack for soldiers ; the renewal of the lease of a considerable portion of the same estates, by the provincial executive, in favour of a member of the Legislative Council, since those estates were returned to the legislature, and in opposition to the prayer of this House, and to the known wishes of a great number of his Majesty's subjects, to obtain lands there and to settle on them ; and the refusal of the said executive to communicate the

said lease, and other information on the subject, to this house.

13thly. The obstacles unjustly opposed by the executive, friendly to abuses and to ignorance, to the establishment of colleges endowed by virtuous and disinterested men, for the purpose of meeting the growing desire of the people for the careful education of their children.\*

14thly. The refusal of justice with regard to the accusations brought by this house, in the name of the people, against judges for flagrant acts of malversation, and for ignorance and violation of the law.

15thly. The refusals on the part of the governors, and more especially of the present governor-in-chief, to communicate to this House the information asked for by it from time to time, and which it had a right to obtain, on a great number of subjects connected with the public business of the province.

16thly. The refusal of his Majesty's Government to reimburse to the province the amount for which the late

\* To illustrate the malignant spirit inherent in the party there only needed this accusation. Mr. M'Gill, a respectable resident, on his demise some years ago, left £10,000, wherewith to endow a college for the purpose of education, to be called after him. The heir-at-law and executor, one of the clique, refused to part with the funds, and disputed the will. After being worsted in the Colonial courts, it was carried by appeal to London, and ultimately the decision of the courts in Canada confirmed, by which the bequest, with interest, now amounting to more than £21,000, is ordered to be applied according to the testator's will. We shall merely state that Viger prosecuted the suit—that Papineau advised the defence—and that Des Rivieres, the executor, since the cause has been decided against him, is bankrupt. The crime of the will we suppose, was, that it did not restrict the uses of the college to the French party.—*See Canada Question.*



receiver-general was a defaulter, and its neglect to enforce the recourse which the province was entitled to against the property and person of the late receiver-general.

85. Resolved, That the facts mentioned in the foregoing resolutions, demonstrate that the laws and constitutions of the province have not, at any period, been administered in a manner more contrary to the interests of his Majesty's government, and to the rights of the people of this province, than under the present administration, and render it necessary that his Excellency Matthew Lord Aylmer, of Balrath, the present governor-in-chief of this province, be formally accused by this House of having, while acting as governor, in contradiction to the wishes of the Imperial Parliament, and to the instructions he may have received, and against the honour and dignity of the Crown, and the rights and privileges of this House, and the people whom it represents, so recomposed the Legislative Council as to augment the dissensions which rend this colony ; of having seriously impeded the labours of this House, acting as the grand inquest of the country ; of having disposed of the public revenue of the province, against the consent of the representatives of the people, and in violation of the law and constitution ; of having maintained existing abuses, and created new ones ; of having refused to sign a writ for the election of a representative to fill a vacancy which had happened in this House, and to complete the number of representatives established by law for this province ; and that this House expects from the honour, patriotism, and justice of the reformed Parliament of the United Kingdom, that the Commons of the said Parliament will bring impeachments, and will support such

impeachments before the House of Lords against the said Matthew Lord Aylmer, for his illegal, unjust, and unconstitutional administration of the government of this province ; and against such of the wicked and perverse advisers who have misled him, as this House may hereafter accuse, if there be no means of obtaining justice against them in the province, or at the hands of his Majesty's executive government in England.

86. Resolved, That this House hopes and believes that the independent members of both houses of the Parliament of the United Kingdom will be disposed, both from inclination and a sense of duty, to support the accusations brought by this House ; to watch over the preservation of its rights and privileges, which have been so frequently and violently attacked, more especially by the present administration ; and so to act, that the people of this province may not be forced by oppression to regret their dependance on the British empire, and to seek elsewhere a remedy for their affliction.

87. Resolved, That this house learned, with gratitude, that Daniel O'Connell, Esq. had given notice in the House of Commons in July last, that during the present session of the Imperial Parliament, he would call its attention to the necessity of reforming the legislative and executive councils in the two Canadas ; and that the interest thus shown for our own fate by him whom the gratitude and blessings of his countryman have, with the applause of the whole civilized world, proclaimed great and liberator, and of whom our fellow-countrymen entertain corresponding sentiments, keeps alive in us the hope that, through the goodness of our cause and the services of such a friend, the British Parliament will not permit a minister, deceived by the interested represen-

tations of the provincial administration and its creatures and tools, to exert (as there is reason from his despatches to apprehend that he may attempt to do) the highest degree of oppression in favour of a system which, in better times, he characterized as faulty, and against subjects of his Majesty who are apparently only known to him by the great patience with which they have waited in vain for promised reforms.

88. Resolved, That this house has the same confidence in Joseph Hume, Esq., and feels the same gratitude for the anxiety which he has repeatedly shown for the good government of these colonies, and the amelioration of their laws and constitutions, and calls upon the said Daniel O'Connell and Joseph Hume, Esqrs., whose constant devotedness was, even under a Tory ministry, and before there form of Parliament, partially successful in the emancipation of Ireland, from the same bondage and the same political inferiority with which the communications received from the colonial secretary during the present session menace the people of Lower Canada, to use their efforts that the laws and constitution of this province may be amended in the manner demanded by the people thereof; that the abuses and grievances of which the latter have to complain may be fully and entirely redressed; and that the laws and constitution may be hereafter administered in a manner consonant with justice, with the honour of the Crown and of the people of England, and with the rights, liberties, and privileges of the people of this province, and of this House by which they are represented.

89. Resolved, That this House invites the members of the minority of the Legislative Council who partake the opinions of the people, the present members

of the House of Assembly, until the next general election, and afterwards all the members then elected, and such other persons as they may associate with them, to form one committee or two committees of correspondence, to sit at Quebec and Montreal in the first instance, and afterwards at such place as they shall think proper; the said committees to communicate with each other and with the several local committees, which may be formed in different parts of the province, and to enter into correspondence with the Hon. Denis Benjamin Viger, the agent of this province in England, with the said Daniel O'Connell and Joseph Hume, Esqrs. and with such other members of the House of Lords or of the House of Commons, and such other persons in the United Kingdom of Great Britain and Ireland as they may deem expedient, for the purpose of supporting the claims of the people of this province and of this House; of furnishing such information, documents, and opinions as they may think adapted to make known the state, wishes, and wants of the province: the said committees also to correspond with such persons as they shall think proper in the other British colonies, which are all interested, that the most populous of their sister colonies do not sink under the violent attempt to perpetuate the abuses and evils which result as well from the vices of its constitution as from the combined malversation of the administrative, legislative, and judicial departments, out of which have sprung insult and oppression for the people, and, by a necessary consequence, hatred and contempt, on their part, for the provincial government.

90. Resolved, That the Honourable Denis Benjamin Viger be requested to remain at the seat of his Majesty's government, at least during the present session of the

Imperial Parliament, to continue to watch over the interests of the province with the same zeal and the same devotedness as heretofore, without suffering himself to be discouraged by mere formal objections on the part of those who are unwilling to listen to the complaints of the country.

91. Resolved, That the fair and reasonable expenses of the said two committees of correspondence, incurred by them in the performance of the duties entrusted to them by this House, are a debt which it contracts towards them ; and that the representatives of the people are bound in honour to use all constitutional means to reimburse such expenses to the said committee, or to such person as may advance money to them for the purposes above-mentioned.

92. Resolved, That the message from his excellency the governor-in-chief, received on the 13th of January last, and relating to the writ of election for the county of Montreal, with the extract from a despatch which accompanied it, the message from the same, received the same day, and relating to the supply bill, and the message from the same, received on the 14th January last, with the extract from the despatch which accompanied it, be expunged from the journals of this House.

These resolutions, and the memorial accompanying them, were referred to a committee composed, like the last, chiefly of liberal members, and containing several persons whose opinions were well known to be favourable to their cause The Canadian delegate, Mr.

Morin,\* was heard at great length, and I must refer you to the testimony given by him as a proof how all the vague assertions contained in their petition and resolutions vanished, when they were subjected to a critical and close examination. There are few instances on record in which a witness was so skilfully examined, or where a clever man, as he undoubtedly is, was brought to refute himself so completely as he has done. After a patient hearing of all he could say, the committee reported (June 1834) as follows:—

“ That the most earnest anxiety had existed, on the part of the home government, to carry into effect the suggestions of the committee of 1828; and that the endeavours of the government to that end had been unremitting, and guided by the desire, in all cases, to promote the interest of the colony; and that in several important particulars their endeavours had been completely successful; that in others, however, they had not been attended with that success which might have been anticipated, heats and animosities and differences having arisen; that it appeared to the committee some mutual mis-

\* See the evidence taken before the committee, and published by order of Parliament.

conception had prevailed ; and that they believed they should best discharge their duty by withholding any further opinion on the points in dispute ; and were persuaded the practical measures for the future administration of Lower Canada might best be left to the mature consideration of the government responsible for their adoption and execution.”

## LETTER VIII.

SHORTLY afterwards the whole of the proceedings of government, since the year 1828 to the present period, were detailed in a very able and lucid statement of my Lord Aberdeen, in which he claims for himself and colleagues the credit of a full and faithful compliance with the recommendations of the Canada committee, as far as the powers of the executive permitted them to do so. I have, therefore, abstained from entering into the particulars myself, and prefer giving this narrative to compiling one of my own. It is not only infinitely better done than I could hope to do it, but it is desirable, in such cases, to draw one's information from the most authentic sources. I am neither the advocate nor the panegyrist of any of these administrations—what my opinion of their policy may be is of little consequence; but even if it were much more favourable than it happens to be, I should refrain from expressing it, for I have yet to learn how a poor man can eulogise the character of those who are in power, and yet sustain the reputation of his own



sincerity. With the wisdom of their measures I have nothing to do at present ; my object is to show there has been no oppression, and that, whatever imputation these proceedings deserve, they are at least exempted from that of unkindness. I must therefore request a careful perusal of the following document :—

“ In the following pages Lord Aberdeen will attempt to show that there was sufficient reason to anticipate the entire conciliation of Lower Canada from the accomplishment of the resolutions of the Canada committee, and that, to the utmost of the power of the Crown, those resolutions were, in fact, carried into execution.

“ The appointment of the Canada committee of 1828 was, on every account, an important proceeding. The redress of grievances had been demanded, not by an isolated party, but by both of those great bodies which divide between them the wealth and political authority of the province. With views essentially dissimilar, or rather hostile, they had concurred in an appeal to the metropolitan government.

“ By each body of petitioners were deputed agents authorized to interpret their wishes, and to enforce their claims. The committee itself

was certainly not composed of gentlemen unfavourable to the views of the great numerical majority of the House of Assembly. They prosecuted the enquiry with great diligence and zeal. They examined the agents of both parties, and every other person capable of throwing light on the subject referred to them. None of the questions brought under their notice, either by the petitioners or by the witnesses, was unexplored ; and, in the result, a report was made, in which, with an explanation of every known or supposed grievance, were combined suggestions for the guidance of the executive government in applying the appropriate remedies.

“ The House of Assembly in Lower Canada, in their answer to the address with which the administrator of the government opened the session of the Provincial Parliament in the winter of 1828, characterized this report in terms which may be transcribed as expressing, on the highest local authority, the claims of that document to respect, as affording a guide at once to the Canadian Assembly, and to the ministers of the Crown, of the rights to be asserted by the one, and conceded by the other. ‘ The charges and well-founded complaints,’

observed the House, ' of the Canadians before that august senate, were referred to a committee of the House of Commons, indicated by the colonial minister: that committee exhibiting a striking combination of talent and patriotism, uniting a general knowledge of public and constitutional law to a particular acquaintance with the state of both the Canadas, formally applauded almost all the reforms which the Canadian people and their representatives demanded and still demand. After a solemn investigation, after deep and prolonged deliberation, the committee made a report, an imperishable monument of their justice and profound wisdom, an authentic testimonial of the reality of our grievances, and of the justice of our complaints, faithfully interpreting our wishes and our wants. Through this report, so honourable to its authors, his Majesty's government has become better than ever acquainted with the true situation of this province, and can better than ever remedy existing grievances and obviate difficulties for the future.' Language more comprehensive or emphatic could not have been found, in which to record the acceptance by the House of Assembly, of the report of 1828, as the basis on

which they were content to proceed for the adjustment of all differences. The questions in debate became thenceforth, by the common consent of both parties, reducible to the simple enquiry whether the British government had, to the fullest extent of their lawful authority, faithfully carried the recommendations of the committee of 1828 into execution.

“ On a review of all the subsequent correspondence, Lord Aberdeen finds himself entitled to state that, in conformity with the express injunctions, and the paternal wishes of the King, his Majesty’s confidential advisers have carried into complete effect every suggestion offered for their guidance by the committee of the House of Commons.

“ It is necessary to verify this statement by a careful and minute comparison between the advice received, and the measures adopted. To avoid the possibility of error, the successive recommendations of the committee of 1828 shall be transcribed at length, with no other deviation than that of changing the order in which the topics are successively arranged in their report, an order dictated by considerations of an accidental and temporary nature, but otherwise inconvenient, as postponing many of the

weightier topics to some of comparatively light importance.

“ First, then, the report of 1828 contains the following advice of the Canada committee on the subject of finance—‘ Although from the opinion given by the law officers of the Crown your committee must conclude that the legal right of appropriating the revenues arising from the act of 1774 is vested in the Crown, they are prepared to say that the real interests of the provinces would be best promoted by placing the receipt and expenditure of the whole public revenue under the superintendence and control of the House of Assembly.’ ‘ If the officers above enumerated are placed on the footing recommended,’ (that is, in a state of pecuniary independence on the Assembly), ‘ your committee are of opinion that all the revenues of the province, except the territorial and hereditary revenues, should be placed under the control and direction of the Legislative Assembly.’

“ The strict legal right of the Crown to appropriate the proceeds of the statute 14 G. III., c. 88, being thus directly maintained, the renunciation of that right was recommended, on condition that ‘ the governor, the

members of the Executive Council, and the judges, should be made independent of the annual votes of the House of Assembly for their respective salaries.' What then has been the result? His Majesty has renounced these his acknowledged legal rights, but has not stipulated for the performance, on the part of the Assembly, of the condition thus imposed upon them, and, to the present moment, that condition remains unfulfilled. By the British statute 1 & 2 W. IV., c. 73, which was introduced into Parliament by his Majesty's then confidential advisers, the appropriation of the revenues of the 14 G. III. is transferred to the Assembly absolutely, and without either that qualification which the committee proposed, or any other. Here, then, it cannot be denied that their advice has been followed, not only with implicit deference, but in a spirit of concession which they did not contemplate.

“ Secondly. On the subject of the representation of the people in Lower Canada, the opinion of the committee was expressed in the following terms:—‘ Your committee are now desirous of adverting to the representative system of Lower Canada, with respect to which, all parties seem to agree that some

change should take place.' After detailing the various causes which had led to an inequality in the number of the members of the Assembly in favour of the French inhabitants of the seigniories, and therefore to the prejudice of the inhabitants of English origin in the townships, the committee passed from the subject with the following general remark. " In providing a representative system for the inhabitants of a country which is gradually comprehending within its limits newly peopled and extensive districts, great imperfections must necessarily arise from proceeding in the first instance on the basis of population only. In Upper Canada, a representative system has been founded on the compound basis of territory and population. This principle, we think, might be advantageously adopted in Lower Canada.'

" It was with the entire concurrence of his Majesty's government, that the legislature of Lower Canada assumed to themselves the duty of giving effect to this part of the advice of the committee. That report had laid down the general principle that, with one exception, ' all changes, if possible, be carried into effect by the local legislature themselves ;' and to

that principle the ministers of the Crown adhered, even in a case where the dominant majority of the Assembly had an interest directly opposed to that of the great body of English inhabitants, for whose special relief the new representation bill was to be enacted. Such a bill was accordingly passed, and was reserved for the signification of his Majesty's pleasure. It actually received the royal assent, and is, at this day, the law of the province.

“ In this case, also, the concessions made to the Canadian inhabitants of French origin were far greater than the authors of the report of 1828 could have had in contemplation. The Upper Canadian principle of combining territory and population, as the basis of elective franchise, was *not* adopted in Lower Canada: the Assembly substituted for it a new division of the country, of which the effect has been to increase rather than to diminish the disproportion between the number of members returned by the English and those representing the French Canadian interest. This result of the bill was distinctly foreseen by the official advisers of the Crown, and it became the subject of grave deliberation whether his Majesty should be advised to acquiesce in a



scheme which followed the advice of the Canada committee, so far indeed as to effect a material change in the representative body, and so far as to give to the English settlers a few more voices in the Assembly, but not so far as to secure to them any additional weight in the deliberations of that House. It is not within the object of this minute to defend or to explain the motives of the ultimate decision in favour of the bill. For the present purpose it is enough to say, that the acceptance of it gave to the Canadians of French origin far more than the report of 1828 authorised them to expect.

“ Thirdly. Inferior only in importance to the topics already noticed, is that of the independence of the judges, respecting which the following passage may be extracted from the report of 1828 :—‘ On the other hand, your committee, while recommending such a concession on the part of the Crown,’ (the concession, that is, of the revenue), ‘ are strongly impressed with the advantage of rendering the judges independent of the annual votes of the House of Assembly for their respective salaries. Your committee are fully aware of the objections in principle, which may be

fairly raised against the practice of voting permanent salaries to the judges who are removable at the pleasure of the Crown; but being convinced that it would be inexpedient that the Crown should be deprived of the power of removal, and having well considered the public inconvenience which might result from their being left in dependence on the annual vote of the Assembly, they have decided to make the recommendation, in their instance, of a permanent vote of salary.'

“ Thus the Canada committee of 1828 were of opinion that the judges ought to be independent of the Assembly for their incomes, but ought to continue liable to removal from office at the pleasure of the Crown. Yet so far have the British government been from meting out relief to the province grudgingly, or in any narrow spirit, that they have left nothing unattempted which could secure to the judges, not merely that pecuniary independence which the committee advised, but that independant tenure of office also, which their report expressly dissuaded. In the adjacent province of Upper Canada, both objects have been happily accomplished. In his despatch of the 8th February 1831, No. XXII., the Earl of Ripon

explained to Lord Aylmer the course of proceeding which had been adopted for asserting the independence of the judges in this kingdom, and signified to the governor his Majesty's commands to avail himself of the earliest opportunity for proposing to the Legislative Council and Assembly of Lower Canada, the enactment of a bill declaring that the commissions of all the judges of the supreme courts should be granted to endure their good behaviour, and not during the royal pleasure; and Lord Aylmer was further instructed, in the name and on the behalf of his Majesty, to assent to a bill for carrying that object into effect. Lord Ripon, however, declared it to be, of course, an essential condition of this arrangement, that 'an adequate and permanent provision should be made for the judges.' It remains to state the result. A bill was passed by the House of Assembly, by which, indeed, the tenure of the judicial office was made to depend on the good behaviour of the judges, and by which a provision, adequate in amount, was made for them. But that provision was so granted as to be liable to be diminished or taken away by the annual votes of the House of Assembly. To this measure, so popular in its

general character or pretensions, were also 'tacked' (to adopt the usual parliamentary phrase) clauses by which a right to dispose of the territorial revenue of the Crown was asserted, and by which all the public officers in the colony—the governor himself not being expressly excepted—were made amenable to a tribunal, to be constituted for the trial of all impeachments preferred by the representatives of the people. Such was the return made to an act of grace, which the Canada committee themselves had expressly dissuaded. To have acquiesced in it would have involved a sacrifice of whatever is due to the dignity of the King, and to the liberties of his Majesty's subjects. His Majesty's assent was, therefore, withholden, though not without the expression of the deepest regret, and the most distinct offer to assent to any other bill for establishing the independence of the judges which should be exempt from such objections. The House of Assembly, however, have never since tendered an act of that nature for the acceptance of his Majesty, or of his Majesty's representative in the province.

“ Fourthly. The next topic is that of the composition of the Legislative and Executive

Councils, respecting which the following suggestions occur in the report of 1828:— ‘ One’ (it is said) ‘ of the most important subjects to which their inquiries have been directed, has been the state of the Legislative Councils in both the Canadas, and the manner in which these Assemblies have answered the purposes for which they were instituted. Your committee strongly recommend that a more independent character should be given to these bodies; that the majority of their members should not consist of persons holding offices at the pleasure of the Crown; and that any other measures that may tend to connect more intimately this branch of the constitution with the interest of the colonies, would be attended with the greatest advantage. With respect to the judges, with the exception only of the chief justice, whose presence on particular occasions might be necessary, your committee entertain no doubt that they had better not be involved in the political business of the House. Upon similar grounds, it appears to your committee that it is not desirable that judges should hold seats in the Executive Council.’

“ With what scrupulous exactness these recommendations have been followed, will now

be shewn. With respect to the judges, Lord Ripon, in the despatch of the 8th of February, already quoted, conveyed to Lord Aylmer his Majesty's commands to signify to the Legislative Council and Assembly his Majesty's settled purpose to nominate, on no future occasion, any judge as a member, either of the Executive or of the Legislative Council of the province. It was added, that the single exception to that general rule would be, that the chief justice of Quebec would be a member of the Legislative Council, in order that the members of that body might have the benefit of his assistance in framing laws of a general and permanent character. But his Majesty declared his purpose to recommend, even to that high officer, a cautious abstinence from all proceedings, by which he might be involved in any political contentions of a party nature.

“It was not in the power of the King's government to remove from the Legislative Council any of the judges who had already been appointed to be members of that body ; because the terms of the constitutional act secure to them the enjoyment of their seats for life. But in a private despatch of the same date, the four gentlemen who had at that time combined the

judicial character with seats in the Council, were earnestly exhorted to resign their places as councillors, and were assured that nothing should be wanting to rescue them from any possibility of misconstruction, as to the motives by which that advice had been dictated or obeyed. In point of fact, it was not accepted: but the judges unanimously agreed to withdraw from all active interference in the business of the Council, and have never since attended its sittings. The chief justice indeed, as was recommended by the Canada committee, forms the single exception; but even that gentleman, as far as the information of this office extends, has confined his interference within the limits prescribed to him by the committee and by the Earl of Ripon.

“The principles laid down by the committee of 1828, for regulating the composition of the Legislative Council, have been not less strictly pursued in every other respect. Since the date of their report, eighteen new members have been appointed. Of that number, there is not one who holds any office or place of emolument at the pleasure of the Crown, or who is in any other manner dependent upon the favour of his Majesty, or his official advisers. Of the eighteen

new members, ten are of French origin. The total number of councillors is thirty-five, of whom only seven hold public offices. Amongst them is the Bishop of Quebec, who is, in the fullest sense of the term, independent of the Crown. The chief justice, whose dependence is altogether nominal, is another. Of the whole body of thirty-five members, there remain therefore but five over whom the executive government can, with any reason or plausibility, be said to possess any direct influence.

“It is, therefore, not without a reasonable confidence, that the words in which the committee of 1828 suggest the proper composition of the Legislative Council, may be adopted as precisely descriptive of the manner in which it is actually composed. ‘A more independent character’ has been given to that body. The ‘majority of the members’ does *not* consist of ‘persons holding office at the pleasure of the crown.’ This branch of the constitution has been connected ‘more intimately with the interests of the province,’ by the addition of a large body of independent Canadian gentlemen.

“But the case may be carried still further, and it may be shewn that, in respect to the Councils,



the efforts of Lord Aberdeen's predecessors have left behind them the advice of the Canada committee. The Executive Council has also been strengthened by the addition of three members of French origin. A seat was offered to Mr. Neilson, the most prominent of the delegates from the House of Assembly of 1828, and to M. Papineau, the Speaker of that House. It need scarcely be said that it was impossible to give a more decisive proof of the wish of the ministers of the Crown, that the composition of the Canadian Council should be acceptable to the great majority of the people.

“Fifthly. The next in order of the recommendations of that committee relates to the clergy reserves, a subject on which they employed the following language:—‘As your committee entertain no doubt that the reservation of these lands in mortmain is a serious obstacle to the improvement of the colony, they think every proper exertion should be made to place them in the hands of persons who will perform upon them the duties of settlement, and bring them gradually into cultivation.’

“Although the views of the committee were thus limited to the improvement of the clergy reserves, the government advanced to the

redress of the evil indicated in the report, by a measure, not only far more decisive, but eminently remarkable for the confidence it expressed in the provincial legislature. The constitutional act having authorised his Majesty, with the advice of the Legislative Council and Assembly, to vary or repeal any of the provisions therein made for the allotment and appropriation of lands for the support of the Protestant clergy, Lord Ripon, availing himself of that enactment, proposed that the power of repeal should be exercised by those bodies, and should be accompanied with a declaration that the reserved lands should merge in the general demesne of the Crown. The object of this proposal was to bring the reserves within the reach of the general rules, under which all the waste lands of the province are progressively sold to the highest bidder. To prevent any possible misconception of the views of his Majesty's government, the draft of a bill for the accomplishment of this design was transmitted to Lord Aylmer, with instructions to give his assent if such a law should be presented for his acceptance. To obviate the risk of offence being given, by suggesting to the House of Assembly the exact language as well

as the general scope of a measure to originate with them, Lord Aylmer was directed to proceed with the most cautious observance of the privileges of that body, and of all the constitutional forms. Anticipating the contingency of the measure being adopted in substance but with variations in the terms, Lord Ripon further stated that, in that event, the bill was not to be rejected by the Governor, but was to be specially reserved for the signification of his Majesty's pleasure.

“In obedience to these directions, the bill was introduced into the House of Assembly, but did not pass into a law. That it would have effectually removed the grievance pointed out by the Canada committee, has not been disputed; nor can the ministers of the Crown be held in any sense responsible for the continuance of an evil for which they had matured so complete a remedy. The only explanation which has ever been given of the failure of the proposal is, that the solicitor-general, Mr. Ogden, had used some expressions, whence it was inferred that his Majesty's government would reject the bill if altered in a single word. It is scarcely credible that this should be an accurate surmise of the real cause of the loss

of the Clergy Lands' Appropriation Bill. It is not to be believed that the Assembly of Lower Canada would have rejected an unobjectionable proposal for the redress of a grievance of which complaint had been long and loudly made, for no other reason than that a public officer, not of the highest rank or consideration, had used some casual expression, in which the ultimate views of his Majesty's advisers were inaccurately explained. To the governor application could have immediately been made for more authentic information ; and, in fact, the tenour of the despatch which had been received by Lord Aylmer, was perfectly well known throughout the province to every person who felt any interest in the subject. The measure has never since been revived ; and it must be therefore assumed, that the Assembly are less anxious than Lord Ripon supposed for the removal of this obstruction to agriculture and internal improvement. Be that as it may, the British government are completely absolved from the responsibility thrown upon them by this part of the report of the Canada committee.

“ Sixthly. That body, proceeding to other subjects connected with the wild lands of the province, expressed their opinion that—‘ It

might be well for the government to consider whether the Crown reserves could not be permanently alienated, subject to some fixed moderate reserved payment, either in money or in grain, as might be demanded, to arise out of the first ten or fifteen years of occupation.' They add that, 'they are not prepared to do more than offer this suggestion, which appears to them to be worthy of more consideration than it is in their power to give to it ; but that in this, or in some such mode, they are fully persuaded the lands thus reserved ought, without delay, to be permanently disposed of.'

“ In pursuance of this advice, Lord Ripon directed the sale of the Crown reserves throughout the province, as opportunity might offer, precisely in the same manner as any other part of the royal demesne. The system has undergone an entire change ; and the Crown reserves considered as distinct allotments, left in their wild state to draw a progressive-increasing value from the improvement of the vicinity, have no longer any existence.

“ Seventhly. Another abuse connected with the wild lands of Lower Canada was noticed by the committee in the following language :—  
' One of the obstacles which is said greatly to

impede the improvement of the country, is the practice of making grants of land in large masses to individuals, who had held official situations in the colony, and who had evaded the conditions of the grant by which they were bound to provide for its cultivation, and now wholly neglect it. Although powers have been lately acquired by the government to estreat those lands, and although we think that, under certain modifications, this power may be advantageously used, we are nevertheless of opinion that a system should be adopted similar to that of Upper Canada, by the levy of a small annual duty on lands remaining unimproved and unoccupied contrary to the conditions of the grant.'

“ The remedial measure of a tax on wild land, which is suggested in the preceding passage, could, of course, originate only with the representatives of the people, and the House of Assembly have not indicated any disposition to resort to that mode of taxation. To such a bill, if tendered by them, his Majesty's assent would have been cheerfully given. Yet the King's government did not omit to avail themselves of all those remedial powers with which the Crown is entrusted. It is little to say

(though it may be stated with the strictest truth), that since the date of the report, the system reprobated by the committee, of granting land in large masses to individuals, has been entirely discontinued. It is more material to add, that this change in practice is the result of a series of regulations established, on Lord Ripon's advice, in Lower Canada, and indeed throughout all the other British colonies. The system of gratuitous donations of land has been abandoned absolutely and universally; and during the last three years all such property has been disposed of by public auction to the highest bidder, at such a minimum price as to ensure the public at large against the waste of this resource by nominal or fictitious sales. This is not the occasion for vindicating the soundness of that policy, which, however, if necessary, it would not be hard to vindicate. It is sufficient for the immediate purpose of this minute to have shown, that on this, as on other topics, the ministers of the Crown did not confine themselves to a servile adherence to the mere letter of the parliamentary recommendation, but embraced and gave the fullest effect to its genuine spirit.

“ Eighthly. The committee sought to relieve the province not only from the evils of

improvident reservations and grants of wild lands, but from those incident to the tenures on which the cultivated districts are holden. The following passages on this subject appear in their report :—‘ They do not decline to offer as their opinion, that it would be advantageous, that the declaratory enactment in the Tenures’ Act, respecting lands held in free and common soccage, should be retained.’ ‘ Your committee are further of opinion that means should be found of bringing into effective operation the clause in the Tenures’ Act, which provides for the mutation of tenure : and they entertain no doubt of the inexpediency of retaining the seigneurial rights of the Crown, in the hope of deriving a profit from them. The sacrifice on the part of the Crown would be trifling, and would bear no proportion to the benefit that would result to the colony from such a concession.’ ‘ The committee cannot too strongly express their opinion, that the Canadians of French extraction should in no degree be disturbed in the peaceful enjoyment of their religion, laws, and privileges, as secured to them by the British acts of Parliament ; and so far from requiring them to hold lands on the British tenure, they think that when the lands in the seigneuries are fully



occupied, if the descendants of the original settlers shall still retain their preference to the tenure of *fief et seigneurie*, they see no objection to other portions of unoccupied lands in the province being granted to them on that tenure, provided that such lands are apart from, and not intermixed with, the townships.'

“ The British government are again entitled to claim the credit of having, to the utmost possible extent, regulated their conduct by the language, and still more by the spirit of this advice.

“ No application has been made for the creation of a new seigneurie, as indeed the period contemplated by the committee, when the seigneurial lands would be fully occupied, still seems very remote. It is almost superfluous to add, that no attempt has been made to superinduce upon those lands any of the rules of the law of England.

“ The Crown also has been prompt to bring into the most effective operation the clause of the Canada Tenures Act which provides for the mutation of tenures. But no lord or *censitaire* having hitherto invoked the exercise of the powers of the Crown, they have of necessity continued dormant. Respecting the

soccage lands, some explanation seems necessary.

“ The general principle adopted by the committee in the passage already quoted is, that the inhabitants, both of French and of British origin, should respectively be left in the enjoyment of the law regulating the tenures of their lands derived from their different ancestors, and endeared to either party, by habit, if not by national prejudices. It has already been shown that the French Canadians have enjoyed the benefit of this principle to the fullest possible extent. In the anxiety which has been felt to gratify their wishes, it may not be quite clear that equal justice has been rendered to the inhabitants of British descent. The maintenance of so much of the *Canada Tenures' Act* as rendered the soccage lands inheritable and transmissible according to English law, was most unequivocally recommended in the extracts already made from the report. The provincial legislature, however, in their session of 1829, made provision for the conveyance of such lands in a manner repugnant to this British statute. Of course his Majesty could not be advised to assent to a law which directly contravened an act of Parliament.

Such, however, was the anxiety of the King's ministers to avoid every needless cause of jealousy, that a bill (1 W. IV., c. 20) was introduced into Parliament by Lord Ripon, and passed into a law, in order to relieve his Majesty from this difficulty. The Canadian Act was then accepted. Nor was this all. Striving to multiply, to the utmost possible extent, every proof and expression of respect and confidence towards the provincial legislature, the government introduced into the British statute, which has been last mentioned, a further enactment, of which the effect was to absolve the Canadian legislature in future from every restraint laid upon them by any act of Parliament regulating the various incidents of the soccage tenure in the province. The barriers erected for the defence of the British settlers by the caution of Parliament in the years 1791 and 1826 were thus overthrown, in order that there might be the fewest possible exceptions to the principle of confiding to the Canadian legislature the regulations of the internal interests of Lower Canada. No one will deny that this unsolicited concession was made in the spirit of the most large and liberal acceptance of the advice of the Canada com-

mittee, so far at least as the views and interests of the dominant majority of the House of Assembly are concerned,

“ Ninthly. The next is the subject of the Jesuits’ estates; in reference to which the views of the committee of 1828 are expressed as follows:--‘ With respect to the estates which formerly belonged to the Jesuits, your committee lament that they have not more full information. But it appears to them to be desirable that the proceeds should be applied to the purposes of general education.’

“ Far indeed beyond the letter of this advice did the concessions made by his Majesty, on the advice of Lord Ripon, proceed. Not only were the Jesuits’ estates ‘ applied to the purposes of general education,’ but the provincial legislature were authorised to determine what specific purposes of that kind should be preferred, and the proceeds of the estates were placed for that purpose unreservedly under their control. No suggestion has been made impeaching the fulness of this concession, except as far as respects certain buildings occupied for half a century past as barracks. Even if a rent should be payable by the Crown for the use of those barracks (the

single question admitting of debate,) it would be idle, on that ground, to deny either the importance of the concession made, or the almost unbounded confidence in the House of Assembly, perceptible in the form and manner in which the Crown renounced to them, not merely a proprietary right, but even an administrative function.

“Tenthly. To the positive recommendations which have already been considered, succeeds another, of which the end is rather to dissuade than to advise the adoption of any specific measure. ‘The committee (it is said) are desirous of recording the principle which, in their judgment, should be applied to any alterations in the constitutions of the Canadas, which were imparted to them under the formal act of the British legislature of 1791. That principle is to limit the alterations which it may be desirable to make by any future British acts, as far as possible, to such points as, from the relation between the mother country and the Canadas, can only be disposed of by the paramount authority of the British legislature, and they are of opinion that all other changes should, if possible, be carried into effect by the local legislature themselves, in amicable communications with the local government.’

“ So rigidly has this principle been observed, that of two acts of Parliament which, since 1821, have been passed with reference to the internal concerns of the province, the common object has been so to enlarge the authority of the provincial legislature as to enable his Majesty to make, with their concurrence, laws the enactment of which they were positively incompetent. The acts in question are those already noticed, by which the revenues of Geo. III. were relinquished, and the regulation of soccage tenures was transferred to the Governor, Council, and Assembly.

“ Eleventhly. ‘ The committee ’ (again to borrow their own words) ‘ recommended, for the future, that steps should be taken by official securities, and by a regular audit of accounts, to prevent the occurrence of losses and inconveniences to the province, similar to those which had occurred in Mr. Caldwell’s case,’ and ‘ as connected with this branch of the enquiry, they recommended that precautions of the same nature should be adopted with regard to the sheriffs.’

“ In reference to these suggestions, Sir George Murray proposed to the House of Assembly, and Lord Ripon repeated the proposal, that the

public accountants should pay their balances, at very short intervals, into the hands of the commissary-general, tendering the security of the British treasury for the punctual re-payment of all such deposits. The scheme embraced a plan for a regular audit, and for the punctual demand of adequate securities. Sir James Kempt and Lord Aylmer were successively instructed to propose to the Legislative Council and Assembly the enactment of such a law. The proposal was accordingly made to the Assembly in the year 1829, and was repeated in the year 1832. On each occasion it was the pleasure of the House to pass it by in silence. That they had good reasons for their conduct, it would be unjust and indecorous to doubt. Those reasons, however, remain to this moment completely unknown to the executive government, who, having exhausted all their authority and influence in a fruitless attempt to give effect to this part of the Canada committee's recommendations, cannot, with any reason, be held responsible if they still have failed to produce the advantage contemplated to the province at large.\*

\* The executive government have not, however, abstained from such measures as were within their own power. They have esta-

“ Twelfthly. A further recommendation of the committee is conveyed in the report in the following terms: ‘ Your committee also beg leave to call the particular attention of the government to the mode in which juries are composed in the Canadas, with a view to remedy any defects that may be found to exist in the present system.’

“ Here, again, the government pressed upon the House of Assembly the importance of giving effect to the views of the committee; and, in fact, a law has received the royal assent, having for its object the improvement of the jury system—an object which has been pursued by those methods which the House of Assembly themselves devised or adopted.

“ Thirteenthly. The report proceeds to recommend, ‘ that the prayer of the Lower Canadians for permission to appoint an agent, in the same

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blished a fire-proof vault, with three keys, held by three separate officers of high rank, all of whom must be present whenever it is opened; and they have provided that the receiver-general shall not hold in his hands any balance exceeding £10,000 without depositing it in this vault; and that once at least in every year the contents of the vault shall be inspected, or reported on, by five persons named by the governor for the purpose. They have also taken security from the receiver-general to the extent of £10,000, with two sufficient sureties, and have required him to render statements of his accounts on the 1st January, 1st April, 1st July, and 1st October, in every year.



manner as agents are appointed by other colonies which possess local legislatures, should be granted."

" His Majesty's government have accordingly repeatedly authorized the governor to assent to any bill which might be passed for that purpose. No such bill has, however, been presented for Lord Aylmer's acceptance. The Assembly, in opposition to the advice of the committee, that the habits of other colonies should be followed as a precedent, have chosen to nominate, by resolutions of that House alone, gentlemen deputed to represent them in this kingdom, but who have not, as in other colonies possessing Legislative Assemblies, been appointed by an act of the entire legislature.

" Fourteenthly. Upon the most careful perusal of the report of 1828, no other recommendations can be found addressed to the King's government, although the committee, addressing themselves in that instance rather to the local legislature, have advised that mortgages should be special, and that in proceedings for the conveyance of lands, the simplest and least expensive forms of conveyance should be adopted, upon the principles of the law of England ; that form which prevails in Upper

Canada, being probably, under all circumstances, the best which could be selected; and that the registration of deeds relating to soccage lands, should be established as in Upper Canada. 'In addition,' it is added, 'to these recommendations, it appears to be desirable that some competent jurisdiction should be established, to try and decide causes arising out of this description of property,' (that is the soccage lands), 'and that circuit courts should be instituted within the townships for the same purposes.'

"In these passages the design of the committee was to administer to the relief of the settlers of English origin, and their claims were pressed by Sir George Murray on the attention of the Assembly. Some advance has been accordingly made towards the establishment of a registry of deeds, and of local courts in the townships. Respecting the law of mortgages, and the forms of conveyancing, it does not appear that the Assembly have hitherto interposed for the relief of that part of the constituent body.

"Concluding at this point the comparison between the advice tendered to the government, and the measures adopted in pursuance

of it, it may be confidently asserted, that the general statement made at the commencement of this minute has been substantiated. To the utmost limit of their constitutional power and legitimate influence successive administrations have earnestly and successively laboured to carry the report of 1828 into complete effect in all its parts. It has already been shewn with how cordial an acquiescence that report was received by the House of Assembly, with what liberal eulogies the talent, the patriotism, the knowledge, and intimate acquaintance with Canadian affairs, of its authors, were commended; how that document was hailed as the faithful interpretation of the wishes and wants of the Canadian people; and how the British government were called upon by the House of Assembly to look to that report as their guide in remedying existing grievances, and obviating difficulties for the future. That this guide should have been studiously followed, that its suggestions should have been invariably construed and enforced, with no servile adherence to the letter, but in the most liberal acceptance of its prevailing spirit, and yet that such efforts should have been unavailing to produce the expected conciliation, may

well justify the deepest regret and disappointment.

(Signed) " ABERDEEN."

The perusal of this triumphant document naturally suggests two reflections ; first, that the faithful execution of the recommendations of the committee is much more entitled to our approbation than the recommendations themselves ; and, secondly, that the Canadian Assembly were not to be satisfied with any concession whatever, short of independence.

## LETTER IX.

As the memorials addressed to government by the English and French parties were at variance in every material point, a commission of enquiry, of which the governor, Lord Gosford, was head, was sent out to Canada in 1835. Whether this commission was necessary or not, is a matter with which I have nothing to do ; I merely mention the fact as illustrative of the earnest desire that existed to compose these unfortunate difficulties, and to ascertain on the spot how much of concession could be made, consistently with retaining the sovereignty of the country. The commissioners were told “ Your investigations will have for their common object the advancement of the welfare and prosperity of Lower Canada by all methods compatible with the integrity of the empire, and with the authority of the King as supreme in all parts of the British dominions.

“ You will ever bear in mind that you are sent on a mission of peace and conciliation. You will therefore proceed in a spirit not of distrust, but of confidence ; remembering that much of your success will depend, not only on

the zeal, ability, and fairness of your enquiries, but also on your perfect separation from all local and party disputes, and on the unquestionable frankness and impartiality of your general conduct.

“ You will observe, that the legislature of Lower Canada must ultimately be the instrument through which any benefits resulting from your mission must, to a very great extent, be accomplished. His Majesty disclaims the intention of provoking any unnecessary parliamentary interference in the internal affairs of the province. To mediate between adverse parties, with an entire respect for the constitutional rights common to them all, is the high office appropriate to his royal station, and this function the King, aided by your enquiries and advice, is anxious on the present occasion to perform.”

The governor was told by Lord Glenelg, “ your lordship therefore proceeds to Canada to advocate no British interest, and to secure no selfish ends. To maintain the peace and integrity of the empire, and to mediate between contending parties, by whom those blessings have been endangered, is the high and honourable trust confided to you.”

Every thing that was tangible in the cele-

brated ninety-two resolutions, was put into shape, and separately commented upon for his guidance.

1. It is alleged, observes his Lordship, that the patronage of his Majesty's government in Lower Canada has been exercised in such a manner as to exclude the Canadians of French descent, not only from the larger number, but from all the more lucrative and honourable of the public employments in their native country.\*

• Had his Lordship thought proper to have entered into particulars, he might have compiled the following table, to show how utterly false this accusation was. He might also have stated that the appointments contained in this table were made under every possible disadvantage, in consequence of the avowed hostility of the French to the government and institutions of the English, and also from the extreme difficulty of finding persons among them competent to discharge the duties assigned to them, and might have illustrated the last assertion by reference to the fact *that out of two grand juries at this time at Montreal, only one person was found that could write his name.* Of the last seven hundred and thirty-eight appointments the proportion stood thus—

Of French origin . . . . .	557
Of British and Foreign . . . . .	181
	738
Of French origin appointed :—	
To Legislative Council . . . . .	18
To Executive Council . . . . .	5
To other offices of profit . . . . .	29 [having held in all 35 offices.
	52 persons.
Of British or Foreign appointed :—	
To the Legislative Council . . . . .	11
To the Executive . . . . .	8
To other offices . . . . .	18 [having held in all 22 offices.
	37 persons.

The abuse of patronage is said to extend still further; some persons are represented as having been preferred to offices, in performing the duties of which they are unable to communicate, except through an interpreter, with the great body of those with whom their affairs are to be transacted. Other successful candidates for office are represented as persons who have made themselves justly offensive to the House of Assembly; while, on the other hand, employments created at the instance of that house with a view to public improvements, have, it is alleged, been studiously denied to those whom the governor had reason to believe would be most acceptable to the Assembly.

It would be scarcely possible to find any terms more emphatic than those employed by the Earl of Ripon, to enjoin the utmost impartiality in the distribution of public offices in Lower Canada, without reference to national or political distinctions, or to any consideration, except that of superior capacity and fitness for the trust. I adopt my predecessor's instructions in their fullest extent; I concur with him in thinking that personal merit and skill, or knowledge, qualifying a candidate for the vacant trust, are the chief circumstances to



which the governor of the province must have regard ; and that in the distribution of offices, it is impossible to adhere with any minute exactness to the rule which the numerical proportion subsisting between the two races might afford. But your lordship will remember that between persons of equal or not very dissimilar pretensions, it may be fit that the choice should be made in such a manner as in some degree to satisfy the claims which the French inhabitants may reasonably urge to be placed in the enjoyment of an equal share of the royal favour. There are occasions also on which the increased satisfaction of the public at large with an appointment, might amply atone for some inferiority in the qualifications of the persons selected. To take the most effectual security in his Majesty's power against the recurrence of any abuse in the exercise of this part of his delegated authority in Lower Canada, the King is pleased to command that, in anticipation of any vacancies which may occur in the higher offices in that province, and especially in all judicial offices, your lordship should from time to time transmit to the Secretary of State, for his Majesty's consideration, the names of any gentlemen resident in Lower Canada, whom

you may think best qualified to perform such trusts with advantage to the public. His Majesty proposes to authorize the nomination, as opportunity may occur, of the persons so to be submitted for his choice, having regard to such representations as he may receive from your lordship, or from any other adequate authorities, respecting the competency of such persons to the public service. His Majesty is further pleased to direct that all offices in the gift of the King, of which the emolument shall amount to or exceed 200*l.* per annum, shall be granted under the public seal of the province, in pursuance of warrants to be issued by his Majesty for that purpose; and that, except when the successful candidate shall have been previously approved by his Majesty in the manner already mentioned, he should be informed that his appointment is strictly provisional, until his Majesty's pleasure could be known. The control which it is thus proposed to establish over the hitherto unlimited powers of the governor, is not designed and will not be used as a means of securing to his Majesty's confidential advisers in this kingdom any beneficial patronage whatever. I have already expressed my entire approbation of the system hitherto observed, of considering

public employments in Lower Canada as properly appropriate to the inhabitants of the province. Without giving a pledge against any deviation from that rule in any solitary case (for such pledge might in the event prove embarrassing to all parties, and prejudicial to the welfare of the province), I can yet have no difficulty in acknowledging the rule as a general maxim from which no departure should be admitted, unless on grounds so peculiar as plainly to justify the exception.

It has also been represented that in some cases the same individual is charged with numerous offices of which the duties are incompatible, either by creating a larger demand on the time of the officer than any one man is able to meet, or by placing him in situations of which the appropriate functions clash and interfere with each other. From the generality of the terms in which this complaint has been made, it has not been in my power to ascertain the extent or reality of this grievance ; but in whatever degree it may be found to exist, your lordship will understand that his Majesty expects that it should be completely remedied : that all persons occupying any such incompatible employments should be called upon to renounce such

as they cannot efficiently execute ; and that in future the general rule must be, that no person should be entrusted with any office of which he cannot discharge the proper duties with due punctuality and method in his own person.

2. Complaint is made of an unjust partiality in favour of the use of the English language in all official acts. The foundation of this complaint appears to be, that thirteen years ago a bill for the union of the two Canadas was brought into Parliament by the then government, which, had it passed into a law, would have made English the single official language of both. I have no motive for defending a scheme which was rejected by the House of Commons. A case is also said to have occurred at the distance of about eleven years since, in which the judges refused to entertain an action, because some part of the proceedings had been written in the French language. This is admitted to be an isolated case ; and it is acknowledged that neither in the courts of law nor in the legislature is any preference of one language over the other really shewn. I therefore do not find any grievance on this subject susceptible of a remedy ; nor is it in my power to strengthen the injunctions of Lord Ripon, on

the impropriety of any such preference of the English over the French tongue. As, however, the complaint has been again urged by the House of Assembly, your lordship will take the earliest opportunity of assuring them, that his Majesty disapproves, and is desirous to discourage and prevent to the utmost of his power, the adoption of any practice which would deprive either class of his subjects of the use in their official acts of that tongue with which early habits and education may have rendered them most familiar. Your lordship will signify your willingness to assent to any law which may give, both to the French and the English inhabitants, the most ample security against any such prejudice.

3. Reference has been made to certain rules of court made by the judges, of which the earliest have been in force for thirty-four years, and the latest for nineteen; and which are said to be illegal; and even to amount to a violation of the faith of treaties, and of the pledges of the King and Parliament. It is admitted, that until the year 1834, those rules had been followed, without any complaint having been preferred to his Majesty's government: I can, indeed, undertake to say, that until the fact

was stated in evidence before the Canada committee of last year, the existence of such rules was altogether unknown in this country. Here, as on so many other topics, I am compelled to revert to the instructions of the Earl of Ripon, and to instruct your lordship to renew the proposal which he authorized Lord Aylmer to make to the provincial legislature, that a commission should be appointed to revise any rules of court made by the judges; and that on the report of such a commission, all such rules as are either contrary to law or inexpedient should be revoked. I am not less solicitous than my predecessor, that such an inquiry should be made to embrace all the practice and proceedings of the superior tribunals, with a view to rendering them more prompt and methodical, and less expensive. If the House of Assembly should think that these objects can be better effected by any other method than that of a commission of inquiry, you will concur with them in carrying it into effect.

4. It is said that exorbitant fees have been exacted in some public offices. I have met with no proof or illustration of this statement. You will, however, acquaint the House of Assembly that his Majesty will be happy to

concur with them in the revision of the fees of every office in the province without exception, and in the appointment, should they think it expedient, of a commission of inquiry for the purpose. His Majesty has no wish on the subject, but that the remuneration of all public officers, from the highest to the lowest, should be so regulated as to provide for the efficient discharge of the public service; an object which cannot be secured without a fair remuneration to the persons employed by the public.

5. A complaint is made of the practice of calling upon the judges for extra-judicial opinions on public questions. Here again I know not how to reduce the general statement to any specific form; I can therefore advance no further than to lay down, for your lordship's guidance, the general rule, that you do not call upon the judges for their opinion on any question which, by the most remote possibility, may subsequently come before them for decision. I should scarcely hesitate to interdict the practice of consulting them, altogether and without a solitary exception, if I did not remember that there are public contingencies in which the King would, for the common good of his subjects, be bound to take counsel with

his judges. Such cases, however, will be exceedingly infrequent, and will arise only upon some of those great emergencies for which it is scarcely possible, or even desirable, that any definite provision should be made beforehand. To protect the independent exercise of the judicial office, not only against just censure, but even against the breath of suspicion, will be amongst your constant studies and most anxious endeavours.

6. Complaint is made of the interference of the government and the Legislative Council in the election of members of the Assembly. With this general charge, I can deal only in terms equally general. If any such practice prevailed, of which however there is no proof before me, your lordship will avoid with the utmost care every approach to it. I acknowledge, without any reserve or limitation, the duty of the executive government of Lower Canada to abstain altogether from interference, direct or indirect, in the choice of the representatives of the people; such an encroachment on the principles of the constitution would be unattended even with a plausible prospect of temporary advantage. I earnestly hope that the Assembly were misinformed as to the existence of any



such practices ; for I am well convinced, that it is by very different methods that the legitimate authority and influence of the King's government in Canada is to be maintained.

7. I have read, not without deep concern, the language in which the House of Assembly have spoken, in their ninety-two resolutions, of the conduct of the troops during the elections at Montreal : it is described as a sanguinary execution of the citizens by the soldiery. Anxious as I am to conciliate, by all just concessions, the favourable regard of the House, I am bound, by the strict obligations of justice to the British army, to protest against the application of such language to any part of a body, not less distinguished by their humanity and discipline, than by their gallantry. The House had appointed a committee to inquire into those proceedings, and had not received the report of the committee when they proceeded to pronounce this censure on the conduct of his Majesty's troops. The officers had been indicted before a grand jury of the country, and the bills had been thrown out for want of evidence. In assuming to themselves the power to inquire, the Assembly exercised their legitimate privilege : in passing a sentence of condemnation

pending that inquiry, and in direct opposition to the finding of the proper legal tribunal, they exceeded their proper authority, and acted in opposition to the parliamentary usages of this country. Nor can I receive such an unauthorized expression of opinion with that deference which it is my duty and inclination to show for every judgment of the House, falling within the appropriate sphere of their deliberation.

8. The Assembly further complain that there is no method by which legal demands against the government can be enforced in the province. In the absence of any distinct proof or illustration of the fact, I can only express his Majesty's desire that effectual means may be taken for remedying this alleged defect in the law.

9. The too frequent reservation of bills for the signification of his Majesty's pleasure, and the delay in communicating the King's decision upon them, is a grievance of which my inquiries lead me to believe the reality. Your lordship will understand that the power of reserving bills, granted by the Constitutional Act of 1791, is an extreme right, to be employed not without much caution, nor except on some evident necessity. You will also have the goodness to remember the indispensable necessity of trans-

mitting, with the least possible delay, the transcript of every law of which the operation is suspended, for the signification of the royal pleasure; and of accompanying every such transcript with such full and minute explanations as may be necessary for rendering the scope and policy of them perfectly intelligible, and for explaining the motives by which your lordship may have been influenced in declining to give your decision in the first instance. You will pledge his Majesty's government in this country to the most prompt and respectful attention to every question of this nature which may be brought under their notice.

10. My predecessors in office are charged with having, on various occasions, neglected to convey to the House his Majesty's answers to the addresses presented to him by that body. Whether this statement could be verified by a careful examination of any particular cases, I am unable to state with certainty; nor on such a subject is it fit to make a conjectural statement. Your lordship will, however, assure the House, that his Majesty has been pleased to command, in the most unqualified terms, that every communication that either branch of the provincial legislature may see fit to make to

him, be laid before his Majesty immediately on its arrival in this kingdom, and that his Majesty's answer be conveyed to the province with the utmost possible despatch. The King cannot, however, forget that the delay which may occasionally have taken place in making known in the province his Majesty's decision upon reserved bills, or upon addresses from either House of General Assembly, may in some instances have been either occasioned or prolonged by circumstances which no promptitude or zeal in his Majesty's service could have obviated ; as, for example, the rigour of the Canadian climate obstructing, during a certain period of the year, the direct approach to Quebec and Montreal, and the imperfect nature of the internal communications through his Majesty's dominions in North America.

11. Much complaint is made of the refusal of information, for which the House of Assembly have at different times applied to the governor of the province. After a careful examination of the proceedings of the latest session in which any such applications were made, I have not been able to avoid the conclusion that there is just ground for the complaint. I do not perceive that any advantage would arise from

entering in this place into a very exact survey of the communications between the House and the governor respecting the production of papers. It is more useful, with a view to the future, to state the general principle by which your lordship will be guided. I think, then, that the correspondence between your lordship and the Secretary of State cannot be considered as forming part of those documents of which the Assembly are entitled to demand, as a matter of course, the unreserved and universal inspection or perusal. In the official intercourse between his Majesty and his Majesty's representative in the province, conducted as such intercourse necessarily is, through the intervention of the ministers of the Crown, much confidential communication must necessarily occur. Many questions require to be debated copiously, and in all the various lights in which they may present themselves to the governor or to the Secretary of State: and in such a correspondence it is necessary to anticipate emergencies which eventually do not occur, to reason upon hypothetical statements, and even to advert to the conduct and qualifications for particular employments of particular individuals. It would be plainly impossible to conduct any public

affairs of this nature, except on such terms of free and unrestrained intercourse. It is no less plainly impossible to give general publicity to such communications, without needless injury to the feelings of various persons, and constant impediment to the public service. A rule which should entitle a popular assembly to call for and make public all the despatches passing between the King's government and his Majesty's local representative, would so obstruct the administration of public affairs, as to produce mischiefs far outweighing the utmost possible advantage of the practice.

In the same manner, there will occasionally be communications, in their own nature confidential, between the governor and many of his subordinate officers, which should also be protected from general publicity.

But though I think it right to make this general reservation against the unlimited production of all public documents, I am ready to acknowledge that the restriction itself may admit and even require many exceptions; and that in the exercise of a careful discretion, the governor, as often as he shall judge it conducive to the general good of the province, may communicate to either branch of the legislature any

part of his official correspondence, such only excepted as may have been expressly declared or manifestly designed, by the Secretary of State, to be confidential.

But I am not aware of any other document connected with the public affairs of the province, the concealment of which from the Assembly would be really useful or justifiable: especially whatever relates to the revenue and expenditure in all their branches, or to the statistics of the province, should be at once and cheerfully communicated to them. For example, it will be desirable to make to the two Houses such a communication of the blue books, or annual statistical returns, which are compiled for the use of this department; and your lordship will solicit the assistance of the two houses of the local legislature, in rendering those returns as accurate and as comprehensive as possible. In short, the general rule must be that of entire freedom from reserve. The particular exception, as it arises, must be vindicated by the terms of the preceding instructions, or by some explanation sufficient to show that secrecy was demanded, not for the protection of any private interest, but for the well-being of the province at large. In every case

in which the production of any paper, in answer to any address of either house, may be refused, your lordship will immediately transmit to this office a statement of the case, with an explanation of the grounds of your decision.

12. The occupation as a barrack of the buildings which anciently were part of the Jesuits' college, is strongly reprobated by the Assembly. I can only remark that this exception from the general transfer of the Jesuits' estates to their disposal, was made and vindicated by Lord Ripon on a ground which has rather acquired a new force, than lost any of its original weight. After an occupation of those buildings for this purpose, for much more than half a century, there has accrued to the Crown a prescriptive title, of which, however, his Majesty has never sought to avail himself. The King is, on the contrary, anxious that the buildings should be restored, as promptly as possible, to their original use; nor will that measure be delayed for a single day, after other and adequate provision shall have been made for the accommodation of the troops; but it is needless to remark that his Majesty has no funds at his disposal for that purpose. The proposed transfer of all the sources of local revenue to the House of



Assembly has deprived the King of the means of providing for this or any similar service. It must rest, therefore, with the House to erect or purchase other barracks sufficiently commodious for the garrison, upon which the Board of Ordnance will immediately issue the necessary instructions for evacuating the buildings at present occupied for that purpose.

13. The lease of the Forges of St. Maurice to Mr. Bell has been made, and is now irrevocable. I do not conceal my regret, that this property was not disposed of by public auction to the highest bidder. Whatever arrangements may be hereafter settled respecting the territorial revenue, it will be necessary to prevent the granting of any crown property on lease in the same manner by private contract, and more especially when the contractor is a member of the Legislative Council.

14. Impediments are said to have been needlessly raised to the endowment of colleges by benevolent persons. I fear it is not to be denied, that some unnecessary delay in deciding upon bills reserved for his Majesty's consideration, having such endowments for their object, did occur: a delay chiefly attributable to political events and the consequent

changes of the colonial administration in this kingdom. I have no wish to withhold a frank acknowledgment of error, when really due, to the House of Assembly, because I am persuaded that in that frankness they will perceive the best assurance of the sincerity with which, on behalf of the ministers of the Crown, a pledge is given for the more prompt and exact attention hereafter to every measure which has for its object the institution in the province of any colleges or schools for the advancement of Christian knowledge or sound learning.

15. On the subject of the clergy reserves, of which complaint is still made, the arrangements proposed by Lord Ripon leave his Majesty nothing further to concede. The whole question has been referred to the decision of the provincial legislature. To obviate misconceptions, the draft of a bill for the adjustment of the claims of all parties was framed under his lordship's directions, and brought into the House of Assembly. Anticipating the possibility that his bill might undergo amendments in its progress through the two houses, materially affecting its character, Lord Ripon had instructed the governor, in that event, not to refuse his assent, but to reserve the bill for the signification of

his Majesty's pleasure. The loss of the bill is, however, ascribed to the solicitor-general having, in his place in the house, stated that no amendment would be permitted. The solicitor-general's expressions may have been misunderstood ; but if this was their purport, not only was the statement unauthorised, but directly at variance with the spirit of the instructions of the home government. I much regret the misapprehension, in whatever cause it may have originated. It may perhaps be ascribed to the fact, that Lord Aylmer did not think himself at liberty to produce to the House the Earl of Ripon's despatches on the subject. Your lordship will immediately communicate copies of them, inviting the Council and Assembly to resume the consideration of the question, upon the terms of Lord Ripon's proposal, to every part of which they may be assured of his Majesty's continued adherence.

16. Lord Aylmer's refusal to issue a writ for the election of a new member of the Assembly, upon the declaration of the house that M. Mondelet's seat had become vacant, is condemned by that body as a violation of their rights. The question has lost much, if not all, of its practical importance since the passing of

the recent law for vacating the seats of members accepting places of emolument under the Crown. Still, in justice to Lord Aylmer, I am bound to affirm the accuracy of the distinction in reference to which he appears to have acted. In cases where the vacancy of a seat may, consistently with existing usages, be notified by the House to the governor without assigning the cause, he is bound to presume that the adjudication of the House is right, and must carry it into effect by issuing a new writ. But in cases where usage requires that in the notification to the governor the cause of vacancies should be stated, then, if the cause alleged be insufficient in point of law, the governor is not at liberty to comply with the request of the House. The concurrence of the governor and the House in any measure, cannot render it legal, if it be prohibited by the law of the land. To that rule obedience is emphatically due by those to whom the constitution has assigned the high functions of legislation and of the executive government. If, therefore, Lord Aylmer rightly judged that M. Mondelet's seat had not been lawfully vacated, his lordship adhered to the strict line of duty in declining to issue the writ for which the House applied. If he entertained a serious

and honest doubt on the subject, his lordship was bound to pause until that doubt could be removed by competent judicial authority. The subsequent introduction by statute of a law for vacating seats in such cases as that of M. Mondelet's, would seem sufficiently to establish that his acceptance of office was not followed by that legal consequence.

17. I now approach the case of Sir John Caldwell. It is a subject which has uniformly excited the deepest regret of my predecessors ; and I need hardly add, that I partake largely of that feeling. His Majesty's government have offered to the province every reparation which it has been in their power to make, for the original error of allowing monies to accumulate in the hands of a public officer, without taking full securities for the faithful discharge of his trust : they have placed at the disposal of the Assembly whatever could be recovered from Sir John Caldwell, or from his sureties ; and your lordship will now, on the terms to which I have referred in my accompanying despatch, be authorized to surrender to the appropriation of that House, the only funds by which his Majesty could have contributed towards making good the defalcation. Every practical suggestion has

also been made to the Assembly, for preventing the recurrence of similar losses. Nothing, in short, has been left undone, or at least unattempted, to mitigate the evil which the inadequacy of the securities taken from Sir John Caldwell, and the accumulations of public money in his hands, occasioned. Perhaps the legal proceedings against his property might be carried on with greater activity and effect; and if so, your lordship will lend your aid with the utmost promptitude to that object. It is, indeed, much to be lamented, that for so many years together, on such a case as this, the law should have proved inadequate to secure for the public such property as was in the possession of the defaulter, or his securities, at the time of his insolvency.

I feel, however, that incomplete justice has hitherto been rendered to the people of Lower Canada, in Sir John Caldwell's case. That gentleman has been permitted to retain his seat at the Legislative Council, and still holds that conspicuous station. Whatever sympathy I may be disposed to feel for individual misfortune, and in whatever degree the lapse of years may have abated those feelings of just indignation which were provoked by the first intelli-

gence of so gross a breach of the public trust, I cannot in the calm and deliberate administration of justice, hesitate to conclude that it is not fitting that Sir John Caldwell should retain a seat in the legislature of Lower Canada : his continuance in that position, and his management and apparent possession of the estates which formerly belonged to him in his own right, must exhibit to the people at large an example but too justly offensive to public feeling. Your lordship will cause it to be intimated to Sir John Caldwell, that the King expects the immediate resignation of his office of legislative councillor ; and that in the event of the failure of that reasonable expectation, his Majesty will be compelled, however reluctantly, to resort to other and more painful methods of vindicating the government of the province against the reproach of indifference to a diversion of public money from its legitimate use to the private ends of the accountant.

I am not aware that there remains a single topic of complaint unnoticed, either in the preceding pages or in my accompanying instructions to your lordship and your fellow commissioners. It has been my endeavour to meet each successive topic distinctly and circumstan-

tially, neither evading any of the difficulties of the case, nor shrinking from the acknowledgment of any error which may be discovered in the administration of affairs so various and complicated. I dismiss the subject for the present, with the expression of my earnest hope that his Majesty's efforts to terminate these dissensions may be met by all parties in the spirit of corresponding frankness and good-will; assured that, in that case, his Majesty will not be disappointed in that which is the single object of his policy on this subject—the prosperity of Canada, as an integral and highly important member of the British empire.



## LETTER X.

THE arrival of the Commissioners of Inquiry in Canada put an end to all further prospect of grievances, and at once damped the hopes and awakened the anger of the disaffected. The very act of investigating the complaints which they themselves had preferred was made a subject of invective; the commission was denounced as an insult to the Assembly, whose voice alone should be heard, and whose decisions neither admitted of question by the council nor by the government. Knowing that the instructions given to the commissioners were of the most conciliatory description, that every change would be effected that they had desired, and that, by their own showing, they would be compelled to be tranquil, they promptly changed their ground, abandoned the untenable local topics, and boldly attacked the constitution. The mask was now thrown off, and republicanism openly avowed as their object. That this development was prematurely

hastened by the unexpected and immediate concession of their requests, and their object disclosed sooner than they had intended, is evident from their address to the governor, so lately as in 1831, whom it was their interest and intention to deceive. Early in that year they said to him, "It will be our earnest desire that harmony may prevail among the several branches of the legislature, that full effect may be given to the constitution as established by law, and that it may be *transmitted unimpaired to posterity.*" Now different language was held, and that there might be no mistake, Mr. Papineau said :

"The people of this province were now merely preparing themselves for a future state of political existence, which he trusted would be neither a monarchy nor an aristocracy. He hoped Providence had not in view for his country a future so dark as that it should be the means of planting royalty in America, near a country so grand as the United States. He hoped, for the future, America would give republics to Europe."

As proofs are always preferable to assertions, and as this is too important a charge to rest on the authority of an anonymous writer,

I shall adduce a few more instances where the avowal is distinct and unequivocal. In a French journal devoted to the party, published in Montreal, we find the following sentiments :

“ In examining with an attentive eye what is passing around us, it is easy to convince oneself that our country is placed in very critical circumstances, and that a revolution will perhaps be necessary to place it in a more natural and less precarious situation. A constitution to remodel, a nationality to maintain—these are the objects which at present occupy all Canadians.

“ It may be seen, according to this, that there exist two parties, of opposite interests and manners—the Canadians and the English. These first-born Frenchmen have the habits and character of such. They have inherited from their fathers a hatred to the English; who, in their turn, seeing in them the children of France, detest them. These two parties can never unite, and will not always remain tranquil; it is a bad amalgamation of interests, of manners, of language, and of religion, which sooner or later must produce a collision. It is sufficiently believed that a revolution is pos-

sible, but it is believed to be far off; as for me, I think it will not be delayed. Let them consider these words of a great writer, and they will no longer treat a revolution and a separation from the mother country as a chimera—‘The greatest misfortune for man politically,’ says he, ‘is to obey a foreign power; no humiliation, no torment of the heart, can compare to this. The subjected nation, at least if she be not protected by some extraordinary law, ought not to obey this sovereign.—We repeat it, an immediate separation from England is the only means of preserving our nationality. Some time hence, when emigration shall have made our adversaries our equals in number, more daring, and less generous, they will deprive us of our liberties, or we shall have the same fate as our unhappy countrymen the Acadians. Believe me, this is the fate reserved for us, if we do not hasten to make ourselves independent!’”

In a pamphlet written by Mr. Papineau, he says of the French :

“ It (the French party) has not, it ought not to entertain a shadow of hope that it will obtain any justice whatsoever from any of the authorities constituted as they are at present in this

country. If it would entertain the same opinion of the authorities in England that it entertains of the authorities in this country, these obstacles could easily be overcome."

He then claims the colony as belonging solely to his party :

"In consequence of the facilities afforded by the administration for the settlement of Britons within our colony, they came in shoals to our shores to push their fortunes."

"They have established a system of paper-money, based solely upon their own credit, and which our *habitans* have had the folly to receive as ready money, although it is not hard cash, current among all nations, but on the contrary, which is of no value, and, without the limits of the province, would not be received by any person."

To obstruct the arrival of emigrants as much as possible, resort was had to one of those measures so common in Canadian legislation, in which the object of the bill is at variance with its preamble. An Act was passed, 6 Will. IV., c. 13, which, under the speciously humane pretence of creating a fund to defray the expence of medical assistance to sick emigrants, and of enabling indigent persons of that description to

proceed to the place of their destination, a capitation tax was imposed, which affected emigration to Upper as well as Lower Canada; and the operation of it was such, that even an inhabitant of the former province, returning to his home by the St. Lawrence, was liable to this odious impost.

When every topic appeared to be exhausted, Mr. Rodier, a member of the Assembly, was so fortunate as to have discovered a new one, in the cholera, which he charged the English with having introduced among them. Absurd as this may seem to be, it was not without its effect, and the simple-minded credulous peasantry were induced to believe it of a people of whom they had lately heard from their leaders nothing but expressions of hatred and abuse.

“When I see,” said he “my country in mourning, and my native land presenting to my eye nothing but one vast cemetery, I ask, what has been the cause of all these disasters? and the voices of thousands of my fellow citizens respond from their tombs,—it is emigration. It is not enough to send amongst us avaricious egotists, without any other spirit of liberty than could be bestowed by a simple education of the counter, to enrich themselves at the expense of the Cana-

dians, and then endeavour to enslave them—they must also rid themselves of their beggars, and cast them by thousands on our shores—they must send us miserable beings, who after having partaken of the bread of our children, will subject them to the horrors of hunger and misery; they must do still more—they must send us, in their train, pestilence and death. If I present to you so melancholy a picture of the condition of this country, I have to encourage the hope that we may yet preserve our nationality, and avoid those future calamities, by opposing a barrier to this torrent of emigration. It is only in the House of Assembly\* we can place our hopes, and it is only in the choice the Canadians make in their elections, they can ensure the preservation of their rights and political liberties.”

Things were now rapidly drawing to a crisis. The legislature was assembled by the new governor, and addressed by him in a long and conciliatory speech, in which the evils of internal dissensions were pointedly and feelingly alluded

\* In a work published in France, for circulation in Canada, a very intelligible hint is given on this subject. “As the House of Assembly votes rewards for the destruction of wolves, it is no less urgent to devise means to prevent immigration from being a calamity for these colonies.”

to, and concessions sufficiently numerous made to have gratified the vanity and appeased the irritation of any other people than those to whom it was addressed. Among other things, they were informed, that intending to remedy the evils of persons holding a plurality of offices, he had begun with the highest, and discharged some of his executive councillors. This announcement was received in the same spirit as all others of a similar nature ; and his excellency having cancelled the commission of one gentleman, in consequence of his holding a legal appointment *under the House*, the Assembly thought that so good an example could not be followed too speedily, and immediately dismissed him from the one he retained, because he *was in the council*. A supplicant for money must learn to subdue his feelings, and he who asks for bread must be prepared to encounter insolence as well as destitution ; a dignified demeanour is but too apt to render poverty ridiculous, and a wise man generally lays it aside, to be worn on the return of happier days. The local government was in great pecuniary distress ; they were humble suitors at the portals of the House, and showed their discretion, in regarding as a mistake what was



intended as an insult. Warrants were also tendered to each branch of the legislature for their contingent expenses ; as these charges contained, on the part of the House, the salary of Mr. Roebuck and Mr. Viger, agents in England, not appointed conjointly with the council, but by simple resolutions of the House, such an appropriation without law had always been violently opposed, and the constitutionalists, fearing such a sacrifice of principle would be made, had, previously to the meeting of the legislature, made it the subject of much animadversion, and presented the governor with a resolution, “ That the claim which has recently been insisted upon by the House of Assembly, and occasionally acted upon by the Legislative Council, to obtain, by separate addresses to the governor, advances of unappropriated money, under the plea of defraying contingent expenses, but in reality embracing the payment of salaries or allowances not legally established, and more particularly as regards the pretensions of the Assembly for expenses not incurred or to be incurred for the business of the sessions of that House, is altogether unfounded in law, unsupported by parliamentary usage, and subversive of the rights and liberties of the British subject.”

Independently of the constitutional objection to the application of the public funds to the payment of persons whom the Legislative Council had not only not concurred in appointing, but to whose mission they had pointedly objected, they deeply deplored that so extraordinary a concession should be made as the payment of every demand of that body which obstinately persisted in refusing to make any vote for the support of the government. Peace, however, was deemed paramount to every other consideration, and that nothing might be left undone to attain it, even this sacrifice was not considered too great.

They were now called upon, in the usual manner, to provide for the support of the judges and the officers of government, the public chest containing at the time £130,000 sterling.

The House had no sooner retired from hearing this address, than their speaker adopted his usual mode of inflaming his party by the most violent invectives against all the authorities both at home and in the colony, charging the one with deceit and hypocrisy in their words, and the other with oppression and speculation in their deeds. In a short time he brought matters to that condition he had so long desired.

The House voted an address to his Majesty, in which they announced that they had postponed the consideration of the arrears, and determined to refuse any future provision for the wants of the local administration, in order the better to insist upon the changes which they required from the imperial authorities. Their utmost concession (and they desired it might not be taken for a precedent) was to offer a supply for six months, that time being allowed to his Majesty's government and the British Parliament to decide on the fundamental alterations of the constitution and other important measures included in the demands of the Assembly.

In this bill of supply, which was for six months only, and merely passed for the purpose of throwing the odium of rejection on the other branch of the legislature, they excluded the salaries of the councillors, of their assistant clerk, one of the judges, some usual incidental charges of the civil secretary's office, besides other important salaries; and, as they had hoped, it was not concurred in. This was the first time they had left the executive without the means of conducting the government, for the sole and avowed purpose of procuring changes

in the constitution. Of the confusion and distress which this repeated refusal of the Assembly to co-operate with the other branches of the legislature produced in the province, it is difficult to convey any adequate idea.

The province was far advanced in the fourth year since there had been any appropriation of provincial funds to the use of government ; and although a sum, temporarily contributed from the British Treasury, had relieved the civil officers, so far as to give them one year's salary during that period, the third year was passing away, during which they had not had the smallest fraction of their earnings in the service of the public. The distress and embarrassment which this state of circumstances inflicted on the functionaries of the province, whose private resources are generally very limited, were as humiliating as they were unmerited. Many were living on money borrowed at an exorbitant interest ; some could not but be reduced to the verge of ruin ; and to show that this suffering of individuals was not unattended with danger to the general welfare, it may be enough to remark, without painfully dwelling on private circumstances, that the judges of the country were amongst those who were left to

provide for their subsistence as best they might, after three years' stoppage of their official incomes.

This condition of affairs might naturally have been expected to terminate with the commencement of the present session. In the two previous years the supplies had failed in the Assembly, either from differences with the governor for the time being, or from the refusal of funds for the payment of their contingent expenses; but when the provincial parliament last met, these grounds of dissension were removed. You will not perceive (the commissioners observed) amongst the grounds assigned for prolonging the financial difficulties, any complaint against the existing provincial administration, or the assertion of any demerit in the parties who continued to be deprived of their lawful remuneration. No local cause of quarrel was alleged, of which the settlement might be indispensable before the public business could proceed; on the contrary, it was stated openly and without disguise, that changes of a political nature were the end in view, and that until certain acts should be done, competent to no other authority than the Imperial Parliament, and comprising organic changes in the constitution, by

virtue of which the Assembly itself existed, that the House would never make another pecuniary grant to the government. Thus the public servants, no parties to the contest, were afflicted merely as instruments, through whose sufferings to extort concessions totally independent of their will to grant or to refuse. It is scarcely necessary to remark, that the objects, for the enforcement of which even such means as these were thought expedient, had never been positively refused, but had only been referred to the commission of inquiry, in order that, before the executive branch of the government undertook to recommend changes of a very important and extensive nature, it might receive advice from persons entrusted with the confidence of his Majesty. This, however, did not prove enough. Apprehensions of delay from the commission, and doubts of the freedom with which it would act, were expressed in the address ; and the Assembly intimated, with frankness, that it would allow of no deliberation ; that either its demands must be acceded to forthwith, or that it would employ its power over the supplies, to render the government of the country impossible.

The sufferings of these officers was a matter of undisguised satisfaction to the disaffected,

who made them the subject of much facetious comment on every occasion. The commissioners very naturally observed on this peculiarity :

“ If proof were wanting that national distinctions do exercise an influence on the course of affairs in this province, it might be supplied in the absence of all sympathy on the part of the House of Assembly in the existing distress of the public officers. Those officers of government are for the most part of English origin, which, we think, explains the treatment of the public functionaries by the members of Assembly. If both spoke the same language, used the same habits, and had those ordinary feelings of sympathy which must follow from any familiar intercourse in private life, we do not believe it possible that one of the two could find resolution to plunge indiscriminately the whole of the other class into difficulties, not for any acts of their own, not even for any obnoxious sentiments they might hold, but in order that, by their losses, a third party might be induced through compassion to surrender objects desired at its hands.”

Such, however, were the means through which they hoped to effect their object, which they now announced as follows :

1. That the Legislative Council should be elective.

2 That the executive council should be converted into a ministry, responsible to the Assembly.

3. That the Tenures' Act and Land Company's Act should be repealed.

4. That the Crown revenues should be surrendered unconditionally.

5. That the management of the waste lands should be given up to them.

And they further declared, that they would pay no arrears, or vote any civil list, until these demands should be complied with.

Here the government also made its stand, and very properly said, We shall concede no further ; these demands involve a surrender of the colony to one party within it, and we are not justified in granting them, consistently with the duty we owe to the Crown, to the public, or to the colonists of British origin.

In order that you may understand the bearings of these demands, which are now the real points in dispute (all others having been disposed of), it will be necessary for me to consider them separately ; but as I have already shewn you that " nationality," " indepen-



dence," and republicanism were their avowed ultimate objects, and also the *quo animo* in which they were demanded, you may naturally infer that they themselves considered them as materially contributing to that end, and essential to prepare the country (as Mr. Papineau described it) for a future state of political existence, which he trusted would be neither a monarchy nor an aristocracy. Indeed this has never been denied any where but in England, and here only by a party who are desirous of applying the same elective principle to the House of Lords, most probably with the view of producing a similar result.

1st. The first demand was that the Legislative Council should be elective.

The Legislative Council is contemporaneous with the House of Assembly, owing its existence to the constitutional act of 1791, and was the first instance known in the colonies of such a body having a distinct existence, separate and apart from the executive council. It consisted at first of fourteen members, and, in October 1837, of forty, eighteen of whom were French Canadians; but as there were several unable to attend from infirmities and old age, Lord Gosford reported that not more than thirty-one

could be assembled, thirteen English and eighteen French members, of whom three at most were persons holding office under government. This body has, as far as the dependant nature of a colony permits, analogous duties to perform to those of the House of Lords, and, when judiciously selected, is essential to deliberate and useful legislation, to sustain the prerogative, to uphold the connexion between the mother country and the colony, and to give security to the hundred and fifty thousand subjects of British origin in the province. This much was admitted even by the commissioners of inquiry, whose reluctant tribute appears not to have been given until ingenuity had sought in vain for a better substitute.

“ In the revision and correction of bills sent up to them by the Assembly, we have no doubt, however, that the council has often rendered valuable services to the country, and has no less fulfilled one, perhaps, of its peculiar functions, by its rejection of measures which the constitution would not admit, thereby relieving the representative of the King from the duty of withholding the royal assent to them: such as bills in which the Assembly encroached upon the royal prerogative, tacked to their grants of money conditions deemed in England unpar-

liamentary, or took it upon themselves to attempt the repeal of a British statute.”

It has been the unceasing aim of Mr. Papi-neau and his party to libel this body as a combined faction, actuated by interest alone to struggle for the support of a corrupt government, adverse to the rights and wishes of the people. One of the charges brought against it was that there were too many persons in it holding office, and that complaint was not without foundation. Indeed it was so apparent, that, from 1829 to 1835, twenty-one new councillors were appointed wholly independent of government. Another charge preferred against it was the rejection in ten years of 169 bills sent to them by the other house, as contained in the following tables :—

Y E A R.	Rejected by the Council.	Amended by Council.	TOTAL.
1822 - - -	8	0	8
1823 - - -	14	2	16
1824 - - -	12	5	17
1825 - - -	12	5	17
1826 - - -	19	8	27
1827 - - -	No Session.	No Session.	No Session.
1828 } - - -	16	8	24
1829 } - - -	16	8	24
1830 - - -	11	3	14
1831 - - -	14	8	22
1832 - - -			
<b>TOTAL -</b>	<b>122</b>	<b>47</b>	<b>169</b>

This charge has been reiterated in the other colonies, where the explanation never followed, and in some instances, from the circumstantial and formal manner in which it is made, has not been without its effect. It will be observed that they are charged with rejecting 169 instead of 122 bills, every exercise of the constitutional right of amendment being considered equivalent to rejection. Every successive year the bills which had been disagreed to were again transmitted to them, to swell by their rejection the amount of their offences. Deducting the number produced by this multiplying process, the amount of bills rejected falls under forty, which is an average of less than four a year. In addition to this formidable list which had not been concurred in, another interminable one was offered of those which had not been considered, the explanation of which I find in the words of the commissioners:—

“ Much obloquy has also, we must assert, been unjustly attempted to be thrown on the Council for the rejection of bills sent up to them late in the session, when there were no longer the means of forming a house in the Assembly to take into consideration any amendments that might be made on them.”

Instead of preferring complaints against this body for acts of omission, they might have been more successful had they rested satisfied with charging them with acts of commission; for, although they can be justified for their rejection of pernicious bills, what shall we say to their want of firmness in afterwards passing some of those very bills, under the dictation of that Assembly that was arming itself with fresh charges from these instances of its weakness? But the time had now arrived when it was alike independent of the Crown and the people, and could neither be influenced by the timid fears of the executive, nor the violence and invective of the Assembly. So long as a majority of office-holders and people connected with government had seats at the council board, the factious majority of the House could exercise a control over the Council, through the state of dependence and subjugation in which they kept the executive. Every governor had lately shewn a desire to win the honour of pacifying Canada,—had receded and conceded, offered conciliation and endured affronts, borne and foreborne, in a manner that it is quite humiliating to contemplate,—and had used his influence in the Legislative Council to aid in the

execution of instructions which, although they are justly entitled to the merit of kind intentions, have not so much claim upon our admiration on the score of their merit or their dignity. We find, indeed, the aid of the Secretary for the Colonies called in, and Mr. Stanley reproving them for even insinuating a doubt of the loyalty of these omnipotent men, and regretting that any word had been introduced which should have the appearance of ascribing to a class of his Majesty's subjects of one origin views at variance with the allegiance which they owe to his Majesty. The House had, however, by their incessant complaints, purified the board of every person upon whom this influence could be exerted. This independence of executive influence is thus alluded to by Lord Aylmer:—"It would be difficult, perhaps, to find in any British colony a legislative body more independent of the Crown than the Legislative Council of Lower Canada; *and so far am I from possessing, as the King's representative, any influence there, that I will not conceal that I have, on more than one occasion, regretted the course adopted by the Council.* But whilst I make this confession, I will not deny but I have, on the contrary, much satisfaction in avowing that I

repose great confidence in that branch of the colonial legislature. It is a confidence derived from my knowledge of the upright, independent, and honourable character of the great majority of those who compose it, and of their firm and unalterable attachment to his Majesty's person and government, and to the constitution of the colonies as by law established." The Council had actually become, what it ought to be, the representative of the independent people of the country—of the wealth, intelligence, and virtue of the colony. The Assembly, therefore, voted that it was more mischievous than ever, and resolved that it should be elective. It is but due to them here to say that this idea is not thought to have originated in Canada, but to have been communicated to them, with other equally judicious advice, from England. It is certain that it has been advocated here, if not strongly, at least warmly, and was supported in the House of Lords by Lord Brougham. From a careful perusal of what his lordship said upon the occasion, which was declamatory, and not argumentative, I am inclined to believe it received his support, not so much because he thought so, as because the ministry did not

think so, as the whole speech appears to be the effect of strongly excited feelings.

Any organic change in the Legislative Council must be well considered, before it is granted, in two distinct and separate bearings, first, as it affects the connexion with this country, and, secondly, as it affects the interests of the colonists themselves. The avowed object of the Assembly in advocating this change, is to procure an identity of views in the two branches, which would be effected by their being elected by the same persons, or what is the same thing, by the same influences. Were this to take place, it would be a duplicate of the House, registering its acts, but exercising no beneficial legislation upon them. A difference of opinion then, whenever it occurred, would not be between the two houses, but between them and the governor, and it is easy to conceive how untenable his position would soon become. At present, although possessing a veto, and forming a constituent, he can hardly be said to be a deliberative branch of the legislature, but by this change either such duties must necessarily devolve upon him, and occasion the exercise of incompatible powers, or in every instance where he differed in opinion, he would be



compelled to resort to a rejection of the measure. The commissioners, whose reasoning on the subject is not very intelligible, have been more fortunate in the expression of their impartiality, having recorded at the same time their approbation of the principle, and their conviction of the danger of its application. The object of the French party, it is said, is to assimilate their institutions to those of the United States; but the situation of the country is so different from that of any state in the union, that there is no analogy whatever. Instead of two co-existent but independent chambers, it would in fact be only one body occupying two halls.

In Canada there is unfortunately wanting among the French population, the salutary control of public opinion. The population is wholly unfit for the exercise of the important duties of self-government. Scattered over a large surface, ignorant of constitutional principles, and inattentive to public affairs, they implicitly follow a few leaders, who have the choice and the management of their representatives in their own hands, and who, if this change were conceded, would place in both houses such persons as would follow their instructions. It were needless to ask in such a

case what would become of the British population? That Mr. Papineau knows but little of the constitution of the United States which he affects to admire, and claims to imitate, will best appear from the following extracts from American constitutional writers :

“ All the powers of government,” says Mr. Jefferson, “ legislative, executive, and judiciary, result to the legislative body. The concentration of these in the same hands is precisely the definition of a despotic government. It will be no alleviation, that these powers will be exercised by a plurality of hands, and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. An elective despotism is not the government we fought for ; but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of magistracy, as that no one could transcend their legal limits without being effectually checked and restrained by the others.”

Another author says,

“ Another and most important advantage arising from this ingredient is, the great diffe-

rence which it creates in the elements of the two branches of the legislature ; which constitutes a great desideratum in every practical division of legislative power. In fact, this division (as has been already intimated) is of little or no intrinsic value, unless it is so organized, that each can operate as a real check upon undue and rash legislation. If each branch is substantially framed upon the same plan, the advantages of the division are shadowy and imaginative ; the visions and speculations of the brain, and not the waking thoughts of statesmen or patriots. It may be safely asserted, that for all the purposes of liberty, and security of stable laws, and of solid institutions, of personal rights, and of the protection of property, a single branch is quite as good as two, if their composition is the same, and their spirit and impulses the same. Each will act as the other does ; and each will be led by some common influence of ambition, or intrigue, or passion, to the same disregard of public interests, and the same indifference to the prostration of private rights. It will only be a duplication of the evils of oppression and rashness with a duplication of obstruction to effective redress. In this view the organization of the senate becomes

of inestimable value." Again he says, "The improbability of sinister combination will always be in proportion to the dissimilarity of the genius of the two bodies; and therefore every circumstance consistent with harmony in all proper measures, which points out a distinct organization of the component materials of each, is desirable."

And again this is very powerfully put by an eminent republican writer :

"The division of the legislature into two separate and independent branches, is founded on such obvious principles of good policy, and is so strongly recommended by the unequivocal language of experience, that it has obtained the general approbation of the people of this country. One great object of this separation of the legislature into two houses acting separately, and with co-ordinate powers, is to destroy the evil effects of sudden and strong excitement, and of precipitate measures, springing from passion, caprice, prejudice, personal influence, and party intrigue, and which have been found by sad experience, to exercise a potent and dangerous sway in single assemblies. A hasty decision is not so likely to arrive to the solemnities of a law when it is to be arrested in its course and made

to undergo the deliberation, and probably the jealous and critical revision, of another and a rival body of men, sitting in a different place, and under better advantages, to avoid the prepossessions and correct the errors of the other branch. The legislature of Pennsylvania and Georgia consisted originally of a single house. The instability and passion which marked their proceedings were very visible at the time, and the subject of much public animadversion : and in the subsequent reform of their constitutions, the people were so sensible of this defect, and of the inconvenience they had suffered from it, that in both states a senate was introduced. No portion of the political history of mankind is more full of instructive lessons on this subject, or contains more striking proofs of the faction, instability, and misery of states under the dominion of a single, unchecked assembly, than those of the Italian republics of the middle ages, and which in great numbers, and with dazzling but transient splendour, in the interval between the fall of the western and eastern empire of the Romans.\* They were all alike ill-

\* I would refer the reader, if he feels inclined to pursue this subject, to Sir James M'Intosh's celebrated Introductory Lecture, written in 1797 ; in which by anticipation he composed with great skill and ability the condemnation of his own conduct on the Reform Bill.

constituted, with a single unbalanced assembly. They were all alike miserable, and ended in similar disgrace.

The second demand was that the executive council should be converted into a ministry responsible to the Assembly. The existence of a council to advise the governor in the conduct of affairs may be traced back to the first establishment of a civil government in this province under the authority of Great Britain. The royal instructions to General Murray, dated 7th December 1763, commanded him to appoint a council as therein specified. The statute of the 14th of Geo. III., c. 83, established it in a more formal manner, and conferred upon it certain legislative powers ; but in 1791 the constitutional act provided for the existence of two councils, a legislative and an executive one ; and accordingly, by royal instructions, dated the 16th September of that year, the latter was appointed to consist of nine members, with a salary to each one respectively of one hundred pounds. Additional or honorary members have since been occasionally added to the board. Of the functions of the executive council the most comprehensive description is that they are bound to give their advice to the governor when-

ever it is requested.\* There are certain cases in which the governor is required to act by and with their advice, but in far the greater part of the business of government he is at liberty to receive their advice or not as he pleases. It audits public accounts, has some direction of the crown lands, and constitutes a court of appeal. It can assemble only on summons from the governor, is sworn to secrecy, and confers no privilege on its members of either recording their several opinions or entering their protests individually.

This body, it is demanded, should be converted into a ministry and be made responsible to the Assembly; the answer to this is strongly and pointedly given in the report of the commissioners:—

“ The House of Assembly, in their answer to the governor’s speech at the opening of the late session, and in their subsequent address to his Majesty, dated the 26th of February 1836, expressed their desire for a ‘ constitutional responsibility’ of the executive council, based on the practice of the United Kingdom. We have already had occasion to advert to this proposal

\* See Appendix to Report of Commissioners.

incidentally in our report of the 12th of March, but a recapitulation of what we then advanced, and some further examination of the project, may not be superfluous here, especially as the subject has excited such keen interest in Upper Canada since the time when we last noticed it. On that occasion we observed, that while in England it was a maxim of the constitution that no wrong could be imputed to the sacred person of his Majesty, the head of the executive here was a servant of his Majesty, responsible to the King and to Parliament for his conduct; that therefore it was necessary that his measures should be under his control, in like manner as their consequences rested upon his character; that to render the executive council responsible to any but the governor himself would demand the allotment to them of new powers commensurate with their new responsibility, and would require a corresponding diminution of the powers of the governor; that thus the direct tendency of a council, responsible in the sense we were then considering, was to withdraw part of the administration from his Majesty's representative in this province, and to abridge to that extent the efficiency of the functionary on whom, above all



others, his Majesty must rely for retaining the allegiance of the colony.

“ We would now remark further, that the question is not between responsibility and irresponsibility absolutely, but only as to a peculiar sort of responsibility, which it is wished to attach to the executive council. The weightiest responsibility which can attach to any man in matters of a public nature for which he is not punishable by law, or by loss of office, is the accountability to public opinion, and from this the executive councillors are not even now exempt, though, in consequence of the rule of secrecy (which we shall presently propose materially to relax), they are not so much open to it as might be wished. They are already amenable to the courts of law for any offence, legally punishable, which may be brought home to them; they would also, we apprehend, be made amenable to the jurisdiction of any court which may be established for the trial of impeachments against public functionaries; and they are liable to be dismissed by the same authority which appoints them. These different liabilities constitute a responsibility, than which we know not what other is borne by any public servants.

“ But if the councillors were rendered accountable for the acts of government, and accountable not to the executive authority by which they are appointed, but immediately to the House of Assembly, we think that a state of things would be produced incompatible with the connexion between a colony and the mother country. The council having to answer for the course of government, must in justice be allowed also to control it ; the responsibility, therefore, of the governor to his Majesty must also cease, and the very functions of governor, instead of being discharged by the person expressly nominated for that high trust, would in reality be divided among such gentlemen as from time to time might be carried into the council by the pleasure of the Assembly. The course of affairs would depend exclusively on the revolutions of party within the province. All union with the empire, through the head of the executive, would be at an end ; the country in short would be virtually independent ; and if this be the object aimed at, it ought to be put in its proper light, and argued on its proper grounds, and not disguised under the plausible demand of assimilating the constitution of these provinces to that of the mother country.”

I shall not weaken the effect of this by any remarks of my own, but merely observe, that if a majority in the House, appointing the Legislative Council, and controlling the executive, is not a state of independence as regards Great Britain, and of despotism as regards the province, it must at least be admitted, that it confers all the advantages of such a condition but the name.

The third was a demand for the repeal of the Tenurés' Act and the Land Company's Act. On neither of these topics is it necessary to dwell longer than to explain the nature of them. I have already observed that Canada was subject to the old feudal law of France, and I refer you to page 38 of this work for an account of its most prominent features. The inconvenience of this sort of tenure has been very strongly felt, and particularly in towns, as preventing the transfer of property and its consequent improvement. The English population, especially of Montreal, complain that to allow the exercise of seigneurial rights over a city destined by its situation to become a great commercial emporium,\* is not merely to give a fatal

\* See Letters of Anti-Bureauerat.

wound to the progress of the city itself, but it is weakly, impolitically, and unjustly to sacrifice the interests of trade and of future generations, throughout a large portion of both provinces, to which its extended commerce under happier auspices, might be capable of giving prosperity and comfort. They say that the *lods et ventes*, or mutation fines, amounting by law to one-twelfth of the price upon every sale, constitute one of the greatest grievances, but by no means the only one, arising from the present tenure, and which cannot be removed while the seignery continues to be held in mortmain.

Supposing a manufactory or building, worth £12,000, to be erected upon a lot not worth £100, if the proprietor has occasion to sell, and could even find a purchaser willing to give him the sum he has expended in the erection of the edifice, he is nevertheless liable to lose £1,000 as a punishment for having had the industry, the means, and the enterprise to build; because the claim of the seigneurs is not the twelfth of the original value of the ground merely, but the twelfth of the amount of the money and labour of others laid out upon the building also.

This, under the feudal system, becomes a privileged debt to the seigneurs, who have not expended a farthing. But this is not all—the next and the next vendor, *ad infinitum*, must each in turn lose to the seigneurs a twelfth of the purchase-money. So that if, in the exigencies of trade, or by inevitable misfortunes, the building should change hands a certain number of times, the seigneurs will benefit by these evils to the amount of £12,000, the full cost of the edifice, to which they have contributed nothing, being one hundred and twenty times the original value of the lot. Instances are known where the claim for *lods et ventes*, deferred until the occurrence of several sales, has swept away at once the whole price for which both the lot and buildings have been sold.

It has been asserted\* by men of great local knowledge, that the entire value of all the real estate and buildings in the city of Montreal (erected at the cost of many thousands) must, every forty years or less, be paid into the hands of the seigneurs; and this is exclusive of the rents of the seigneurie. Thus the value of all the real

\* J. Thom, Esq.

estate and buildings existing forty years ago, when the buildings were much fewer, and the value of the real estate far less than at present, has certainly, within the last forty years, passed into their hands. In like manner the number of buildings, and value of real estate, will of necessity be so much augmented during the next forty years, that at the end of that period it is likely that the present value of all the real estate and buildings will also have passed into their hands, should the feudal tenure be allowed by sufferance still to retain its possession. It is to be remarked that this enormous contribution, this appalling and blighting exaction, is principally raised from improvements of which Englishmen and English commerce are the creators and cause.

This old law also allows of a system of mortgage called hypotheque, which may affect the land in a variety of ways without enabling any one creditor of the owner of the land to know what is passing or has passed between his debtor and any other person. The system of general mortgage aggravates in a tenfold degree the evils of secret obligations. For where mortgages spring from such a variety of circumstances, and are created in such a

variety of ways, their secrecy, even if they were special, would be sufficiently pernicious; but their generality engenders evils absolutely intolerable and altogether incredible. Through that generality of mortgages, a man cannot hold real property for an hour without vitiating its title to the amount of all his previously granted notarial obligations. In this way, a man may pollute the title of real property, that virtually never belonged to him. He may have bought a farm or a house on credit, may have been obliged by want of funds to restore it to the seller, and may thus have burthened it with a hundred previously contracted debts of indefinite amount.

The tacit hypothèque is of five kinds:—  
1. The dower of his wife, unless barred by an ante-nuptial contract; 2. Security to his ward, in the event of his being appointed guardian to any minor, which he may be without his own consent, the office being in many cases compulsory; 3. The same obligation in the event of his being named curator, trustee, or administrator of any intestate person; 4. The obligation of an heir, entering on his inheritance, to the payment of the debts of the person from whom he received it, or *sans bénéfice d'inven-*

*taire*; 5th, and lastly. The liability of public servants for the due performance of their trusts. The wife's dower, moreover, is the inheritance of the children of the marriage, and consequently an entail is created by it, as well as a life interest.

The British government thought it was conferring a great benefit upon the Lower Canadians in proposing to change the tenures, so as to get rid of those circumstances which thus depreciated the value of land, and retarded the improvement of Canadian trade and agriculture; and all unbiassed men would, and did, agree with the government on this point.

The first provision on this subject consisted of two clauses of the Canada Trade Act (3 Geo. IV., c. 119, s. 31 & 32), by which his Majesty was empowered to agree with all seigneurs for the commutation of their dues to the Crown, and also to commute with such censitaires as held immediately of the Crown, and to re-grant both to one class and the other their lands in free and common soccage. In addition to, and amendment of this Act was passed the 6 Geo. IV., c. 59.

The most important clauses are as follow :

Sec. 1.—Provides for the commutation (on



request) of the tenures of land held of the Crown.

Sec. 2.—Provides that rights of the seigneur shall not be affected till such commutation is fully made.

Sec. 3.—Declares that persons holding lands in fief, and obtaining a commutation from the Crown, shall be bound to grant a like commutation, if required, to those holding under them, for such indemnity as shall be fixed by *experts*, or (sec. 4.), by proceedings in a court of law.

Sec. 5.—Declares that on such agreement or adjudication the tenure shall be converted into free and common soccage, but sec. 6 provides that this shall not discharge a man of dues or services then accrued to the lord.

Sec. 7.—Persons applying for commutation are to give public notice to mortgagees and others having claims on the lands.

Sec. 8.—Lands holden in free and common soccage in Lower Canada, are to be subject to the laws of England.

Sec. 9.—Provided, nevertheless, that nothing herein contained shall extend to prevent his Majesty, with the advice and consent of the Legislative Council and Assembly of the province of Lower Canada, from making and enacting

any such laws or statutes as may be necessary for the better adapting the before-mentioned rules of the laws of England, or any of them, to the local circumstances and condition of the said province of Lower Canada, and the inhabitants thereof.

Such are the provisions of the act, the repeal of which is so imperiously demanded. Unreasonable, however, as the request was, thus to make a disgraceful retrograde movement to barbarous usages, it was met in the only way it could be : the act 1 W. IV., c. 20 was passed, leaving the whole subject to be dealt with by the provincial legislature as it should think fit. The repeal of the Canada Land Companies' Act is next insisted upon. On this subject, it will be quite sufficient to state their demand, to which no honest man could give any other answer than it has already received—an unqualified refusal. They require that an Act of Parliament, incorporating this company, and conferring upon them certain privileges, and a title to lands, upon which they have expended large sums of money, should be repealed, and the property confiscated. The only charitable way of viewing this demand, is to consider it not so much an evidence of moral turpitude, as a

manifestation of contempt and insolence towards the party to whom it was addressed.\*

Fourthly.—Then followed a demand for the unconditional surrender of the crown revenues. You will recollect that the Canada committee of Parliament, as it was called, reported, that although the duties, before alluded to, were vested in the Crown, they were prepared to say the real interests of the colony would be best promoted by placing them under the control of the House of Assembly. Being prepared to say a thing, and being prepared to show or prove a thing, happen, unfortunately, to be widely different; and, as the committee contented themselves with the former, we are not in possession of the grounds upon which they felt prepared to say so. They were doubtless quite sufficient at the time, although they, unfortunately, did not continue

\* But although they considered every institution and usage of their own so sacred as to admit of no change, they viewed those of the English in a very different light. The conceding and respectful conduct of Government formed an amusing contrast with their audacious insolence. To mark their contempt for regal rights, they passed an Act to make notice of action served on the attorney-general, for damages against the Crown, legal and binding. If the suit went against the Crown, it was provided, that execution might issue against the governor, and his furniture, or the guns of the fortress.

to be so long enough for the act (1st and 2d Will. IV.) to reach Canada. For the real interests of the colony, it is very evident, have not been best promoted thereby. It would appear also that that great and single minded man, the Duke of Wellington, (who probably knew quite as much of the French as the committee did), was not prepared to say so, but, on the contrary, he entered his protest against the measure : "These persons," said he, (meaning the judges), "will thus become dependent upon the continued favour of the Legislative Assembly, for the reward of their labours and services; the administration, within the province of Lower Canada, can no longer be deemed independent; and his Majesty's subjects will have justice administered to them by judges, and will be governed by officers situated as above described." The event has justified his grace's expectations, and disappointed those of the committee. This unconditional surrender was made on the full understanding that a civil list would be granted, and the administration of justice permanently provided for:—the former they refused. They had now got the officers of government at their mercy, and were determined to keep them so; and the

judges they made independent of the Crown, but dependent upon them for their annual allowance, depriving the government of the power of removing them, except upon impeachment, and reserving the right themselves to remove them at pleasure, by withdrawing their salaries. Having succeeded in this, they now demanded the rents of the real estate, belonging to the King in Canada, and this too they are promised, when they shall vote the civil list,—one of the resolutions introduced by Lord John Russell, being, “That it is expedient to place at the disposal of the legislature the net proceeds of the hereditary, territorial, and casual revenues of the Crown, arising within the province, in case the said legislature shall see fit to grant a civil list, for defraying the necessary charges of the administration of justice, and for the maintenance and unavoidable expense of certain of the principal officers of the civil government of the province.” The great error that has been committed in these unconditional surrenders of the revenue of the Crown, is in attempting to keep up an analogy, that does not exist, to the practice in England. The committee lost sight of the important distinction that Canada is a colony, and that what

might be very right and proper here, would be neither right nor expedient there. The officers of government are not merely the officers of Canada, but the officers of Great Britain, and, by giving the legislature a control over them, they surrender the imperial power over the province. They should be removeable, not when the legislature, like the committee of Parliament, is "prepared to say" so, but when it is "prepared to prove" that they ought to be; but their salaries should be beyond the control of the local assembly. This position is too obvious, and has received too much painful corroboration, in recent events, to require any further comment.

Lastly.—They required the management of the waste lands to be given up to them. The object of this extraordinary claim, now for the first time put forward in the history of colonization, was for the avowed purpose of controlling emigration from Great Britain, which they had already impeded by a capitation tax, by refusing to establish an efficient quarantine, or to give aid to the improvement of the harbour of Montreal; by endeavouring to alarm settlers on the score of insecurity of title, and in an attempt to ruin the banks.

In Mr. Papineau's celebrated pamphlet, to which I have previously alluded, he says, "the protection, or, to speak more plainly, English sovereignty over Canada, brought other evils in its train. A swarm of Britons hastened to the shores of the new colony, to avail themselves of its advantages to improve their own condition." History affords so many proofs of the license used by a people when flushed with victory, that this gentleman's surprise at the English taking the liberty of settling on the waste lands of a colony, which they had so gallantly conquered, affords a pleasing proof that the natural simplicity of the Canadian character was not yet wholly destroyed by the study of politics. "That, however," he continued, "was not sufficient for their cupidity; they established themselves in *our* cities, and made themselves masters of all the trade, as well foreign as domestic." "For many years they took but a small share in our political affairs. The elections remained free from their intrigues, because they could have had no chance of practising any amongst a population nine times more numerous than themselves. But within these five or six years they go about boldly." . . . . . To prevent this evil, which was growing in magnitude

every year, "of their interesting themselves in the political affairs of the province," in proportion to their numbers, they demanded the control of the wild lands, and, reverting to abstract principles, started this new doctrine:

"That in any new discovered or newly occupied country the land belongs to the government of the nation taking possession of it, and that settlers in it, so long as they retain the character only of emigrants from the mother country, can claim no more than what has been granted to them as individuals; but that when a distinct boundary has been assigned to them, and they come to be incorporated into a body politic, with a power of legislation for their internal affairs, the territory within their boundary becomes, as a matter of right, the property of the body politic, or of the inhabitants, and is to be disposed of according to rules framed by their local legislature, and no longer by that of the parent state."

On this point the commissioners reported as follows :—

"This proposition rests, as we understand it, entirely upon abstract grounds, and we believe that we are authorized in saying that it never has been entertained by Great Britain or any



other colonizing power. That the ungranted lands in any colony remain the property of the Crown has, on the contrary, we believe, been the universally received doctrine in Great Britain, and although the constitutional act does not expressly assert a right of which its framers probably never contemplated a doubt, the lands of the province are mentioned in the 36th clause as being thereafter to be granted by his Majesty and his successors. While, therefore, we are quite ready to admit, that in the disposal of the ungranted lands the interests of the first settlers ought never to be lost sight of, and also that the wishes of the local legislature should be consulted, provided they are made known to his Majesty in a constitutional manner, we cannot recognize in any way the abstract principle set up for it in opposition, not merely to the general laws and analogies of the British empire, but to the clear meaning of the Act by which alone the body preferring the claim has its existence. It must, we apprehend, be the main object in every scheme of colonization, that the parent state should have the right to establish her own people on such terms as she may think fit in the country colonized; and at present perhaps her North

American colonies are more valuable to England as receptacles for her surplus population than in any other way. We cannot, therefore, believe that England will consent to a doctrine that will go to place at the discretion of any local legislature the terms on which emigrants from her shores are to be received into her colonies."

Here, however, the government again shewed its anxiety to gratify their wishes as far as it was possible; and in their undeviating spirit of conciliation, although they could not grant the whole demand, endeavoured to meet it half way, by replying that they had no objection to the legislature prescribing the rules of management for the Crown lands, but their application must be confined to the executive. Such are the demands which were then made, and are still put forward by the leaders of the Canadian party; demands, which it is evident amount to a claim by one part of her Majesty's subjects, to an independent control of the colony.

## LETTER XI

As the Assembly had separated with a declaration that they would never vote a civil list, until all their requests were granted, it was necessary for Parliament to interfere, and Lord John Russell proposed and carried certain resolutions, of which the substance is as follows :

“ 1stly. That in the existing state of Lower Canada, it is unadvisable to make the Legislative Council elective, but that it is expedient to adopt measures for securing to that branch of the legislature a greater degree of public confidence.

“ 2dly. That while it is expedient to improve the composition of the Executive Council, it is unadvisable to subject it to the responsibility demanded by the House of Assembly.

“ 3dly. That the legal title of the British American Land Company to the land they hold under their charter, and an act of the Imperial Parliament, ought to be maintained inviolate.

“ 4thly. That as soon as the legislature shall make provisions by law for discharging lands from feudal dues and services, and for removing any doubts as to the incidents of the tenure of land, in free and common soccage, it is expedient to repeal the Canada Tenures’ Act, and the Canada Trade Act, so far as the latter relates to the tenures of land in this province, saving, nevertheless, to all persons, the rights vested in them under or in virtue of those Acts.

“ 5thly. That, for defraying the arrears due, on account of the established and customary charges of the administration of justice, and of the civil government of the province, it is expedient, that, after applying for that purpose such balance as should, on the 10th day of April last, be in the hands of the receiver-general, arising from the hereditary, territorial, and casual revenues of the Crown, the governor of the province be empowered to issue, out of any other monies in the hands of the receiver-general, such further sums as shall be necessary to effect the payment of such arrears and charges up to the 10th of April last.

“ 6thly. That it is expedient to place at the disposal of the legislature the net proceeds of

the hereditary, territorial, and casual revenues of the Crown, arising within the province, in case the said legislature shall see fit to grant a civil list for defraying the necessary charges of the administration of justice, and for the maintenance and unavoidable expenses of certain of the principal officers of the civil government of the province; and, lastly,

“That it is expedient that the legislatures of Lower and Upper Canada respectively, be authorized to make provision for the joint regulation and adjustment of questions respecting their trade and commerce, and of other questions wherein they have a common interest.”

Whether the spirit of concession had not been heretofore carried too far, and whether the public affairs of Canada ought to have been suffered (even for the amiable and praiseworthy object of endeavouring, if possible, to satisfy the dominant party in the house), ever to have arrived at this crisis, are questions upon which I have no desire, on this occasion, to enter, being foreign to my object, which is to show you that the French-Canadians have no claim to sympathy “as our oppressed and enslaved brethren.” But that these resolutions were indispensable, that they were not resorted to till

they were necessary, and that Parliament was justified in this exercise of its supreme authority, of unprejudiced and right-thinking man can doubt. A colony is a dependent province, and Great Britain is an independent metropolitan state. The controlling power must obviously be greater than the power controlled. The power, therefore, of a colony being limited, if it assumes to pass those limits, it is no longer dependent but independent. It is not only the right but the duty of Parliament, to restrain within their constitutional limits, provincial legislatures, in the same manner as it is the right of the colonists to exercise those powers constitutionally, and their duty not to attempt to exceed those limits. When one branch of a legislature resolves that it will never perform its functions until a co-ordinate branch, deriving its authority from the same source as itself, is destroyed, it exceeds its due bounds, or rather relinquishes the exercise of all constitutional power. In the pamphlet already alluded to, Mr. Papineau says, "The constitution has ceased to exist of right, and in fact can no longer be maintained but by force." Here, then, was a case for the legitimate interference of Parliament, an interference which no re-

flecting colonist will ever object to, else there would be no appeal but to the sword whenever a designing demagogue should unfortunately obtain a majority of obstructive members in the Assembly ; but these resolutions were said to be a violation of the declaratory act of 1778, and an unconstitutional mode of levying taxes on the Canadians, and appropriating their money without their consent ?

It is not material to the argument to mention, but it is a singular fact, that the revenue happens not to have been raised by people of French origin, and that therefore as far as they are concerned, their money has not been appropriated without their consent. The question is often asked by the Upper Canadians, on what does a French inhabitant pay duty ?\* Is it, they say, on woollen stuffs of his own manufacture ? Is it on wooden shoes, the produce of his own forest ? Is it on tobacco, the produce of his own fields ? Is it on sugar, the juice of his own maple groves ? Is it on wine which he never tastes ? Is it on books which he cannot read ; or on postage of letters he cannot write ? Or is it on spirits distilled from his own grain ? But this is not to the purpose, it was money that they had a right to dispose of themselves, if they had

\* See Letters of Camillus.

thought proper to do so, and must so far be considered the revenue of the whole public.

These resolutions imposed no taxes, they merely applied towards the discharge of salaries of the civil officers of the government, certain monies already accumulated under existing laws, in the hands of the treasury, to enable the executive to carry on the government. That it was applied without their consent to this purpose, is true, *not because they did not consent to vote supplies*, (and it is most material to observe this distinction), *but because they had refused to discharge any of their duties as an Assembly, or in any manner to co-operate with the other branches; and had themselves, by this suicidal act, suspended the constitution, and thrown the whole country into anarchy and confusion.* It was a case fully within the limitation prescribed by Burke :

“For my part,” says that great man, “I look upon the rights stated in that act exactly in the manner in which I viewed them on its very first proposition, and which I have often taken the liberty, with great humility, to lay before you. I look, I say, on the imperial rights of Great Britain, and the privileges which the colonists ought to enjoy



under these rights, to be just the most reconcilable things in the world. The Parliament of Great Britain sits at the head of her extensive empire in two capacities; one as the local legislature of this island, providing for all things at home, immediately, and by no other instrument than the executive power. The other, and I think her nobler capacity, is what I call her *imperial character*; in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides and controls them all without annihilating any. As all these provincial legislatures are only co-ordinate to each other, they ought all to be subordinate to her; else they can neither preserve mutual peace, nor hope for mutual justice, nor effectually afford mutual assistance. It is necessary to coerce the negligent, to restrain the violent, and to aid the weak and deficient, by the over-ruling plenitude of her power. But in order to enable Parliament to answer all these ends of provident and beneficent superintendence, her powers must be boundless. The gentlemen who think the powers of Parliament limited, may please themselves to talk of requisitions. But suppose the requisitions are not obeyed! What! shall there be no reserved

power in the empire to supply a deficiency which may weaken, divide, and dissipate the whole ?

“This is what I meant when I have said, at various times, that I consider the power of taxing in Parliament as an instrument of empire, and not as a means of supply.

“Such, sir, is my idea of the condition of the British empire, as distinguished from the constitution of Britain ; and on these grounds I think subordination and liberty may be sufficiently reconciled through the whole ; whether to serve a refining speculist or a factious demagogue, I know not ; but enough surely for the ease and happiness of man.”

But, although the right of Parliament to interfere, and its intention to do so, were thus asserted, there was still so strong a repugnance felt by Government to exercise the power, that they desired Lord Gosford to call the Assembly together again, and give those misguided men another opportunity of reconsidering their conduct. They met as summoned, but again refused all supplies which had now been withheld for five years, and again declined to exercise any legislative functions. There was now no power to make new laws, no means of paying

those who administered the existing ones, no appropriation for the public service in any department ; schools were neglected, roads unrepaired, bridges dilapidated, jails unprovided for, temporary laws expired or expiring, and confusion and disorganization every where ; and yet we are gravely told that Parliament ought not to have interfered ! that it was one of the dearest and most sacred rights of the colonists to produce this extraordinary state of things, and that they ought not to be interrupted in the enjoyment of what had cost them so much time and trouble to bring about.

If this opinion were founded on conscientious scruples, it would deserve our respect ; but it is the liberality of accomplices ; and they may well be generous who replenish their coffers by plunder. We must not be surprised therefore to find among those who invest the Canadians with this novel power, men who offer to mercenaries the pillage of the church, and who, loaded with the spoils of vested rights, which they have violently torn from their lawful owners, kindly bestow this stolen one upon comrades engaged in the same unholy cause as themselves. They are accomplished and dextrous men, and, knowing the

numerous covers of law, resort to its shelter, and boldly call upon the real owners to make out their case, and prove their property. It is difficult to decide whether the amiable advocates of this intelligible doctrine are best entitled to our pity or our contempt.

Those persons who had always espoused their cause in England, seem to have fully penetrated their object. "I do not marvel at it," said my Lord Brougham; "to me it is no surprise—*I expected it.*" Men of sanguine temperament are apt to expect confidently what they desire ardently. That he wished them to be independent, he made no secret. Whatever we may think of his lordship, as a statesman, for entertaining such a patriotic wish, we cannot but admire the unflinching friendship that induced him, through good report and evil report, to adhere to the cause he had determined to advocate. That they might not feel discouraged by partial reverses, he held out the language of promise to them that the day was not far distant when they could hope to realise the object of their wishes. He deprecated our thinking too harshly of them for their vain attempt. "Where," he continued, "in what country—from what people did they

learn the lesson? of whom but ourselves, the English people? We it is that have set the example to our American brethren; let us beware how we blame them too harshly for following it." Not content with interceding for their pardon, he solicited, as a boon for them, what they had failed in an attempt to seize as plunder. "I hold these colonies," he said, "as worth nothing; the only interest we have in the matter concerns the manner in which a separation, sooner or later inevitable, shall take place. Is it not, then, full time we should make up our minds to a separation so beneficial to all parties. These, my lords, are not opinions to which I have lately come; they are the growth of many a long year, and the fruit of much attention given to the subject." The effect of this language upon the loyal population of the provinces it is not easy to conceive. At no time could such a doctrine be heard with indifference, but during a period of unusual excitement it was too mischievous not to awaken a general indignation. On the minds of the Americans it has had a powerful effect, in speculating upon the result of an active sympathy on their part.

Disaffection having now succeeded in pro-

ducing anarchy and bloodshed, assumed the shape of insurrection, the natural result of so many years of agitation. The tragical events of this sad revolt are too recent and too impressive to be forgotten, and the recital would be as painful as it is unnecessary. Anxious, however, as I am not to dwell on the mournful picture which it presents, justice requires that I should pause and pay the tribute of my respect to the pious, amiable, and loyal Catholic clergy of Canada. They have preserved a large portion of their flock from contamination, and we are mainly indebted to their strenuous exertions that the rebellion has not been more general and more successful. They have learned from painful experience, what ecclesiastics have ever found under similar circumstances, that treason always calls in infidelity to its aid; that there is a natural alliance between the assailants of the throne and the altar, and that they who refuse to render tribute to Cæsar are seldom known to preserve, for any length of time, ‘the fear of God before their eyes.’ The history of this Canadian revolt is filled with instruction to the people of England. It teaches them the just value of the patriotism of those who are the intemperate advocates of extreme

opinions ; it shows that courage in debate may sometimes evaporate in the field, and that those who lead others rashly into danger are not unfrequently the first to desert them basely in the hour of need. It exhibits in bold relief the disastrous effects of incessant agitation, and demonstrates that the natural result of continued concession to popular clamour is to gradually weaken the powers of government, until society resolves itself into its original elements. These truths are too distinctly marked to require to be retouched. He who runs may read, but he that would carry away the moral must pause and consider. It is written in the blood and suffering of the colonists, and prudence suggests the propriety of their availing themselves of the painful example of others, instead of purchasing it by the severe and unnecessary process of personal experience. The successful advocacy here of similar opinions must necessarily produce the like results, aggravated by the increased power of numbers, and the greater value of the plunder. I have seen enough of England to admire it, of its institutions to respect it, of the character of its people to love it, and of the blessings conferred by its limited monarchy, to know

how to estimate the enviable lot of those who have the good fortune to inhabit it.

*O fortunatos nimium sua si bona norint.*

I should feel indeed that kindness could awaken no emotion, and hospitality no gratitude, if, after having received as an obscure provincial author, the most flattering indulgence, as a colonist, the most hearty welcome, and as a stranger the most considerate attentions, I did not express warmly what I feel deeply. My knowledge of its constitution preceded that of its people; and if my studies have led me to admire its theory, personal observation of its practical effect has confirmed and increased that favourable impression. It is a noble and admirable structure! *Esto perpetua.*

Before I quit the subject of this rebellion I must allude to the mitigating circumstances that attended it. Excited by every stimulant that parliamentary declamation could apply, or British sympathy suggest, or American republicanism offer—encouraged at home, aided from abroad, and nowhere opposed or threatened, is it to be wondered at that the prospect of plunder and impunity seduced these misguided people from their allegiance, or that the contagion should spread from Lower to Upper



Canada. When such a man as Hume was known to be a supporter of the government, can we wonder if ignorant men, three thousand miles off, supposed he was expressing the sentiments of that government? When he said, “my wish would be to set the Canadas and the whole of British North America, free to govern themselves, as the United States do, by their own representatives, and to cultivate a good connection with the mother country for their mutual interest. Until that takes place, neither the Canadas nor Great Britain will derive those advantages which they ought to have from a different and more economical management of their resources.” Or when confidentially communicating to his friend, M’Kenzie, a man devoted to revolutionary doctrines, he boldly asserted, “Your triumphant election on the 16th, and ejection from the Assembly on the 17th, must hasten that crisis which is fast approaching in the affairs of the Canadas, and which will terminate in freedom and independence from *the baneful domination* of the mother country, and the tyrannical conduct of a small and despicable faction in the colony.”  
. . . . . “The proceedings between 1772 and 1782, in America, ought not to be for-

gotten, and to the honour of the Americans, and for the interests of the civilized world, let their conduct and their result be ever in view," could they mistake the import of the term *baneful domination*, or despise the advice so judiciously given by the representative of a metropolitan county? Knowing little of Bath, but its reputation of being the resort of wealth and fashion, was it unnatural for them to infer that the member for that town spoke the sentiments of a powerful and influential class, when he said, "One resource, and one resource alone, remains: to be a free people you must resist the British Parliament?" When the working men's societies, patronised by practical and powerful men, held similar language, was it a great stretch for the credulity of those poor people to believe, that a cession of Canada would immediately follow a demonstration of revolt. Their case is, indeed, one that commands our pity rather than our resentment; but what shall we say of those who went still further than these counsellors, and pursued the wicked course of urging an armed resistance to the government, of exciting them to sedition, and evoking the evil passions of the human heart, to insurrection and slaughter. The receiver is more

criminal than the thief, and the seducer more vile than his victim. The exile and the prisoner, the houseless settler, and his starving suffering family, the smouldering villages, the spirits of the dead, and the voice of the dying, call aloud for vengeance on the authors of all these accumulated aggravated evils. He who knew the facility of man to fall into error, and the miseries entailed upon us by guilt, has mercifully taught us to offer our daily prayer that we may not be led into temptation; and for the credit of our common nature, be it spoken, so few have been the instances where men have incited to crime, when they were not to profit by the offence, that no provision is made against the sin of holding out temptation to others. It was not to be supposed that wickedness could exist without reward, or crime without an object. Unfortunate victims of false friends, deluded objects of cold unfeeling advice, you deserved the lenity that has been extended to you; it would have been unfair, indeed, to have visited upon you, the mere instruments of others, the punishment due to the authors of your folly and your guilt.

Such were the feelings entertained throughout the adjoining colonies, but here a different lan-

guage was held. They were pitied, not because they were misguided, but because they were unsuccessful. Indignation was expressed, in no measured terms, not against the tempter or the tempted, but the gallant and loyal militia who suppressed them, and their vigilant, able, and intelligent governor. My Lord Brougham was loud and vehement in his invectives, denouncing these brave and devoted men "as an undisciplined and insubordinate rabble," and the presiding genius, whose penetration discovered, and whose foresight provided the means of crushing this rebellion, as a person planting snares, with the base purpose of catching the unwary. That his lordship, the advocate and eulogist of a republic, should grieve over the vain attempt of others to establish it in Canada, is not to be wondered at; but that he whose physical courage no man doubts, and whose moral courage is so great as to enable him to stand forth boldly, unaided and alone, among his peers, the opponent and assailant of all parties, could feel no sympathy for those brave men who, in the deadly conflict of war, rushed forth amid the storms of their inclement winter, in support of their laws, their religion, and their homes; prepared to conquer or to die in their defence,

that he could find no terms of approbation, no figures of speech, no not one word of praise, for those heroic men; that he could see nothing peculiar in their case, who had to contend with violators of law within, and violators of treaties without the province, and scorn and contumely here, and who, braving privation, the climate, and the enemy, rallied round the standard of their country with an enthusiasm, of which history can scarcely find a parallel—that he could discern no worth in loyalty, and no merit in those “who fear God and honour the King,” is, indeed, a fruitful source of astonishment. How is it? Is this a characteristic of democracy? Does it indeed harden the heart and deaden all the glowing impulses of our nature; or is it that philosophy is cold and speculative, regulating the passions, and subduing and chastening the imagination. Or may it be that unused to panegyric, his lordship feels and knows his power of sarcasm, and prefers the path in which he excels all contemporaries, to one in which unequal powers forbid the hope of pre-eminence. Whatever it may be, for his own sake, for the sake of the noble house of which he is a member, and of the country of which his eloquence is at once

the pride and the boast, it is deeply to be deplored that he should have adopted a course that, unfortunately, confers but little honour on the qualities of his head ; and, it is to be feared, still less on the feelings of his heart.

This rebellion had scarcely been put down, when my Lord Durham was appointed, with extraordinary powers, to complete the pacification. On this part of the history of Canada it is needless to dwell. It has proved a failure : not from a deficiency of power, but from a deficiency of conduct in the dictator. Instead of assembling around him a council of the most influential and best-informed men in the colony, according to the evident spirit of the act and his instructions, he thought proper to appoint to that responsible situation, officers attached to his household, or perfect strangers, with the unanimous view, as he informs us, of assuming the *whole responsibility* of his own measures. As might naturally be expected, owing to his having neglected to obtain the best professional advice at his command in the colony, and acting on his own view of the case, his first step was illegal. Now, by assuming the whole responsibility, we were given to understand that, having full confidence in his own judg-

ment as well as his own integrity, he was disposed to monopolize the whole honour of success, at the hazard of incurring the whole censure of failure. The praise or the blame was to be exclusively his own. It was the decision of a confident and vain man. His next act was indicative of a weak and petulant mind. Instead of being willing to bear the whole responsibility, as he announced, he shewed that he was unwilling or unable to bear any. As soon as Parliament felt itself called upon to pronounce the illegality of his measures, and stepped in to rescue him from the consequences of his precipitate conduct, he relinquished his government, not in the usual and proper form, by tendering his resignation, and waiting until his successor should be appointed, but by instantly leaving the colony.

It is difficult to conceive of a public servant committing an offence more serious in its nature, and more pernicious in its example than thus abandoning his post without leave; and it was incumbent on the government to have vindicated the honour of the Crown, by ordering the captain of the *Inconstant* to return immediately to Quebec with his lordship, and to deliver to him, within his government, the acceptance of his

resignation. It would have taught the misguided people of Canadas to respect, if they could not love, the even-handed justice that could visit with punishment the disobedience of a governor-general as well as that of a peasant ; and they would have seen in the return of the one, and the exile of the other, a practical illustration of the only equality that honest and sensible men ever desire to behold—" the equality of all in the eye of the law." The moral effect of such a measure, combining vigour with impartiality, would have gone far towards tranquillizing Canada, and would have enabled his lordship, when he next addressed the people of England, to have pointed to it as a proof that his mission, however it might have affected himself, had terminated in a manner that was useful to the colony and honourable to the government.

Of the ill-advised and ill-timed manifesto it is unnecessary for me to speak ; its effects are but too visible in a new revolt, to which its unguarded language gave too much encouragement. Nor shall I enter upon the serious charge he has brought against that august body, of which he has the honour to be a member, of legislating, where Canada is concerned,



“in ignorance and indifference.” To shake the confidence of the colonists in the justice and integrity of that high tribunal, to which they have to look as a last resource, was indeed unkind to them, unworthy of himself, and injurious to the honour of the house he has assailed. He who advocates democratic institutions will soon find the effect of his theory influencing his own conduct, and though he may commence in the assertion of principle, he is apt to end in the expression of feeling. The natural tendency of such opinions is to level all distinctions. Although we have great cause therefore for regret, we have none for surprise, in this attempt to measure his noble colleagues by so humble a standard. I am willing, however, to do his lordship the justice to believe, that when the irritation that caused this ebullition of feeling shall subside, he will himself regret, as deeply as every right-thinking man now does, that he should have judged that assembly in temper and in pique; and that he will feel he has afforded some room for ill-nature to suggest, that although he had a right, if he thought proper, in the exercise of a laudable diffidence, to have appropriated those attributes to himself, he was not justified in

extending an indiscriminate application of them to others. That many of the measures he proposed for the benefit of Canada were good, it would be uncharitable to doubt ; but as none of them have been matured, it would be presumptuous to say so. That others, however, were of a dangerous nature, we have reason to know. The evils to be reaped from this mission have not yet ripened for us to gather ; but the seed is sown, and it is to be feared has taken root too extensively. What could be more injudicious than to send to the contented and happy colonies of Nova Scotia and New Brunswick, and ask for deputies, to listen to crude and undigested schemes for their future government, or to give their own visionary plans in exchange for his ? What more cruel than to unsettle men's minds as to the form of their government, and make the stability of their institutions a matter of doubt ? What more pernicious than to open a political bazaar at Quebec for the collection and exhibition of imaginary grievances ? In the Lower Provinces we are contented and happy. We need no reforms but what we can effect ourselves ; but we are alarmed at changes which we never asked, and do not require. The federative

union proposed by his lordship has opened a wide field for speculation, directed men's minds to theoretical change, afforded a theme for restless young demagogues to agitate upon, and led us to believe that our constitution is in danger of being subverted. Most people think, and all reflecting men know, that it would ripen the colonies into premature independence in less than ten years; and who, I would ask, that is attached to the mother country, and desirous to live under a monarchical form of government, can contemplate a scheme pregnant with so much danger, without feelings of dismay? Who would continue to live in New Brunswick, if at every disturbance in Canada, the governor-general is to propose to new model their form of government? Who would consent that that united and loyal colony should have its peace and happiness jeopardized by any union with the disaffected and troublesome French Canadians, or will approve of the political quackery that would compel Nova Scotia to swallow a nauseous medicine, for the purpose of effecting a cure in Canada? The danger arising from such visionary schemes as have lately been unfolded to the colonies, is passed for the present, and I

heartily rejoice that it is, but it is to be hoped that powers co-extensive with the Lower Provinces, may never again be entrusted to any man. In this country there is a general and very natural repugnance manifested to give up the bodies of deceased friends for experiments for the benefit of science. It is difficult to imagine how so sensitive a nation could consent that their colonists should be considered of less value, and be delivered alive into the hands of the operator, for the advancement of politics.

In Paris, I heard with horror that a lecturer had illustrated his theory by applying his dissecting knife to the limbs of a living animal. I shuddered at the recital of such atrocious cruelty; but little did I dream that, at that very time, a kind and merciful Providence was graciously averting a similar fate from our own species on the other side of the water.

All British America has been agitated during the past summer, by substantial fears, or mocked by unreal hopes, and ambition has now reached where sedition failed to penetrate. The absurd and impracticable scheme of colonial representation in Parliament, although disgusting, from its rank properties, to deli-

cate palates, was well suited to the rapacious appetites of provincial sycophants. The bait was well selected, and soon attracted the longing regard of a shoal of political sharks. The self-denying tenets of the sour sectarian have not been proof against the temptation. His nostrils have been too powerful for his conscience, and scenting the strong odour of this savoury appendage from afar, he has hurried to the surface to regale himself with its flavour. The canting hypocrite has offered his aspirations for the conversion of Parliament to such liberal views ; and the profligate demagogue of the village has expressed a hope, that a deficiency of morals may be compensated by an abundance of zeal. They have been lulled to sleep by its soporific effect, and have dreamed of this ladder, as did Jacob of old, and of the ascent it offered to high places. The woosack and the ermine—the treasury and the peerage—appear within their grasp, and they invoke blessings on the man who promises so much, and who hints at his power to do even more. If I did not feel too indignant at all this, I too might weep over this scene of folly and of weakness, and would mingle my tears of sorrow with those that pride has shed, and blot out all trace of it for ever.

The advocate of the ballot-box and extended suffrage is not the man to govern a colony. While you have been speculating upon the theory, we have been watching the experiment. When the lower orders talk of these things, we know what they mean ; their language is intelligible, and their object not to be mistaken ; but when a nobleman advocates democratic institutions, we give him full credit for the benevolence of his intentions, but we doubt the sanity of his mind. Keep such men at home, where there is so much of rank, intelligence, and wealth to counterbalance them. Here they serve to amuse and gratify agitators, and make useful chairmen of popular assemblies, by preserving a propriety of conduct and a decency of language, where violence and outrage might otherwise prevail. But send them not among us, where their rank dazzles, their patronage allures, and their principles seduce the ignorant and unwary. If we trespass upon your rights of sovereignty, repress us ; but while you maintain your own privileges, respect the inviolability of ours. When we ask in the Lower Provinces for a federative union, it will be time enough to discuss its propriety ; but in the mean time spare us the infliction of what to us

is so incomprehensible and so repugnant—a radical dictator and a democratic despot.

I have already far exceeded the limits to which I designed to confine myself, and must, therefore, draw to a close. I have now shown you, that after the conquest of Canada, that country was governed by English laws ; that the royal proclamation invited British subjects to remove there ; and promised them the protection and enjoyment of those laws ; and that in violation of that promise, in order to conciliate the French, their legal code was substituted for our own : that an injudicious division of the province was made, whereby the French were separated from the great body of English subjects, in consequence of which Canada became a Gallic and not a British colony. That they have been kept a distinctive people by those means, and by permitting the language of the country and the recording language of their parliament to be French ; that they have always had an overwhelming majority of members of their own origin in the legislature, who have been distinguished by an anti-commercial and anti-British feeling ; that this feeling has been gradually growing with the growth of the country, until they were in a condition to dictate terms to go-

vernment; that this feeling was manifested by the manner in which they have constantly resisted local assessments, and made commerce to bear every provincial expenditure,—in the way they neutralized the electoral privileges of the voters of British origin,—in the continuance of the oppressive tenure of the feudal law,—in taxing emigrants from the mother country, and them only,—in their attempts to wrest the crown land from government,—in their attack on the Land Company, and the introduction of settlers by them,—in their opposition to a system of registry,—in their mode of temporary legislation,—in their refusal to vote supplies, and in the whole tenour of their debates and votes. I have shown you that the policy of every government, whether Tory or Whig, has been conciliatory (a fatal policy, I admit, and one that naturally admits and invites demands), and that every reasonable change required (with many very unreasonable ones) has been conceded to them; that they are a people exempt from taxes, in possession of their own laws, language, and religion, and of every blessing civil, political, and religious; in short, that Canada is the most favoured colony of Great Britain, and that the demands they now make are inconsistent with colonial dependence.



This statement I offer in refutation of my Lord Durham's assertion of *misgovernment*, used in its invidious sense, or as explained at the meeting at Carlton Hill, that they are "our oppressed and enslaved brethren;" and in proof of my own position that the evils now existing are the natural consequences of the Quebec and constitutional acts, and not the result of tyranny and oppression. The review which I have just concluded, indicates the remedy too plainly to render it at all necessary for me to offer a prescription. If, however, you can entertain any doubt upon the subject, you will at least be satisfied that the cure is not to be effected by concession. Of this all men, I think, must now be convinced. Since the termination of the late abortive attempt at colonial government, one of my Lord Durham's official coadjutors has publicly proclaimed that all his preconceived opinions on the subject of Canada were erroneous. This was a work of supererogation. He might have spared himself the trouble of the announcement, and the pain of a recantation. All those who condescended to inquire into the nature of his views were already convinced of his error. His lordship also has informed the good people of Devonport that he

has made important discoveries on the other side of the water. Had his mission been merely designed for his own instruction, the public, while they admitted the necessity that existed for it, would have applauded his zeal in such a useful and necessary pursuit ; but as it was undertaken at no inconsiderable expense to the nation, they have reason to regret that this remarkable illumination was deferred until the moment of his return. What the extent of these recent revelations may be, we are not informed, but we may be permitted to hope that he has learned this important truth, that he who undertakes the benevolent office of calming the excited passions of others, should first learn to govern his own. That there are serious difficulties in the way of the pacification of Canada there can be no doubt, but greater difficulties have been overcome by Van Amburgh, who exhibits every night, for the edification of government and the amusement of Cockneys, animals, whose natures are more ferocious, and antipathies more powerful than those of the English and French, living in the same cage in the utmost harmony ; and what is still more important, enjoying the most unrestrained freedom of action within their as-

signed limits, and yet making no resistance to the salutary control of an external power.

Justum et tenacem propositi virum  
 Non civium ardor prava jubentium,  
 Non vultus instantis tyranni  
 Mente quatit solidâ.

But let me not be misunderstood by the nature of this allusion. It must not be supposed that the Assembly, because they have done so much that is objectionable, were always wrong in what they required, or the Legislative Council, because it is such a loyal and respectable body, were always right in what they refused. This was far from being the case. Many of the demands of the Canadians were reasonable and just, and many of the changes they desired, were for the benefit of the country; but, unfortunately, the violence of their language, and the unconstitutional and arbitrary acts to which they resorted, in the attainment of those objects, left no room to doubt that they were more bent upon having a grievance than seeking redress; and that they would rather have provoked a refusal than obtained a concession. On the other hand, the council, like most similar bodies, has always contained some men who were selfish in disposition and ultra in opinions,

and whose conduct was calculated to irritate the opposite party, and to do more mischief than if they had openly espoused their cause and adopted their principles. But whether the Assembly was right or wrong in what it required, or the Council justified or not in its opposition, the former has succeeded in all its demands.

The subject has now assumed a new aspect. Pretensions have been put forth that involve the question of independence, and Great Britain must now decide whether she is to retain the province or not. It is a crisis in the history of this country which other nations regard with intense interest. The fate of Canada will determine that of all the other colonies. The retreat of the soldiers will invite the incursions of the barbarians, and the withdrawal of the legions, like those of Rome, from the distant parts of the empire, will show that England,\*

\* As a colonist it would be unpardonable in me not to acknowledge in adequate terms the obligation we are under to the chairman of the finance committee for the important discoveries he has recently made in colonial matters. Other men may rival him in industry, but for masterly and statesman-like views he is without a competitor. It is singular that the egregious error Great Britain has heretofore committed in considering her foreign possessions of great value should never have been detected before, and that our forefathers should have had so little knowledge of political econo-

conscious of her present weakness and past glories, is contracting her limits and concentrating her energies, to meet, as becomes her

my as to retain as sources of wealth and power, what it now appears have always been productive of a fearful annual loss. It would seem that the surface of Great Britain, instead of being too small for her population, is too extensive, and that, instead of carrying on her immense colonial trade herself, she might be spared the trouble by transforming the colonists into foreigners, and permitting others to do that drudgery for her. It is said that the same error has been committed by the owners of timber-trees, in permitting the absurd arrangement of nature, with respect to the limbs to continue unreformed, that they would be much more vigorous if the branches, with their prodigious expenditure on the leaves, were all lopped off, (for it is a well-known fact that the trunk supplies the branches with sap, and not the branches the trunk,) and that the stem would be larger, stronger, and better without such useless and expensive appendages. Truly this is the age of wonders, but this discovery of the worthy chairman is the most wonderful one of modern times, although, strange to say, it is by no means appreciated as it deserves to be. It would be unfair, as well as ungenerous, to detract from his merit, by saying that he borrowed the idea from agriculture, but it must be admitted that there is a wonderful coincidence between his principle and that of the ditcher. A drain, it is well known, is lengthened by being cut at both ends. Now he appears to have applied this principle to England, and infers most justly that the more she is reduced in size, the greater will be her circumference. Having proved this most satisfactorily, he advances some most important, but startling propositions, namely, that the smaller your property, the less you have to defend; the fewer markets you can command, the more will be open to you; the more dependant you are upon foreigners for sale or supply, the more certain you are of never wanting either; and others of a similar nature. His accuracy in figures is truly astonishing, and is only to be equalled by the truth of the principles they evolve. Then comes the important question, "If England has grown so great, so rich, and so power-

character, the destiny that awaits all human greatness.

ful, in spite of all these expensive possessions, how much greater, richer, and more powerful would she be without them." Every true lover of his country must rejoice to see that its real interests are so well understood, and so ably supported—" Nil desperandum, auspice Teucro."

THE END.