

No. 3.

Lord Glenelg to the
Earl of Durham,
20 January 1838.

In the last session, both Houses of Parliament passed a resolution, "That great inconvenience has been sustained by His Majesty's subjects inhabiting the provinces of Lower Canada and Upper Canada, from the want of some adequate means for regulating and adjusting questions, respecting the trade and commerce of the said provinces, and divers other questions wherein the said provinces have a common interest, and it is expedient that the legislatures of the said provinces respectively be authorized to make provision for the joint regulation and adjustment of such their common interests."

It is clear that some plan must be devised to meet the just demands of Upper Canada.

It will be for your Lordship, in conjunction with the committee, to consider if this should not be done, by constituting some joint legislative authority, which should preside over all questions of common interest to the two provinces, and which might be appealed to in extraordinary cases to arbitrate between contending parties in either; preserving, however, to each province its distinct legislature, with authority in all matters of exclusively domestic concern.

If this should be your opinion, you will have further to consider what should be the nature and limits of such authority, and all the particulars which ought to be comprehended in any scheme for its establishment.

The Constitutional Act of 1791 will supply another subject of deliberation, with a view to determine what measures may safely be taken to correct the defects which have hitherto interfered, at least in the Lower province, with its successful working.

The constitution of the legislative council has formed the chief topic of complaint with the House of Assembly of Lower Canada, and they have insisted that the only remedy is to be found in making the council elective.

On this subject the following resolution was last year passed by both Houses of Parliament: "That, in the existing state of Lower Canada, it is inadvisable to make the legislative council of that province an elective body, but it is expedient that measures be adopted for securing to that branch of the legislature a greater degree of public confidence."

It will be for you and the committee to consider in what manner the judgment thus pronounced by Parliament can best be carried into effect.

There are other very important subjects regarding which you will probably think it right to consult the same advisers; such, for example, as the provision that should be made to meet the necessary expenses of the civil government in Lower Canada; the state of the law affecting the tenure of landed property in that province; the establishment of a court for the trial of appeals and impeachments. There is, in truth, not one of the many interesting questions relating to the good government and well-being of the two Canadas which might not very properly engage the attention of the committee.

On all the subjects which I have specified, and on others which may come under the notice of the committee, your Lordship will probably have to recommend the adoption of some legislative measures in this country: you will transmit to me an explanation of such measures in the fullest detail, in order that the Government may consider of the propriety of submitting them to Parliament.

You are authorized to fix the times and places of the meetings of the committee, to adjourn from time to time, and to frame all regulations necessary for the despatch of business. You are also empowered to dissolve the committee at your pleasure.

It is obvious that such a body could not be assembled with advantage during the prevalence of disturbance, or while the passions excited by recent conflict are still unallayed; but should a calmer period succeed, the same tranquillity which would render the meeting of such a committee expedient would make it practicable to provide for the election of representatives for the purpose of forming part of it.

Your Lordship, however, will understand that although, with a view to ascertain the opinions of the people, Her Majesty's Government have thought it right to convey to you a distinct authority to convene such a committee as that which I have described, should your own deliberate judgment confirm the view which they at present entertain of its probable expediency, they are fully aware that other modes may hereafter suggest themselves to you by which the same end could be attained, and to which you may give a preference, as being more acceptable to the inhabitants of the respective provinces, or less liable to any objection which may arise