

Distrust in his Lordship was first excited by the suspension from office of all the members of the executive council, who had been commissioned by the Crown, and the appointment, as their successors, of gentlemen, who, with the exception of two, (the commissary-general and the secretary of the province of Lower Canada,) had accompanied him from England, and who, whatever might have been their general knowledge, were wholly unacquainted with the local concerns of the country, and utterly incompetent to suggest or frame any legislative measure that the peculiar condition of public affairs demanded. These removals were made in the most courteous manner, and your committee are unable to say, that they did not take place in consequence of orders from England; but the effect was, not only to excite uncomfortable feelings in the province, from the ungracious appearance of the act, but to cast his Lordship upon a sea of difficulties, without a single competent pilot to warn him of the dangers that surrounded him, and it is not to be wondered at, that he was speedily involved in serious embarrassments.

Suspension of members of executive council, and appointment of new council.

This act brought his Lordship in much difficulty.

He soon afterwards required the great seal of this province to be affixed to a commission, tested in his own name as Governor-general, appointing certain gentlemen commissioners to inquire into the land-granting department in Upper Canada, overlooking or disregarding the provisions in his appointment, by which he was precluded from acting in any province, in which he had not actually assumed the government and been sworn into office. Although this act was wholly unauthorized, it was nevertheless acquiesced in, that it might not be alleged that his Lordship had been thwarted in any manner, in carrying into effect whatever measures he deemed necessary to accomplish the object of his mission.

He required the great seal of this province to be affixed to a certain instrument, tested in his own name, though contrary to his instructions.

A further and somewhat ludicrous exhibition of his Lordship's assumed powers was evinced in the proclamation issued by him, offering a reward of 1,000*L.* for the apprehension and conviction of the pirates concerned in the destruction of the "Sir Robert Peel" steam-boat. As the offence was committed in the United States, where alone the power of punishment existed, this proclamation was considered a somewhat singular if not an unprecedented interference with the administration of justice in a foreign country. To the people of this province, a demand on the American government for reparation would have appeared a more reasonable and legitimate mode of proceeding, and would have afforded far greater satisfaction and more convincing proof that his Lordship was determined to protect to the utmost of his power Her Majesty's subjects from insult and injury.

Lord Durham's proclamation, offering a reward for the apprehension of the pirates who burnt the Sir Robert Peel steam-boat.

A measure of a much more mischievous tendency soon after occurred in his Lordship's interference, when in Lower Canada, with the course of justice in the disposal of the prisoners captured at the Short Hills, in the upper province. This interference and the cause of it are detailed in the correspondence laid before your honourable House. It is, however, unnecessary to refer to it here, for any other purpose than to show that his Lordship did not regulate his official acts and correspondence by any legal rules, but according to such views as he might chance to entertain, apparently regardless of the embarrassments he might occasion to others in the performance of the most painful and difficult duties.

Lord Durham interferes with the course of justice in disposal of prisoners taken at the Short Hills.

The remarkable ordinances that consigned to transportation to Bermuda several of the Lower Canadian traitors, and which enacted that the penalty of death should be inflicted upon others who had been neither tried nor indicted, but who had fled or absented themselves from the province, if they again returned to it, and the disallowance of these ordinances by Her Majesty, are subjects within the recollection of every one, and it would answer no useful purpose to discuss them here. But, without examining the degree of validity that attaches to those ordinances, or the motives or necessity for their enactment, they undoubtedly, at the time they were promulgated, were regarded by every professional or well-informed person as unprecedented and extraordinary, if not wholly unconstitutional and void.

Transportation of traitors to Bermuda.

The concluding act of his Lordship's government, his proclamation of the 9th October, requires no comment from your committee; it was regarded by all lovers of order with silent astonishment and disapprobation, and with what justice is best proved by the terms in which it was noticed by Her Majesty, who directed the Colonial Minister to inform Lord Durham, that Her Majesty had been advised by Her Ministers to regard it, "not merely as a deviation from the course which had hitherto been invariably pursued by the governors of the British possessions abroad, but as a dangerous departure from the practice and principles of the constitution. They considered as open to most serious objection, an appeal by such an officer to the public at large, from measures adopted by the Sovereign, with the advice and consent of Parliament.

Proclamation of 9th of October.

Her Majesty's notice of that proclamation.

"The terms in which that appeal had, in that instance, been made, appeared to Her Majesty's Ministers calculated to impair the reverence due to the royal authority in the colony, to derogate from the character of the Imperial Legislature, to excite amongst the disaffected hopes of impunity, and to enhance the difficulties with which his Lordship's successor would have to contend.

"The Ministers of the Crown having humbly submitted this opinion to the Queen, the Secretary of State proceeded to say, that it became his duty to inform his Lordship that he had received Her Majesty's commands to signify to his Lordship Her Majesty's disapprobation of his Lordship's proclamation of the 9th October.

"And that, under these circumstances, Her Majesty's Government were compelled to admit that his Lordship's continuance in the government of British North America could be attended with no beneficial results."

Your committee have noticed these prominent public acts of his Lordship for no other reason than to draw attention to the proofs which exist of the singularity, if not unsoundness, of his judgment, and as affording room for those not personally acquainted with the facts on which his Lordship founds his conclusions in the report which he has presented to Her Majesty,

Unsoundness of Lord Durham's judgment.