front to foreign aggression if we waste our energies in intestine squabbles? Differences of political opinion, of course, there must be, but on one point —the advancement of Canada (that is of the Canadian people as a whole), whether our fate is to develop into a nation like Saxony, or a nation like Switzerland or Holland, there should be no holding back.

The presence in Canada of the Comte de Paris has been made the theme of a good deal of discussion. We have stood honestly apart from the grandson of Louis Philippe, King of the French, since he condescended to use the Boulangist agitation to overthrow the Republic. We would have condemned such a course even if it had proved triumphant. In General Boulanger we never believed for a moment. An officer who sets the example of insubordination is not a person to admire. A statesman who uses his official position to make gain for himself and his clique deserves the most emphatic reprobation. A man who treats his benefactor with base ingratitude, and even goes the length of denying that he is indebted to him in the face of documentary evidence of former subservience, is not a person to be trusted. The Comte de Chambord was a man born out of due time. He was far too pious for the 19th century, and it would have been disastrous to France and to the cause of progress had his restoration been accomplished. But it is to his eternal honour that he rejected any compromise —even a compromise that the Church accepted long since—which he deemed derogatory to his line and to himself. He died, and, after some natural hesitations, the Legitimists accepted the heir of the younger and hitherto rival branch of Bourbon-Orleans as his successor and the Comte de Paris became the acknowledged chief of both sections. The Republic, apprehensively intolerant, banished him from France, and, instead of showing by his demeanour that, the humiliation was unmerited and uncalled for, he at once proceeded to act and speak and write in a manner which tended to justify the government's policy. *Facilis descensus Averni*. Boulangist intrigue proved a temptation, against the lures of which the prudent and generous Duc d'Aumale warned his nephew in vain. And now the slur of a foiled conspiracy attaches to French Royalism.

But to us the Comte de Paris is not a political leader. With his public career we have nothing to do. He is the descendent and representative of the kings by whose ministers and agents the foundations of New France were laid. His ancestors, Henry IV. and Louis XIII., were intimately associated with the initiation and first upward strivings of the little colony which has become the Dominion of Canada. There is historical fitness, as well as courtesy, in receiving him as a prince of the line of whose kings Canada bears the memories and under whom our oldest cities—including our own Montreal—were born in the wilderness. To allow the Comte de Paris to come and go without some recognition would be simply stultifying ourselves. If the Comte has had short-sighted counsellors and has made mistakes of policy, that is his misfortune, but does not concern us. Personally, his character is above reproach. He has a reputation as a soldier and a man of letters, and is one of the most noteworthy Frenchmen of our day. He is drawn to Canada—a land in which his ancestors once bore sway—by sympathies of race, and the least we can do is to give him a cordial welcome.

During Sir John McNeill's stay in Montreal, a newspaper man gave him a shock by using the word "fake" in his presence. We have of late been becoming far too familiar with the thing which is much more shocking than the word. The fake is the child of a bad parent, and when it goes masquerading to and fro on the earth in the ancestral manner, one has to be constantly on one's guard. Canada has been a frequent victim, and some of the slanders aimed at her have been very cold-blooded. How far the papers across the line that publish the falsehoods are blameworthy, we can only infer from the avidity with which they accept statements that are clearly concocted with malice prepense. The public taste that relishes such highly spiced fare must be abnormally unhealthy.

BENEFIT OF CLERGY.

A formula that we have been hearing repeated with deplorable frequency for some months past—that which the judge addresses to a convicted criminal before pronouncing sentence of death—suggests one of the most extraordinary chapters in the legal history of Great Britain. A virtually meaningless form of words to-day, it was once the mainstay of hope to a very large class of offenders. It is, in fact, a relic of one of the most anomalous outgrowths of mediæval practice, originating in the long conflict between Church and State, which reached its most critical stage at the time of the Reformation. To students of Blackstone, Hallam, Pike and other writers on law, its development will be familiar, but to the unread layman a brief outline of its curious evolution may not be altogether without interest. The author of "The History of Crime in England" states that, although the ecclesiastical was by express charter separated from the civil jurisdiction in the Conqueror's time, it had been usual long before his reign to exempt churchmen from what was deemed the indignity of pleading before the secular tribunals. William's regulations aimed at the discrimination of offences and the increase of the spiritual authority over priestly offenders. It was out of the marked distinction between the courts spiritual and the courts secular and the immunities thus accorded to those who had or were qualified to have a cure of souls that the strangest feature in English jurisprudence, subsequently known as Benefit of Clergy, had its rise. The extension of clerical power, after the Conquest (for the Norman Duke, who had made himself King of England, was naturally anxious to have the Church on his side) undoubtedly gave fresh strength to privileges which (though in a different shape) had existed under Saxon and Danish monarchs. "In this way an anomaly which had sprung up in the rudest times gained force enough to survive through ages of a very different complexion, and expired almost recently when everything was changed except itself." The privileges enjoyed by the Church were twofold. One was concerned with places and buildings consecrated to religious purposes. This is very ancient and is common to paganism and to Christianity. The right of sanctuary could not be violated, however heinous the crime of him who sought its shelter. The other related to sacred persons. "Touch not mine anointed and do my prophets no harm"—these words of the divine law in the days of King David and his successors were considered equally applicable to the priests of the Most High under the Christian dispensation. Taking this view, the authorities of the Church, as their influence increased, declined to accept as a favour from the State an exemption which, as they held, pertained to them *jure divino*. The usage under the Plantagenet and later kings was that, when a cleric was accused of crimes which might be punished with death, his bishop or ordinary at once demanded that he should be surrendered to himself. For a long time it was a controverted point whether the accused should be given up immediately on the charge being laid or at a later stage in the proceedings. It was finally decided, in the reign of the Sixth Henry, that the prisoner should be first compelled to appear before a civil judge, and that he should have the option of promptly declining to be so tried or of awaiting the result of the trial, when, if it went against him, he could plead his privilege. The latter mode was the more general, as it gave the chance of a possible acquittal, in which case the plea of clergy was not necessary.

For a long time the only persons who could avail themselves of the *privilegium clericale* were those who had the tonsure and habit of priests. But, as it was not difficult to have one's head shaved or to procure the loan of a clerical garb, another test, which could only have been thought of in an age of ignorance, was adopted—that of ascertaining whether the culprit could read. After this change came into force the benefit of clergy was claimed more and more by others than clerics. After the invention of printing there were in a few generations as many laymen as priests who could stand the imposed test. In the reign of Henry VII. it was found necessary, therefore, to still further modify the law—a distinction being made between literates who were clerics and those who were of the laity. It is curiously characteristic of the obstinacy with which the English people—the enlightened classes as well as the populace—adhere to tradition and ancestral usage, that a rule which the advance of knowledge had rendered absolutely nugatory, was still retained and applied with absurd persistence. As modified, the law ordered laymen who had succeeded in undergoing the now easy test of reading and thus asserting their right to the benefit of clergy to be condemned to some slight punishment, and to be prohibited from claiming the privilege more than once. In order to keep track of such as had thus escaped the penalty properly due to their crimes, such laymen were marked with a hot iron on the thumb of the left hand. This law, abolished in the later years of Henry VIII., was virtually reënacted under his son and successor, Edward VI. This last statute gave the privilege to peers of Parliament, even though they could not read, but only for the first offence. Peers were also exempted from the branding which other laymen had to undergo. In all these cases, the persons condemned by the civil courts, who had claimed the privilege of the law, were handed over to the episcopal courts, where, being re-tried in a peculiar fashion (no regard being had to what had already taken place in the king's courts) they were generally acquitted Being thus purged, the ex-culprit recovered all his civil rights—honour, liberty, lands, and went forth (though previously proved guilty) an innocent man. The scandals thence resulting led to another change in the law early in the reign of Elizabeth, by which the civil power retained the disposal of the delinquent in its own hands. The degradation of conviction was thus made ineffaceable by compurgation and the sentence of the civil court could no longer be haughtily ignored. With the exception of a clause which virtually admitted women (hitherto without the pale of mercy) to the privilege for certain offences, no change took place for nearly a century. Under the reign of William and Mary the brand was transferred from the thumb to the cheek (close to the nose) but, the indelible disgrace driving the unfortunates thus marked to despair, a more compassionate generation restored the old usage.

Pike mentions the *privilegium clericale* as one of the causes of that estrangement between clergy and laity which prepared the public mind for the great breach with the Church of Rome. The manifest injustice of dealing leniently with persons convicted of crime because they had enjoyed educational advantages, was equally a source of alienation between class and class in the later stages of this strange law. Therefore, in order to make its operation impartial, it was enacted in the fifth year of Queen Anne's reign that benefit of clergy should be granted to all criminals convicted of any of the specified offences, whether they could read or not. The subsequent alterations of the law it is needless to recapitulate It lingered on in one shape or another till the seventh year of George IV. (1827) when the last traces of it disappeared from the statute book. In consulting old trials one frequently meets with the addition—"without benefit of clergy" to the verdict on peculiarly atrocious crimes. At first sight one might fancy that judge or jury assumed the power of condemnation for the next world as well as this, but such is not the case. It simply meant, what the judge often appends to his pronouncement in our own time, that the condemned person need not look for any commutation of his sentence. When the modern judge asks the convicted man if he has any thing to say why sentence should not be passed on him, he is using a formula applicable to conditions which no longer exist.