

THREE MONTHS OF LIFE.

The SPECTATOR has lived through three months, a period of trade depression and all other kinds of depression consequent thereupon. For in trade we live and move and have our being. Literature must suffer with the general suffering—no wonder—for a man can scarcely be expected to care much for the mind and its culture when he has the great riddle of bread-winning to solve; he can hardly be supposed to turn with an equal mind to the first-class literary article when he has just been plagued by the quotation of stocks, more failures, &c. But we have held on our way, living fairly well and doing our best.

Faults have been found, of course. For some the paper has too much theology in it; for others, not enough. Some cry out for the sermons. Some cry out against them. We are asked to be not quite so heterodox. Others say, "bah, it is as orthodox as a volume of Methodist sermons." As to politics, the *Toronto Globe* says the SPECTATOR is in the interests of the Conservatives, and is vulgar, while gentlemen in connection with the Opposition say the SPECTATOR "has become a party hack." Proof good enough, that the original programme has been faithfully carried out, "*politics, but not party.*" In that good way we hope to continue, being for no party, but for the people.

The support given to the paper is almost enough to give occasion for pride in the minds of its conductors—for in truth, the subscribers to it are of the best possible class as to educational attainments. We will publish a list soon, and it will be seen that in spite of what the cynics say—there are hosts of people in the Dominion willing to support a high-class literary paper—open for the free discussion of all matters of interest—as the SPECTATOR is. We contemplate a great, because useful future. Many of the best writers of the country have come to our help—and we shall go on, trying always to do a little better. But we feel justified in making an appeal to our subscribers—first to be patient if they find that the machinery is not perfect. Second—to be generous if they find some things in the paper they cannot like, remembering that all should have a hearing. Third—to double the length of our subscription list by each one sending in a new name. We are working hard for nothing at all, as to money, and so feel free to make this appeal. Then, we are anxious to be in a position to pay the contributors, for only in that way can we be fair to them, and give to the public the best thoughts of the best writers. Those contributors are most generously helping now—but it will not be after the Editor's mind to tax their generosity overmuch. If our present subscribers will help just a little they will do great private and public service. And also, we are most anxious to increase the size of the paper by four pages. If each subscriber will send in a name, that will be done at once.

PREROGATIVES OF THE CROWN.

The recent *coup d'état* at Quebec and the animated discussions which it has excited will have at least one beneficial effect, that of disseminating much useful information concerning the constitution of the Government of this country; for, although much which has been said and written will be forgotten, there will be a residue of solid information left after the present agitation has subsided. The pamphlet published by Mr. Todd upon "Constitutional Governors" is alone almost worth a political "crisis."

Putting aside for the present any allusion to the question as to whether the dismissal of the DeBoucherville Cabinet was, or was not justifiable, a very interesting point remains, as to what *prerogatives of the Crown* are possessed by the Lieutenant-Governor, and in what respect His Honor is the representative of the Queen. Mr. Kerr raised this point in his speech at Perry's Hall, and Sir Francis Hincks has written at length in the *Journal of Commerce* stigmatising Mr. Kerr's proposition as a new discovery. A new discovery it certainly is not; but it is important to know whether it be a true discovery, for the phrase "*prerogatives of the Crown*" is one of those pregnant, though indefinite, expressions which conveys a meaning differing in extent according to the mode of thought of the person who hears it. If there are seven Governors, besides the Governor-General, who have the right to wield the "prerogative of the Crown," and who are at the same time irresponsible to the Crown, it is an interesting though anomalous fact. In the commission and instructions to the Royal Governors mention is indeed made of various officers, amongst others of Judges, Executive Councillors and Justices of the Peace. These, in a certain sense, are representatives of the Crown, but we do not hear of them claiming any *Prerogatives*. Every officer of the army or navy bearing the Queen's commission is *pro tanto* her representative, although no sharer in her prerogatives. In the Province of Quebec especially, a movement has been for some time in progress to magnify the office of local Governor beyond the limits of the statutes which created it. The assumption without any justification of the title "Excellency" instead of the legal title of "Honour" is enough to show the confusion of thought existing with regard to the office. In political matters names are very important; and the covert claim under the title "Excellency" is that, in local matters, the Lieutenant-Governor is a co-ordinate representative of the Crown with the Governor-General, if indeed he be not its exclusive representative as to certain matters specified in the Confederation Act. These notions tend to obscure the precise nature of the union of the Provinces under Confederation.

The Queen of England is the heir of a long line of monarchs who in times past wielded almost absolute powers by right of their royal office. Most of those powers have been wrested from, or conceded by, successive kings; but

there still remains in the Crown a certain residue—definite enough in some respects, but very indefinite in many others. Blackstone says, "by *prerogative* we understand that special pre-eminence which the Crown has, above all other persons, and out of the ordinary course of the law, in right of the regal dignity. And hence it can only be applied to those rights and capacities which the sovereign enjoys alone, in contradistinction to others, and not to those which he enjoys in common with any of his subjects."

With so clear a definition of the word *prerogative*, it becomes easy to distinguish two sources of power or honour. 1st. That flowing from the residue of the ungranted rights of the Crown. 2nd. That flowing from the Parliament, of which the crown is a necessary portion. It is beside the question to say that the prerogative must be exercised on the advice of responsible ministers. Such is the usage undoubtedly of the British Constitution at the present time and, to such an extent has this gone that Mr. Walter Bagehot (*English Constitution*) gravely propounds the absurd maxim that "the Queen must sign her own death-warrant if the two Houses unanimously send it up to her"; but in point of fact the power of the Crown is greater to-day than under the two first Georges. It is a variable power, depending much more upon the abilities of the Sovereign than upon anything else; but, as Mr. Todd well shows, it is a real and effective power, although subject to certain checks. If in any ordinary matter a person is found claiming to represent another he is asked to produce his power of attorney. If any one should doubt whether Lord Dufferin represents the Queen, he can produce the Queen's commission. If the Lieutenant-Governor of Quebec represents the Queen and claims any of her prerogatives, let him produce his commission from Her Majesty. He is not appointed by the Crown, but by the Dominion Ministry of the day. He is not responsible to the Crown but to the Ottawa Government. The Crown has absolutely no control over him, but the Government of the day at Ottawa has; and this is the precise difficulty under party government. If he were an Imperial officer or in any way responsible to the Crown, he would be appointed from abroad, and not taken out of the whirl of local jealousies to practise a five years' seeming neutrality and then return to the service of his party. When the Crown appointed Sir Francis Hincks, it was to govern the Barbadians, not the Canadian people, one half of whom he had been contending with during his whole career. Hence the danger, as well as the inaccuracy, of applying the expression "*prerogatives of the Crown*" to matters of local politics. It is because these prerogatives are real effective powers—because they flow from the Sovereign in person—that it is wrong to drag them through the mud of local contests. It is difficult enough for the Governor-General to hold aloof from party contests. Canadians can still remember the Pacific Scandal days when, to quote from a Liberal newspaper, "the people were going to rise in their might and hurl Dufferin from his seat at Ottawa." To have seven local governors getting behind the Royal Prerogative, or even talking about it in connection with their vagaries, would be intolerable. The next local governor who gets up a "crisis" may be a Conservative, and any one who has gone through the literature of the Sir Edmund Head and Lord Dufferin "crises" shrinks from the thought of dragging the Crown into local politics also; for when "the people rise in their might," as they are always supposed to do when Liberal politicians do not have all their own way, the din is terrific.

The conclusion, therefore, is inevitable that Sir Francis Hincks has been hasty in crediting Mr. Kerr with a "discovery." In Mr. Todd's excellent pamphlet, at page 27, will be found an extract from a despatch written to Lord Dufferin by the Colonial Secretary, the Earl Carnarvon, dated January 7th, 1875. He writes, in reference to the Provincial Governors, these officers "*however important, locally, their functions may be, are a part of the Colonial Administrative Staff, and are more immediately responsible to the Governor-General in Council. They do not hold commissions from the Crown, and neither in power nor privilege resemble those Governors, or even Lieutenant-Governors, to whom, after special consideration of their personal fitness, the Queen, under the Great Seal and her own hand and signet, delegates portions of her prerogatives and issues her own instructions.*" Mr. Kerr has, at any rate, been anticipated in his discovery by the Secretary of State for the Colonies.

The question might perhaps be asked, cannot the Governor-General delegate a portion of the prerogative of the Crown by commission to the Lieutenant-Governors? A moment's reflection will show that he cannot, except to the extent in which he may be empowered thereto specially by Her Majesty's commission and instructions to him. A similar question was put in 1814 to the law officers of the crown, when Sir Geo. Prevost was Governor, and they reported that he could not, while remaining in the country, delegate powers under his commission. Fortunately Mr. Todd's pamphlet enlightens us upon this point. The Queen's commission to Lord Dufferin empowers the Lieutenant-Governors "to exercise from time to time as they may judge necessary all powers belonging to the Sovereign in respect of assembling or proroguing and of dissolving the Legislative Council or the Legislative or General Assemblies of those Provinces respectively." This then is the extent of the prerogative belonging to the Lieutenant-Governors. The power of convoking and dissolving parliaments is an undoubted prerogative of the Crown, excepting that by statute the Legislative Council is appointed for life. This portion then, this precise limited portion and no more, is all the Governor-General can concede and all other prerogatives of the Crown are tacitly excluded. The dismissal of the ministers and the quarrel between them and the Lieutenant-Governor did not turn upon the convoking or dissolving of the Legislature. It turned upon the Railway Act an Act which could not be disallowed by the Imperial Government even if it desired to interfere, but could be disallowed only by the Dominion Government.

As before explained, the question now being considered is not whether the Lieutenant-Governor was right or wrong. It is simply whether and to what extent the prerogatives of the Crown are involved. It may be that his Honour has the powers claimed by statute. If he has they are not prerogative powers, but statutory powers. Sir Francis quotes the 65th clause of the Confederation Act to establish his point. It reads thus:—

Clause 65.—"All powers, authorities and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are, before or at the Union, vested in or exercisable by the respective