

which will long survive in the bettered lot and grateful recollections of our colonies, with none for a fame which, instead of being laid in his untimely grave, will date from the hour of his death the commencement of a long and vigorous existence.

NOTE A, REFERRED TO IN PAGE 368.

There is one passage in the Proclamation, of which the propriety has been much questioned even by some of those most inclined to judge favourably of Lord Durham's conduct. It is that passage in which he states that, the Ordinances having been disallowed, there existed no impediment to the return of the persons who had been sent to Bermuda, or prevented from returning to the province. This was regarded by many as a mere outbreak of temper on Lord Durham's part, and it was supposed that, in order to throw obloquy on the Government at home, he actually invited dangerous persons to return to the colony. I confess that at first sight the passage in question has this appearance, and therefore I feel bound in justice to say that on that very ground Lord Durham was very reluctant to insert this passage, which I suggested, and very earnestly and perseveringly pressed on him. But practical considerations, totally unconnected with any reference to the conduct of the Home Government, induced me to make the suggestion, and, I think, justified Lord Durham in adopting it.

The instant that the news of the disallowance reached Canada, it was supposed that some of the exiles would enter the province. It seemed doubtful whether in that case they would be liable to be tried for their original offence. Nobody could deny that they had undergone *some* punishment, however inadequate, and the sound principle of *Non bis in idem* seemed, therefore, applicable to their case. But this point just admitted of so much doubt, as to make it quite certain that criminals so obnoxious to a large and violent party would not be allowed to re-establish themselves quietly at their former abodes, without some proceedings against them being attempted. We felt quite sure that they would be arrested, and that half the magistrates in the province would be eager to commit them for trial. The grand juries would have found bills, the trials must have taken place, and then would have recurred all the mischiefs which the Ordinances had been designed to avert. The angry passion of the past insurrection would have been revived by the proceedings in the courts, the guilt of the prisoners would have been proved in the clearest