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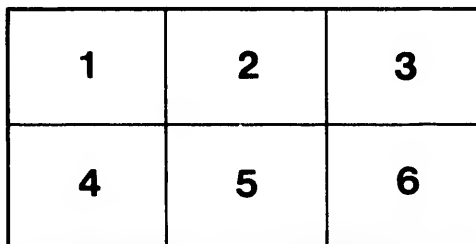
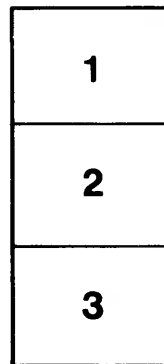
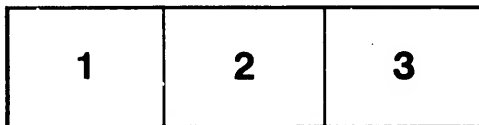
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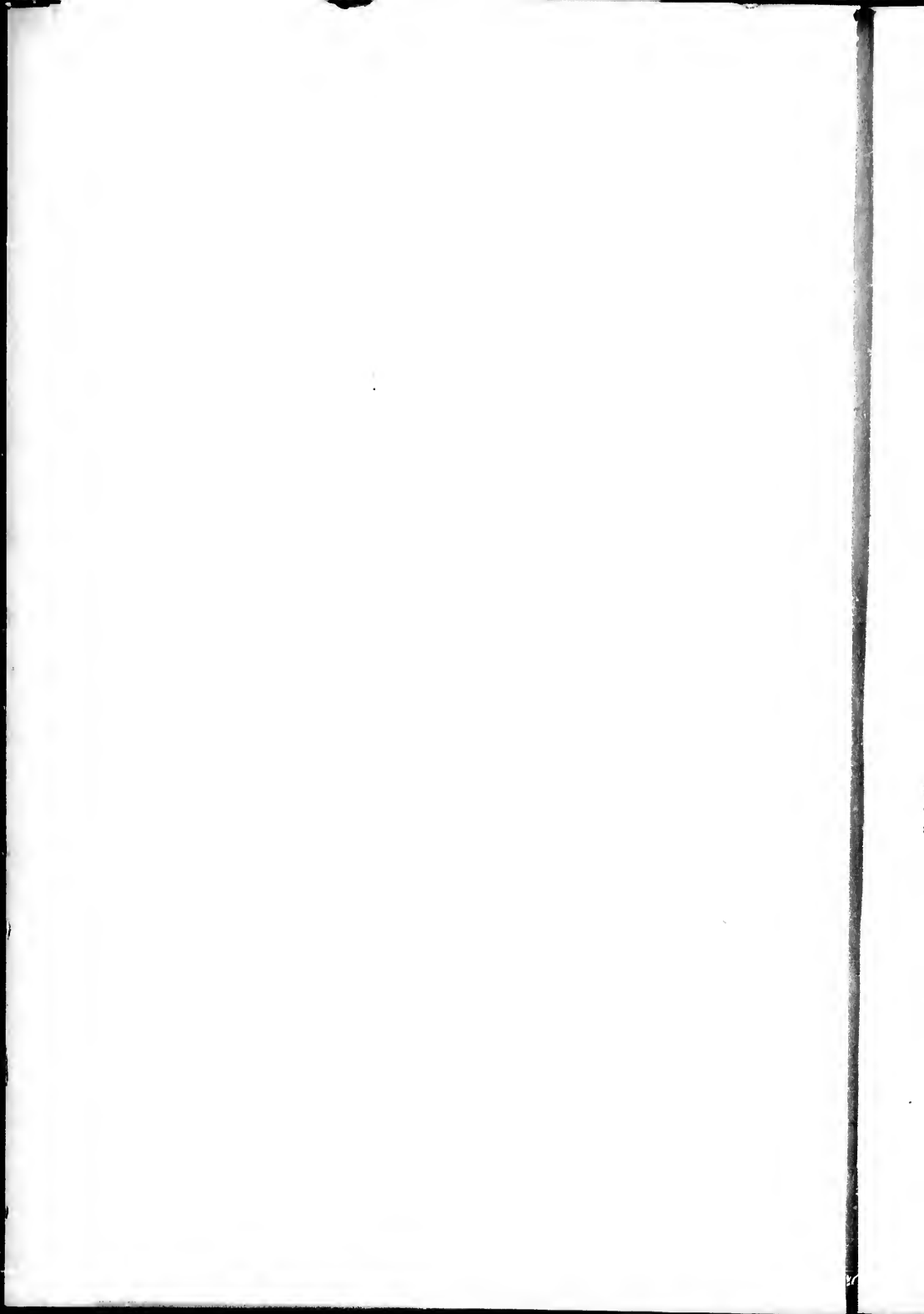
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THE

CANADIAN QUESTION.



THE
CANADIAN QUESTION.

BY G. A. YOUNG, ESQ.,
OF LINCOLN'S INN, BARRISTER AT LAW.

If we were able to go back to the elements of States, and to examine the oldest monuments of their history, I doubt not that we should discover the primal cause of the prejudices, the habits, the ruling passions, and, in short, of all that constitutes what is called the national character.

DE TOCQUEVILLE.

LONDON:
JAMES RIDGWAY AND SONS, 169, PICCADILLY.
1839.

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P R E F A C E.

THE following observations have already appeared in the July Number for 1838, and the January Number for 1839, of the British and Foreign Review. They are offered to the public, in their present form, at the request of several private friends who take an interest in the Canadian question, and to whom it appeared that the republication of two separate essays in one pamphlet, might tend to diffuse information on a subject confessedly but little understood.

It will be observed, that the form of constitutional government best adapted to the position, the manners, and usages, of the people of Canada, is the principal subject attempted to be discussed in these pages. To encumber that inquiry with details of a local nature would, it was conceived, have only diverted the attention of the reader from the first and most important consideration which claims his attention, to questions of a secondary interest. The more promi-

ment of those secondary questions may, however, be classed under the following heads.

1st. The right claimed by the late House of Assembly to appropriate the provincial revenue, by annual votes, to the payment of the officers and other expenses of the Colonial Government.

2nd. The conflicting claims of the Imperial Government and the Colonial Assembly, with respect to the disposal of the waste lands of the Province.

3rd. The commutation of the French feudal tenures, into the tenure of free and common soccage.

4th. The establishment of offices for the registration of mortgages and other incumbrances, and the introduction of a reformed system of Trial by Jury.

The first two are in the nature of mixed or international questions,—if the term international may be properly used between a province and the parent state,—for it concerns the empire as well as the colony, that the administration of justice should be amply provided for, and that the officers of government should be adequately and regularly paid for the services they perform.

So long as the Canadas continue a dependency, it must also be a right inherent in the Imperial Government, to participate in the disposal of the waste

lands of the Province ; and it is not only a right, but a duty incumbent upon the members of that Government, to give to British subjects, desirous of emigrating, every facility to do so, with as much security to person and property as they possess in England. In any Bill that may be proposed to Parliament, it would seem desirable, therefore, to introduce declaratory clauses by which the just claims of the parent state on these points might be asserted, without invading the constitutional privilege of the Colonial Assembly, to prevent an extravagant expenditure of the provincial revenue, and to check large and improvident grants of the public lands.

The other questions obviously partake of a local rather than of a general character, and sound policy would seem to dictate, that they be left for adjustment to the Canadians themselves. Should the union of the two provinces take place, that event would secure a due regard for the rights of the Anglo-Canadians ; and the only hope of an amicable and satisfactory arrangement of these and similar points in dispute, is to be found in that union.

I have also purposely abstained from all inquiry into the merits of Lord Durham's government, and the propriety of his resignation. The noble Earl and the ministry who appointed him are doubtless deeply interested in both these occurrences, but to the Canadian people they are comparatively of little importance ; and they may, with reason, protest against

their rights being sacrificed to secure a party triumph, or to prevent a party defeat. A writer in the *Quarterly Review* for December 1838 declares, that at this moment it would be in vain to solicit adequate attention to the "great Canadian question," and that "the public mind seems solely intent on what it expects to be a tournament in the *Tilt-yard* at Westminster, between, as of old, two distinguished champions, whom,

" — face to face,

" And frowning, brow to brow, they hope to hear,

" The accuser and the accused."

This writer, by a violent attack on Lord Durham, before his defence has been heard, does all he can to produce the state of public feeling he affects to deplore. It is to be hoped, however, that his efforts will be unsuccessful. The Anglo-Canadians have ever proved themselves faithful subjects of the empire in times of difficulty and danger. Are they doomed, in return for this conduct, to behold themselves used as the mere tools of able and ambitious men, and to witness, in times to come, as they have during the past, session after session wear away, marked only, so far as they are concerned, by inefficient measures?—and is it seriously supposed that this unmerited disregard of their interests can be safely persevered in?

2, Upper Portland Place,
1 February, 1839.

THE CANADIAN QUESTION.

CHAPTER I.

Lower Canada.

It is difficult, within the limits we have prescribed to ourselves, to touch upon the Canadian question in a manner satisfactory to those who are acquainted with the country, and intelligible to that larger portion of the community to whom Canada is emphatically a *terra incognita*, not only in its physical developments, but in its social and political relations. We feel this difficulty sensibly. Our earliest recollections are of a country where nature has traced on a gigantic scale the lineaments of a powerful empire; where a river, flowing from inland * seas, fed by numerous tributary streams, unrivalled in beauty, and almost unparalleled in extent and usefulness, sweeps for 2000† miles through temperate lati-

* The word "Sea" means, in common parlance, a body of salt not of fresh water; it is, therefore, somewhat incorrectly applied to the Canadian Lakes. The word "Lake," however, would be equally incorrect, and would fail to convey a just idea of the extent of these "inland seas." Lake Superior is unequalled in magnitude by any collection of fresh water upon the globe. Its length, measured on a curve line through the centre, is about three hundred and sixty geographical miles; its extreme breadth one hundred and forty; and its circumference, following the sinuosities of its coasts, about one thousand five hundred. Its surface is about six hundred and twenty-seven feet above the tide-water of the Atlantic. Various soundings have been taken from eighty to one hundred and fifty fathoms, but its extreme depth probably exceeds two hundred fathoms, thus showing the bottom of the lake to be nearly six hundred feet *below* the level of the ocean. Lake Huron is only second to Lake Superior. Lake Erie is about 265 miles long, 63½ wide at its centre, and 658 miles in circumference; its greatest depth varies from 40 to 45 fathoms. Lake Ontario is elliptical in its shape, 172 miles long, 59½ at its extreme breadth, and about 467 miles in circumference. The depth varies very much, but is seldom less than 3 or more than 50 fathoms, except in the middle, where attempts have been made with 300 fathoms without striking soundings.—*Bouchette's British Dominions in America.*

† The source of the river St. Lewis, which may be deemed the remotest spring of the St. Lawrence, is in latitude 48° 30' N. and about 93° W. longitude. From its source, the general direction of the St. Lawrence, through Lakes Superior and

tudes, in a portion of the globe richly stored with mineral wealth, and marked by every diversity of climate that prevails between Sweden and central France,—where, in fact, Providence seems to have decreed that man shall reap an ample return for his industry, unless man himself shall mar the beneficent intentions of Providence.

Let it not, however, be supposed that we mean to describe Canada as possessing all the advantages of a highly cultivated state of society. The comforts and most of the luxuries of life are to be obtained in her cities—but here the comparison ends. In a new country, possessing boundless tracts of land, yet covered with a primeval forest, in many places not even intersected by roads, and with natural resources not brought into action, the useful pursuits of life will necessarily supersede those by which the genius, the manners and the customs of a people are, in the lapse of years, wrought into bold relief.

Even in the United States of America, where commercial enterprise and activity have called into existence so much general prosperity, those moral and physical attributes which in their full development constitute a national character, have not yet ripened into maturity, and the Americans have failed to make advances in science, in literature and the Arts, in a ratio corresponding with their accumulated and increasing wealth. In painting they have undoubtedly produced clever artists, but they have displayed no original genius—there is no “American School.” In sculpture they are unknown, we believe, even as copyists. Their infant literature, with a few exceptions, is more English than American; and, although many of their public speakers are shrewd lawyers, or keen and intelligent political debaters, not one has put forward any just claim to the higher attributes of oratory. The United States of America have not yet, in fact, passed into the adult age of nations. Their people, from the force of circumstances, rather than by the operation of their institutions, are utilita-

Huron, is south-east to Lake Erie,—which lies between $41^{\circ} 30'$ and $42^{\circ} 52'$ N. latitude,—nearly due east through that lake, and then north-east to the Gulf of St. Lawrence, through which its waters are mingled with the Atlantic ocean, after a course of upwards of 2000 statute miles. Ships of 600 tons burthen can ascend with very little difficulty to Montreal, which is 580 miles from the Gulf.—*Bouchette's British Dominions in America.*

rians in the more contracted meaning of the word; and this will be the case until the rough and angular points of their social position are rounded by time, and the general diffusion of refinement shall call for those mental enjoyments which are sought for and produced in the later years of national existence.

Deeply and broadly, in the mean time, have the Anglo-Saxon race laid the foundations of freedom and civilization in the Northern American continent. Useful though common education is more generally diffused than in Europe. Christianity has taken deep root. The principles of self-government in local and in general affairs have trained men in the exercise of their public duties, have taught them the value of social order, and given security to person and to property.* Cold, then, must be the heart, and narrow and selfish the mind, that can look with indifference on a country, "in which one of the greatest political experiments in the history of the world is now performing."—Hypercritical and fastidious the taste, that can record the Backwoodsman eating his fish with a knife instead of a silver fork, or helping himself unceremoniously to the wing of a chicken; and yet fail to draw a comparison between the security and freedom he enjoys, and is the means of extending to others, with the violence and barbarism that have distinguished the infancy of other states.

"The national character is yet in a state of fermentation; it may have its frothiness and sediment, but its ingredients are sound and wholesome; it has given proofs of powerful and generous qualities; and the whole promises to settle down into something substantially excellent. But the causes which are operating to strengthen and ennoble it, and its daily indications of admirable properties, are all lost upon these purblind observers, who are only affected by the little asperities incident to its present situation. They are capable of judging only of the surface of things; of those matters which come in contact with their private interests and personal gratifications. They miss some of the snug conveniences and petty comforts which belong to an old, highly finished and over-populous state

* The abolition riots, the piratical incursions on the Canadian frontier, and the occasional infliction of "Lynch-law," seem to militate against this opinion; and, unless a moral or physical power be found to prevent the recurrence of such events, they will, undoubtedly, seriously affect the peace and security of American society. We believe that such a controlling power will be found if the evil continue; while up to the present time these disgraceful occurrences, though too frequent to be passed over in silence, cannot in justice be considered as more than exceptions to the general good order that prevails.

of society, where the ranks of useful labour are crowded, and many earn a painful and servile subsistence, by studying the very caprices and appetite of self-indulgence. These minor comforts, however, are all-important in the estimation of narrow minds, which either do not perceive or will not acknowledge that they are more than counterbalanced by great and generally diffused blessings."—*Washington Irving's Sketch-Book*.

Such is independent America; and, following in the same path, though with unequal steps, and marked by some unfavourable peculiarities, such is the state to which Canada is approximating.

With these preliminary remarks, we shall proceed with the difficult task of tracing to their true source the unhappy events which have lately taken place in Canada. "How inadequate and unsuccessful," says Lord Bacon,* "that human knowledge is, which we have at present in use, may appear from things commonly asserted. It is certain that the true knowledge of things is the knowledge of causes."—It is the absence of this "knowledge of causes" which has, in our opinion, contributed so much to perplex the discussions on Canada, and which has exercised so baneful an influence over the welfare of our Canadian provinces.

Mr. Roebuck, with the zeal of an advocate, exclaims,

—"The officials of that country I am about to speak of;—a party, which, backed by the powers of the Colonial Office, have been the cause of all the dissensions and difficulties that have arisen †."

And again we find him stating at the Bar of the House of Lords,

"It is the fashion, my Lords, to talk of the ignorance of the Canadian people; and assertions are recklessly hazarded, which greater knowledge of that people, and of their actual condition, and also of the true criterion of education, would altogether have prevented."

"America, at this moment, is governed by habits of thought and feeling,—fostered, perpetuated and extended by that remarkable band of religious and political enthusiasts who originally settled New-England, and whose sons now swarm in every part of the great federal Union of the United States. *The political creed of these men has in fact become the political creed of the whole Continent, and is entertained as well by the descendants of the French Colonists on the banks of the St. Lawrence and the Mississippi, as by the immediate heirs of those emigrants of English descent who took possession of the lands bordering on the Hudson and Connecticut ‡.*"

* Nov. Organum, vol. i. p. 150.

† Speech at the Bar of the House of Commons, 22nd January, 1838.

‡ Speech at the Bar of the House of Lords.

Similar opinions were expressed during the debates on the Canadian question by Mr. Leader, Mr. Hume, Mr. Warburton and Mr. Grote.

Against the correctness of these opinions we beg leave to enter a most emphatic protest; and jejune and imperfect will any legislative measure be which assumes them to be sound, or deals with the administrative errors of the colonial government of Quebec, and the abuses of the colonial office in Downing Street, as the only difficulties to be overcome. We seek not, however, to defend or palliate the errors of the one, or the abuses of the other. We believe, on the contrary, that they have produced disastrous effects on the public mind, and have loosened the links which bind the colony to the parent state; but to refer to them as the cause of ALL the difficulties that have arisen, betrays either a lamentable absence of the "knowledge of causes," or a want of candour, still less excusable, on a question of national importance.

Admitting, then, the existence and deprecating the continuance of these abuses, it shall be our endeavour to show that they ought to be classed rather as effects than causes; and that the peculiarity of the Canadian question, as well as the essential difference between it and the disputes with our former American colonies, consists in this—that the people of the New-England provinces were of *one race*, while in Canada the Anglo-Saxon and the Norman*, in every condition of life, at the bar and in other professions, in the pursuits of commerce and of agriculture, in the struggle for political power, have revived—on a small scale indeed, and in a remote province, but still with much excitement of feeling—the national jealousy and the personal rivalry which marked the collision of the two races in England at the time of the Conquest.

As we consider this an important view of the question, it shall be our endeavour, by a few brief notices of the early history of New-England and of Canada, to show that there is evidence of its being a true one; and it will, we hope, be

* The Canadians, for the most part, came from Normandy, and bear a striking resemblance to the people of Normandy of the present day.

made obvious to our readers, that widely different must be the manners, the customs, and the prejudices of the two races in Canada at this day, when he bears in mind that the effect of every legislative measure passed by us has been to sharpen and give an edge to points of difference—to prevent amalgamation, not to promote union.

The majority of our colonies have been first inhabited by men without education, driven by poverty or misconduct from their native land, or by adventurers anxious to improve their fortune; but the settlement of New England was distinguished by peculiar circumstances, and all the events attending it were novel and unprecedented. The settlers belonged to the more independent classes in their native land. Their union on the soil of America presented the singular phenomenon of a society containing neither lords nor common people, neither rich nor poor; and they possessed, in proportion to their numbers, a greater amount of intelligence than was to be found in any European nation of their time.

The emigrants, or as they deservedly styled themselves, "the Pilgrims," belonged also to that sect, the austerity of whose principles had acquired for them the name of Puritans. But puritanism corresponded in many points with the most absolute democratic theories. It was this tendency which had excited its most dangerous adversaries; and persecuted by the Government of the parent state,—disgusted by the usages of a society opposed to the rigour of their own principles,—the puritans went forth to seek some rude and unfrequented part of the world, where they could express their opinions with freedom, and worship God in their own manner.

The emigrants were about 150 in number, including the women and the children. Their object was to plant a colony on the shores of the Hudson; but after having been driven about for some time in the Atlantic ocean, they were forced to land on that arid coast of New England which is now the site of the town of Plymouth. The rock is still shown on which the pilgrims disembarked.*

Nathaniel Morton, the historian of the first years of the

* This rock is become an object of veneration in the United States. Bits of it are carefully preserved in several towns of the union.

settlement of New England,* thus describes the situation of the "Pilgrims":

"Let the reader with me make a pause, and seriously consider this poor people's present condition, the more to be raised up to admiration of God's goodness towards them in their preservation: for being now passed the vast ocean, and a sea of troubles before them in expectation, they had now no friends to welcome them, no inns to entertain or refresh them, no houses, or much less towns to repair unto to seek for succour: and for the season it was winter, and they that know the winters of the country know them to be sharp and violent, subject to cruel and fierce storms, dangerous to travel to known places, much more to search unknown coasts. Besides, what could they see but a hideous and desolate wilderness, full of wilde beasts and wilde men? and what multitudes of them there were they then knew not; for which way soever they turned their eyes (save upward to Heaven) they could have but little solace or content in respect of any outward object; for summer being ended, all things stand, in appearance, with a weather-beaten face, and the whole country full of woods and thickets represented a wilde and savage hew; if they looked behind them, there was the mighty ocean which they had passed, and was now as a main bar or gulph to separate them from all the civil parts of the world."

This state things, it must be admitted, was sufficiently discouraging, and such as would have reduced ordinary minds to despair, or have urged the mere enthusiast to deeds of extravagance that would have led to his destruction. But the piety of puritanism was not altogether of a speculative character; it took cognizance of worldly affairs; and, as the records of our civil wars and of the commonwealth abundantly show, it was scarcely less a political than a religious doctrine. No sooner, therefore, had the emigrants landed on the barren coast described by Nathaniel Morton, than they formed themselves into a society by the following instrument:

"In the name of God, Amen. We, whose names are underwritten, the loyal subjects of our dread Sovereign Lord King James, &c. &c., Having undertaken for the glory of God, and advancement of the Christian faith, and the honour of our king and country, a voyage to plant the first colony in the northern parts of Virginia; Do by these presents solemnly and mutually, in the presence of God and one another, covenant and combine ourselves together into a civil body politick, for our better ordering and preservation, and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be

* New England's Memorial. Boston, 1826.

thought most meet and convenient for the general good of the Colony : unto which we promise all due submission and obedience."

This was in the year 1620, and from that time the colony rapidly advanced.

In studying the laws, says M. de Tocqueville, which were promulgated at the first era of the American republics, it is impossible not to be struck by the remarkable acquaintance with the science of government and the advanced theory of legislation which they display. The ideas there formed of the duties of society towards its members are evidently much loftier and more comprehensive than those of the European legislators at that time : obligations were there imposed which were elsewhere slighted. In the states of New England, from the first, the condition of the poor was provided for* ; strict measures were taken for the maintenance of roads, and surveyors were appointed to attend them † ; registers were established in every parish, in which the results of public deliberations, and the births, deaths and marriages of the citizens were entered ‡ ; clerks were directed to keep these registers § ; officers were charged with the administration of vacant inheritances, and with the arbitration of litigated land-marks ; and many others were created, whose chief functions were the maintenance of public order in the community ||. The law enters into a thousand useful provisions for a number of social wants which are, at present, very inadequately felt in France.

But it is by the attention it pays to public education that the original character of American civilization is at once placed in the clearest light. "It being," says the law, "one chief object of Satan to keep men from the knowledge of the Scripture, by persuading from the use of tongues, to the end that learning may not be buried in the graves of our forefathers, in church and commonwealth, the Lord assisting our endeavours**."

Here follow clauses establishing schools in every township, and obliging the inhabitants, under pain of heavy fines, to support them. Schools of a superior kind were founded in

* Code of 1650, p. 78.

‡ Hutchinson's History, vol. i. p. 455.

|| Ibid., p. 40.

† Ibid., p. 49.

§ Code of 1650, p. 86.

** Ibid., p. 90.

the same manner in the more populous districts. The municipal authorities were bound to enforce the sending of children to school by their parents; they were empowered to inflict fines upon all who refused compliance; and, in cases of continued resistance, society assumed the place of the parent, took possession of the child, and deprived the father of those natural rights which he used to so bad a purpose*.

We have thought it necessary to trespass with these notices of the early settlement of New England; but it would exceed our limits, to trace the rise and progress of the colony from the year 1620, when the emigrants landed at Plymouth, to the year 1776, when, increased in power, in wealth and population, their descendants declared themselves "free and independent. Nor is it necessary to repeat here what history has recorded of the Anglo-American people, after the last hostile soldier had quitted their shores. It is sufficient to observe, that although most of their cities were desolate, their commerce crippled, their agriculture neglected or destroyed, they neither disgraced the cause of freedom by relapsing into anarchy, as their South American neighbours have done, nor, like the French, sought refuge from disorder under a military despot. But, following the example of their pilgrim ancestors, they again formed themselves into a "civil body politick," and founded a federate empire, which seems destined to spread over a vast continent, and to hand down to posterity the name, the language and the laws of England. We point, nevertheless, to these events as the legitimate consequences of the principles asserted and promulgated at the first settlement of the country—we refer to them as the practical results of self-government, whether under a limited monarchy or in a republic, where men are sufficiently intelligent to understand the foundation on which that system can alone be securely based, and sufficiently energetic to defend it, when once established.

We shall now endeavour to show, by a sketch of the early settlement of Lower Canada, by a reference to the laws and usages which France introduced, and by the comparison we

* See Mr. Reeve's translation of M. de Tocqueville's *Democracy in America*, vol. i.

invite between the principles of centralization which distinguished her colonial government and the self-government of the Anglo-Americans ;—

1. That the habits, the manners, the moral education and the prejudices of a people trained under the French administrative system, must be totally different from those of the Anglo-Saxon race.

2. That the geographical position of the provinces, and the necessity of promoting the amalgamation of the two races, as the only means of securing the permanent welfare of both, demand that Upper and Lower Canada should be united under one executive government, and that the representatives of the English and French populations should meet in the same legislative chamber.

The first authentic record of any attempt made by the French to form a settlement in Canada, may be traced to the year 1540. A commission, dated the 17th of October in that year, was granted by Francis I. to *Jacques Quartier*, "pour l'établissement du Canada," and as a translation of this document would very inadequately represent the quaint expressions and obsolete dialect of the original, we quote in French an extract from the recital it contains of the grounds and reasons which moved the royal Francis to send his faithful subject on so hazardous an expedition.

"François, par la grâce de Dieu Roi de France : A tous ceux qui ces présentes lettres verront ; Salut. Comme pour le désir d'entendre et avoir connoissance de plusieurs pays qu'on dit inhabités, et autres être possédés par Gens Sauvages, vivans sans connoissance de Dieu, et sans usage de raison, eussions dès pie-ça, à grands frais et mises, envoyé découvrir les dits pays par plusieurs bons pilotes, et autres nos sujets de bon entendement ; et entre autres y eussions envoyé notre cher et bien aimé *Jacques Quartier*, lequel aurait découvert *grands pays des terres de Canada et Hochelaga faisant un bout de l'Asie du côté de l'Occident* ; lesquels pays il a trouvés (ainsi qu'il nous a rapporté) garnis de plusieurs bonnes commodités, et les peuples d'iceux biens fournis de corps et de membres, et bien disposés d'esprit et entendement ; en considération de quoi et de leur bonne inclination nous avons avisé et délibéré de renvoyer le dit *Quartier*," &c. &c. Commissions des Gouverneurs et Intendants, &c. &c., servant en Canada, tome ii. pp. 1 & 2*.

* See also "Histoire de la Nouvelle France," par l'Escarbot, and "Mémoires sur les Possessions en Amérique," tome iii.

It does not appear, however, that the exertions of *Jacques Cartier*, though clothed with the title of "Captain-General and Master-Pilot," were attended with much success; and we refer to his expedition rather because his name is associated with the earliest records of the colony, than on account of any important results by which it was immediately followed. Up to the year 1627, a miserable establishment of only forty or fifty persons had been formed, and such was the destitute condition and want of resources of these early colonists, that they were dependent, even for their existence, on the supplies sent annually from France for their maintenance. In this year* the attention of Richelieu appears to have been directed to the new colony; and the powerful mind that could control, if not subdue, the jarring elements of civil and religious strife in the parent state, did not overlook the difficulties which retard the progress of an infant settlement. Under the auspices of the Cardinal †, at that time "Superintendent-General of the Navigation and Commerce of France," a company of merchants, consisting of one hundred associates or partners, was formed to promote the commerce and colonization of Canada; but their efforts were unsuccessful, and the Province was finally surrendered to the French government by this company in the year 1663 ‡. An ordinance was then passed by Louis XIII. establishing a superior council for the government of the country called "New France." It consisted of five § persons, nominated annually by the governor and the bishop or principal ecclesiastic of the Province; and to this council was given not only a legislative power, subject to the ultimate control of the parent state, but also a supreme jurisdiction in civil and criminal cases; it being or-

* In 1629 Canada was taken by the English under Kirk, but was then held in so little estimation, as to be returned to its former owners in three years afterwards.

Le Conseil de Louis XIII. tenait aussi si peu à cet établissement, qu'il opinait à ne pas en demander la restitution; mais Richelieu, qui avait fondé la dernière compagnie, fit changer d'avis. On arma six vaisseaux pour soutenir cette demande, et la Cour d'Angleterre, d'après le conseil de Lord Montague, rendit le Canada aux Français en 1631.—*Beautés de l'Histoire du Canada*, p. 84.

† Acte pour l'établissement de la Compagnie des Cent Associés.—*Edits et Ordonnances*, tome i. p. 1.

‡ Arrêts du Conseil d'Etat du Roi, &c. 1663.—*Edits et Ordonnances*, tome i. p. 21.

§ The number was increased to seven in 1675, and certain public officers were made official members.

dered that, in hearing and deciding upon such cases, the council should proceed, as nearly as possible, in the manner and form prescribed by the usages of the parliament of Paris.

As this ordinance was of great importance, not only to the existing state of the colony but to its future welfare, and as it in fact introduced a system of jurisprudence, which to this day is the common law of Canada in civil matters, its provisions demand some attention, and invite a comparison between their character and tendency, and the social and political regulations of the pilgrims of New England. The English emigrants *formed themselves* into a "Civil body politick," and *mutually covenanted* to observe such laws and regulations as the maintenance of social order and the security of their little commonwealth demanded. In the French colony the crown and the church combined to select five fit and proper persons, who held their office for one year, to assist the governor and principal ecclesiastic in the performance of their legislative functions; and the ordinances passed by this body were subject to ultimate revision by the central authority of the king's government in Paris. M. de Tocqueville* has borne testimony to the astonishing fact, that many of the laws of the "Pilgrim Fathers" provided for social wants but imperfectly understood and appreciated in France at the present time. The laws introduced into Canada by the ordinance of 1663 were the feudal customs and usages of the *Coutume de Paris*.

We will not inflict upon our readers a minute investigation of the usages which prevailed in the "*Viscomté de Paris*," and which were thus introduced into Canada. The juridical division of France in the year 1663 is well known. In the "*Pays du Droit Ecrit*," the Roman law, with some modifications, may be said to have been the common law of the district. In the "*Pays Coutumier*," the feudal customs of the Franks, and of the other northern tribes that overran France, supplanted almost entirely the Roman civil code. The collection of usages known by the name of the Customary Law of Paris, partook largely of the feudal character, and was less intermixed with the Roman Law than the local customs of

* Tocqueville's Democracy in America, vol. i. p. 41.

the more southern provinces of the kingdom*. All lands were in consequence granted either "*en fief*,"—as manors, clothed with most of the rights and privileges of feudality; or "*en roture*,"—by a villanage tenure, subject to the "servitudes," whether honorary or beneficial, which the law exacted from the vassal to his lord paramount; and nowhere did the ancient feudal maxim—"nulle terre sans seigneur"—prevail more decidedly than in the colony of New France. The mutation fines payable to the lord on the sale of inheritances, and the right of pre-emption reserved in certain cases to the lord and to the relations of the vendor, are among the incidents to this tenure which have produced important results in Canada. Their obvious and inevitable effect has been, to check the transfer of property in a new country; to retard improvement; to prevent the development of natural resources, by confining the settler to the farm which was first granted to him; and, as a more remote result, to produce that condensed agricultural population—unnatural amidst boundless tracts of uncultivated land—which is so remarkable in Lower Canada, and which contrasts so unfavourably with the stirring character of the Anglo-Saxon population in the United States.

A system of mortgages, or hypothecations †, was also introduced into the province by the Customary Law of Paris, the very reverse of that which obtained in the New-England settlement. In the latter, registration offices were established, by means of which the incumbrances on an estate might be immediately ascertained. In the Canadian province, no registration of deeds was required, although hypothecary obligations—whether created by mere operation of law, as the legal or tacit mortgage, by which the rights of a minor or of a married woman are secured upon the estate of the husband or guardian, or the conventional mortgage, created by the act of the parties themselves—affected not only the whole of the mortgagor's immoveable property in possession, but all that he might afterwards acquire. This law of mortgages,

* See Coutume de Paris—Titre, Des Fiefs. Art. 1. to Art. 72. Titre, Des Censives et Droits Seigneuriaux. Art. 73 to Art. 87.

† Coutume de Paris—Titre, Des Actions personnelles et d'Hypothèques. Art. 99 to Art. 112.

even at the present day, renders it almost impossible to obtain a good title to an estate in Lower Canada. The effect on the social condition of the inhabitants has been, to fetter industry; to produce forced sales of property for the payment of debts of comparatively small amount; and to clog and embarrass the exertions of the settler in his attempts to subdue the natural difficulties of his position.

The matrimonial community of property*, by which one half of the earnings of the husband during coverture may, after the death of his wife without children, be claimed by her next of kin in his lifetime, might also be mentioned, with other usages of the "Custom of Paris," not only as instances of unjust laws in the abstract, but as regulations pregnant with mischief to the moral and social condition of a people.

There is no trace in the French colonial annals of the establishment of parochial schools, nor of any general system of education, supported either by local rates, or from the taxes levied by the supreme council. Education, such as it was, fell almost as a necessary consequence under the exclusive control of the church; and its pious exertions were directed rather to instruct fit persons for the priesthood, than to extend general information amongst the colonists†. By a united effort of M. de Petrée, bishop of Canada, and of the King of France at Paris, the seminary ‡ of Quebec was established on the 26th of March 1663. The following extract from the letters patent promulgated by his lordship the bishop on that occasion, will clearly show the principal object for which this college was founded.

"In which" (the new seminary) "shall be educated and trained young clerks, who shall appear fit for the service of God, and to whom, for this purpose, shall be taught the manner of administering the sacraments; the method of catechising, and of preaching moral theology, according to apostolical doctrines; the ceremonies of the church; the full Gregorian

* Coutume de Paris.—Titre De Communauté de Biens. Art. 220 to Art. 246.

† We are aware that this remark does not apply, at the present day, to the Roman Catholic seminaries of Quebec and Montreal, where many students receive an excellent education. But this is a comparatively modern practice, and even now these seminaries are attended, almost exclusively, by the town population, or by the sons of the wealthier seigneurs and merchants. An Act of the Provincial Legislature was necessary to introduce parochial schools a few years since—a sufficient proof that no local provisions existed for their maintenance.

‡ Edits et Ordonnances, tome i. pp. 25 et 26.

chant; and other matters, appertaining to the duties of the good ecclesiastic."*

A seminary of ecclesiastics, of a similar character, was established in the year 1677† in Montreal, and the whole of the island and *Seigneurie* of that name were granted to this establishment in mortmain. It was subsequently united to the seminary of St. Sulpice at Paris‡, and a supply of priests for religious and educational purposes was periodically sent from France, and has with some interruption been continued to the present time. These, we believe, were the only provisions for education made by the French government; and it must be obvious, that in a new country, with few roads and a scattered population, they could but imperfectly supply the absence of parochial schools.

The indefatigable Jesuits were not slow in introducing themselves into the colony, and it is scarcely an exaggeration to say, that the quadrangular college they built in the Upper Town of Quebec was sufficiently spacious to contain the whole population of the colony at the time of its construction. Extensive tracts of land were granted to them in mortmain§, which, upon the extinction of the order in 1764, were claimed by the Crown of England. The "Jesuits' estates" have, however, been a fruitful source of contention between the Government and the House of Assembly, and they have of late years been surrendered to the provincial legislature for purposes of education.

There was also an establishment of Recollet Monks of the order of St. Francis||; and convents of nuns, and hospitals for the relief of the sick, under the care and superintendence of religious persons, were, according to the Roman Catholic usages in the 17th century, introduced, on a scale that strikes the inquirer into the early records of the province as strangely disproportioned to the number of its inhabitants and their probable necessities. A parochial clergy¶ was also estab-

* Edits et Ordonnances, tome i. p. 80.

† Ibid., tome i. p. 26.

‡ Ibid., tome i. p. 304.

§ Amortissement en faveur des R. R. P. P. Jesuites.—Edits et Ordonnances, tome i. p. 90.

|| The Recollets were one of the four branches of the "Seraphic order of St. Francis." See 'Histoire des Ordres Monastiques, tome iii. p. 265.

¶ Edits et Ordonnances, tome i. pp. 243-314.

blished, and their support was provided for in their respective parishes by a contribution of one twenty-sixth of all the grain produced; the parishioners being further subject to occasional assessments for building and repairing churches and parsonage-houses. The patronage of these churches was given to the bishop*.

It is impossible not to be struck with the contrast afforded by the system of government—civil and religious—we have thus imperfectly shadowed out, when compared with the democratic principles of the Pilgrims of New England; and unless we assume that human nature is governed by laws and subject to impulses in Canada different from those which influence it in other countries, the conviction is forced upon us, that these institutions must have produced their ordinary and legitimate effect in moulding the character and forming the opinions of the people. In dealing with the Canadian question, we further infer from these premises that an anomalous state of society is brought under our notice, which can find no parallel in the condition of our former American colonies, at the time of their separation from England.

The facts whereby we can judge of the correctness of these opinions, and form an estimate of the habits and manners of a people placed in a distant colony in America in the 17th and 18th centuries, must necessarily be scanty, but they are not altogether wanting. The history of Father Charlevoix the Jesuit treats of the material wants of the colonists, of the vicissitudes that attended their wars with the English and the Indians, and of their exertions to bring the new settlement into cultivation, rather than of their social habits and character. We turn, therefore, to their own records—to the ordinances that were promulgated, and the decrees that were pronounced by their supreme council; and there we find abundant evidence to show, that the absolute government under which they lived, the temporal and spiritual power of their ecclesiastical establishments, the feudal privileges of the "*Seigneurs*," though modified by local circumstances, were actively producing the same results as in other countries.

* Arrêt du Conseil d'Etat du Roi qui accorde le patronage des Eglises à Monseigneur l'Evêque.—Edits et Ordonnances, tome i. p. 292.

The legislator and the jurist, who dive into these sources of information, will be convinced of the truth of this proposition; but for the general reader we shall endeavour to select an example, which will place in strong relief the lights and shadows of social life in the early settlement of Canada, and will tend to illustrate the important matters which challenged and received the attention of the French king's government, both in the colony and in France.

Various discussions and heart-burnings had evidently arisen in the new colony, on that most delicate and exciting of all subjects in provincial society—rank and precedence; and the honours to be conferred by the appropriation of seats, or by other marks of distinction in churches, seem more particularly to have engaged the attention of the inhabitants. The supreme council at Quebec appears to have found this too difficult a matter to deal with, and the authority of the central government in France being invoked, a regulation was promulgated by the Duke of Orleans, at that time regent of France, not unworthy of the future court of Louis XIV. We give the following extract.

“ BY THE KING.

“ His Majesty having caused all the ordinances and regulations that have been promulgated on the subject of honorary distinctions in the churches of New France to be communicated to him, and being desirous to prevent the contests which daily arise on this account, with the advice of His Royal Highness the Duke of Orleans his Uncle Regent, has resolved and ordered as follows:—

“ 1. The Governor-general and Intendant of New France shall each have a pew in the cathedral church of Quebec, and in the parish church of Montreal; that is to say, the Governor-general on the right of the choir and the Intendant on the left, both being placed on the same straight line.

“ 2. The King's Lieutenant for the city of Quebec shall have a bench in the cathedral next behind the pew of the Governor-general.

“ 3. In the other churches of New France, the Governor-general and the Intendant shall not have pews, but shall only be entitled to cause their chairs or seats to be carried to such churches, which they shall also cause to be placed in the most distinguished position—that of the Governor-general to the right, and that of the Intendant to the left.

“ 4. Incense shall be offered only to the Governor-general, and that immediately after the Bishop, and before the Chapter.

“ 5. In the absence of the Governor-general from any District Govern-

ment, in which the Intendant shall be present, the District Governor, or in his absence, the King's Lieutenant, shall have the first place in all Public Ceremonies, and the Intendant shall have only the second; but when the Governor-general shall be within the limits of the District Government, and shall be prevented from assisting at Public Ceremonies, from whatever cause this may happen, the Intendant shall have the first place, and the District Governor and the King's Lieutenant shall only rank after him.

" 6. In Processions at which the Council shall be present, the Governor shall march at the head of Council, and the Intendant on the left. Then the Councillors and the Attorney-general, and after him the Officers of the Jurisdiction; and the line of march thus regulated shall be in the order of two and two.

" 7. His Majesty desires that in the event of the Governor-general's absence, or illness, the Intendant alone shall march at the head of the Council; and if the Intendant shall be absent, the Senior Councillor shall take precedence.

" 12. At Salutes fired on the occasion of public rejoicings, three Torches shall be presented to the Governor-general, one to the Intendant, and a third to the King's Lieutenant. When the Governor-general shall be absent from the District Government of Quebec, only two Torches shall be presented to the King's Lieutenant, or to the officer commanding in the Town, and the other to the Intendant.

" Orders and commands his Majesty to the *Sieur Marquis de Vaudreuil*, Governor and Lieutenant-general in New France, and to the *Sieur Begon*, Intendant, and to all their Officers, to conform to the present regulation, which he desires may be enregistered in his Superior Council of Quebec, and executed according to its form and tenor. Done at Paris this 27th of April, one thousand seven hundred and sixteen.

(Signed)

LOUIS."*

But, it may be urged, the Elective House of Assembly established after the conquest of the colony, and the trial by jury which has followed the introduction of the English criminal law, and has obtained a partial footing even in civil causes, as well as the opportunity of intercourse with the English, must have produced a change in the habits and manners of the people. In the educated classes—a small minority—a change has undoubtedly taken place, though we question their fitness for the duties and responsibilities of self-government, unassisted by their Anglo-Canadian brethren: while the great body of the French population, which

* Edits et Ordonnances, tome i. p. 334.

has increased under our sway from 65,000* to nearly half a million, in their prejudices, customs and opinions, are essentially the same as at the time of the conquest of the colony. In support of this opinion we shall violate the chronological order of our remarks, by quoting the description given by a modern *French-Canadian*, an authority above suspicion, of his own countrymen: a description graphically true at the present day, but which, we are persuaded, would appear not less true if the ancestors of this unchanged race had sat for the portrait. It will at all events be sufficiently apparent, that whatever alteration may have taken place, we have failed to convert the French-Canadian either into an Englishman or an Anglo-Canadian.

"The most important and marked distinction existing in the country is of FRENCH and ENGLISH; meaning by French all such as were originally, or have, by long dwelling in the country or otherwise, become attached to the French-Canadian habits and language; meaning by English such as are really English, or have, in spite of their continuance in the country, retained a decided predilection for what they believe to be English manners, language, tastes, &c.

"Among the people of the United States, there exists a roving disposition, that leads them in multitudes to make New Settlements in the wild lands, and thus rapidly to spread civilization over the immense unreclaimed territories they possess. This feeling exists not in Canada: the inhabitants, generally, are far from adventurous; they cling with pertinacity to the spot which gave them birth, and cultivate, with contentedness, the little piece of land which in the division of the family property has fallen to their share.

* Population of Lower Canada, at various times, from the year 1676 to 1825 inclusive, as taken from the authority of Charlevoix, La Potheraye, and of public documents.—*Bouchette's British Dominions in America.*

Year.	1676	1688	Increase in 12 yrs.	1700	Increase in 12 yrs.	1706	Increase in 12 yrs.	1817
Souls.	8,415	11,249	2,834	15,000	3,751	20,000	5,000	26,904
Year.	Increase in 8 yrs.	1759	Increase in 45 yrs.	1784	Increase in 25 yrs.	1825	Increase in 41 yrs.	
Souls.	6,904	65,000	38,096	113,000	48,000	150,000	337,000	

The Anglo-Canadian as well as the French-Canadian population is included in this Table since the year 1759. But the French-Canadian population alone is not much if at all under half a million at the present day.

One great reason for this sedentary disposition is their peculiar situation as regards religion. In Canada, as in all Catholic countries, many of the people's enjoyments are connected with their religious ceremonies; the Sunday is to them their day of gaiety; there is then an assemblage of friends and relations; the parish church collects together all whom they know, with whom they have relations of business or pleasure, the young and old;—men and women clad in their best garments, riding their best horses, driving their gayest *calèches*,—meet there for purposes of business, love and pleasure. The young *habitant*, decked out in his most splendid finery, makes court to the maiden whom he has singled out as the object of his affections; the maiden, exhibiting in her adornment every colour of the rainbow, there hopes to meet *son chevalier*; the bold rider descants upon, and gives evidence of the merits of his unrivalled pacer; and in winter the power of the various horses is tried in *sleigh* and *cariole* racing. In short, Sunday is the grand fête, it forms the most pleasurable part of the *habitant's* life: rob him of his Sunday, you rob him of what, in his eyes, renders life most worthy of possession. Moreover, the people are a pious people, and set an extraordinary value on the *rites* of their religion. Take them where they may be unable to participate in these observances, and you render them fearful and unhappy. The consequence of all these circumstances is, that the Canadian will never go out singly to settle in a wild territory; neither will he go where his own religious brethren are not.

“The comforts of the people, if compared with any other nation, are wonderfully great; their food, from their French habits, consists not of animal food to the same extent as that of the richer English, but is, nevertheless, nourishing and abundant. No griping penury here stints the meal of the labourer; no wan and haggard countenances bear testimony to the want and wretchedness of the people.

“While the Canadians are thus well supplied with food, they are equally fortunate as to their clothing and their habitations. Till lately, the chief clothing of the population was wholly of their own manufacture; but the cheapness of English goods has, in some degree, induced a partial use thereof. Canadian cloth is, however, still almost universally used; and the grey *capot* of the *habitant* is the characteristic costume of the country. The *capot* is a large coat reaching to the knee, and is bound round the waist by a sash; which sash is usually the gayest part of the Canadian's dress, exhibiting every possible colour within the power of the dyer. The women are usually clothed nearly after the fashion of a French peasant. On the Sunday they are gaily attired, chiefly after the English fashion, with only this difference,—where the English wears one, the Canadian girl wears half a dozen colours. Here, as in the case of food, no penury is manifest; an exceeding neatness of person and cleanliness, that first requisite to comfort, mark the people to be above the influence of want, and to be in that state of ease which permits them to pay due attention to the decency of external appearance.

“It is impossible—perhaps it would also be unnecessary—to give a minute description of the sort of houses which the farming population usually

inhabit; suffice it to say that they are generally constructed of wood though, as the farmer becomes rich, he almost invariably changes his wooden for a stone house. For the number of inhabitants they are unusually large and commodious. In the summer, from being low, they are generally uncomfortably warm; and in winter, by the aid of a stove, they are rendered completely uninhabitable by a European. The excessive heat in which the Canadian lives, within doors, is sufficient to kill any one not from his infancy accustomed to that temperature. Without doors, however, the *habitant* bears with ease the piercing cold of the winter blasts,—

‘Breasts the keen air, and carols as he goes,’—

when any one, not a Canadian, would be compelled to take every possible precaution against its painful influence.

“Free from the pressure of want, and unexposed to the temptations created by surrounding affluence, they are free from the vices which poverty and temptation engender. Property is perfectly safe both from petty pilfering and open attacks.

“In the country the doors of the houses are never fastened, and all sorts of property are openly and carelessly exposed. In the social relations, also, the same circumstance of ease induces, to a great degree, honesty in dealing.

“In the kindlier affections, they, like all happy people, are eminently conspicuous; though, from being less rich, they are, perhaps, less remarkable in this particular than the people of the United States.

“The people are, for the most part, of a mild disposition; a broil or a fight at their meetings of pleasure seldom occurs, and the more fierce and deadly passions of our nature are never roused by the pressure of famine. The habit of settling differences by personal collision does not exist among them; the law affords the only remedy, which they willingly adopt, and they consequently seem, and are, in fact, litigious. Being principally of Norman descent, what William the Conqueror said of the Normans may, perhaps, be applicable to them.

‘Foler et plaidier lors convint.’

“Education, among the people of Lower Canada, and particularly in the country, *having made but little progress as compared with that of the people of the United States*, the Roman Catholic clergy have been considered the cause of this want of advance, and accused of a desire to keep the people in ignorance, inasmuch as they hope, thereby, to maintain a command over their opinions and conduct. Nothing, however, can be more false, either as regards the cause of the *little progress of education among us*, or as regards the feelings of the priesthood; it being indubitable, that had it not been for the arduous endeavours of the Roman Catholic clergy, the people *would have been far more ignorant than they are at present*. To their active personal exertions,—to the seminaries which they

have built and superintended, is owing *whatever knowledge is spread among the various ranks of Canadian society* *."

The preceding extracts apply almost exclusively to the rural French population of Lower Canada. The educated classes are neither so simple in their manners, so unambitious in their views, nor so contented with their position. They constitute, in fact, the "movement party†" of their race; but although they have generally discarded the opinions of their ancestors in political matters, they retain their social usages and customs, and they have, with few exceptions, failed, in our opinion, to acquire any well-defined principles of public liberty. The Canadian *Seigneurs* or feudal proprietors may be mentioned as the highest in rank. They are, however,

* A Political and Historical Account of Lower-Canada, by a Canadian. London, 1830.

† The feelings and wishes of that portion of the population who desire a French Canadian republic, or an independent "*nation Canadienne*," are or rather were not unfaithfully represented by the following lines :

Sol Canadien ! terre chérie !
Par des braves tu fus peuplé ;
Ils cherchaient loin de leur patrie
Une terre de liberté.
Nos pères, sortis de la France,
Étaient l'élite des guerriers ;
Et leurs enfants de leur vaillance
N'ont jamais flétri les lauriers.

Qu'elles sont belles, nos campagnes ;
En Canada qu'on vit content !
Salut, ô sublimes montagnes,
Bords du superbe Saint Lauren !
Habitant de cette contrée,
Que nature veut embellir,
Tu peux marcher tête levée,
Ton pays doit t'enorgueillir.

Respecte la main protectrice
D'Albion, ton digne soutien ;
Mais fait échouer la malice
D'ennemis nourris dans ton sein.
Ne fléchis jamais dans l'orage ;
Tu n'as pour maître que tes lois ;
Tu n'es pas fait pour l'esclavage :
Albion veille sur tes droits.

Si d'Albion la main chérie
Cesse un jour de te protéger,
Soutiens-toi seule, ô ma patrie !
Méprise un secours étranger.
Nos pères, sortis de la France,
Étaient l'élite des guerriers ;
Et leurs enfants de leur vaillance
Ne flétriront pas les lauriers.

scarcely entitled to be considered as a distinct "order." Their number is small, and although some possess not only an independent but affluent income for so economical a country, the majority are engaged in the active business of life. Amongst them the descendants of ancient French families are to be met with, and traces of their aristocratic lineage linger in the habits they preserve in their domestic circles, and the manners by which they are distinguished in society. The French-Canadian advocates of the Quebec and Montreal bar claim also a distinct notice. They are, for the most part, educated at the Roman Catholic seminaries we have before alluded to. Many of them possess considerable professional skill, and have obtained a great and predominating influence over the minds of their uneducated countrymen; but they are not in general very remarkable either for enlarged views, or for general information. The leaders of the House of Assembly belong, for the most part, to this class. M. Papineau, whose name has become so well known, is a member of the Montreal Bar. He was educated, we believe, at the Roman Catholic seminary of St. Sulpice at Montreal, but devoted himself to politics. Not deficient in attainments, he possesses abilities above mediocrity; is an able and ready debater, and speaks English fluently—a qualification not universal with French-Canadians. The almost unlimited influence he exercised has been frequently and dexterously used to defeat the schemes of the executive government, and to maintain what, we have no doubt he considered in many instances, the just privileges of the House of Assembly. On the other hand, the experience he and his countrymen have acquired has been in too confined an arena to allow them to form just and enlarged opinions of public affairs, and throughout their proceedings may be traced that unequal course of action, and those fretful and discontented ebullitions of feeling, which in all ages have marked the conduct of a high-spirited and conquered people.

Of the French Canadian clergy it is impossible to speak in terms of respect higher than their merits deserve. As a body, they are singularly free from sectarian prejudices, and the manner in which they discharge their pastoral functions, and the kindly feeling they have fostered in their parishioners, have

justly endeared them to the whole French-Canadian population, and secured the friendship of their English fellow-countrymen.

In enumerating the various classes of French provincial society, it would be very unjust to pass over in silence the "Notary-Public," as he is called. He is a very different personage from the English notary; for as almost every specialty must be a notarial deed, which is prepared by him, the original being deposited in his office, and an examined copy only given out to the parties, he combines, within himself, many of the attributes of the country attorney and the provincial conveyancer in England. Thus, in some Canadian parishes, the *Seigneur*, the notary-public and the priest, occupy positions by no means dissimilar to the country squire, the attorney and the curate, in the parent state. Many of the shop-keepers, both in Quebec and Montreal, are French Canadians; but in the higher departments of commerce, comparatively few are to be met with, and they, in general, either from education or by family connexion, have adopted, in a great measure, the habits and opinions of the English. The export and import trade of the province is in the hands of the British and Anglo-Canadian merchants.

We have thus, so far as our limits would permit, endeavoured to give some account of the rise and progress of the former French colony of Lower Canada, and of the manners and customs of the people. We now leave our readers to determine whether we have or not established our first proposition—"that the habits, the manners, the moral education and the prejudices of a people trained under the French administrative system, must be totally different from those of the Anglo-Saxon race."

In the next chapter we shall endeavour to prove our second proposition, and to show that the geographical position and the social and political welfare of the two provinces require that they should be united under one colonial government; and we close these remarks with a few brief notices of the circumstances under which Canada became a British province.

The long-disputed province of Nova Scotia had been formally ceded to Great Britain by the treaty of Utrecht, but

after the peace of Aix-la-Chapelle serious disputes arose between France and England respecting the limits of the newly acquired territory. More important disputes also occurred with regard to the southern provinces, the plan of the French being to unite Louisiana and Canada by a chain of forts, and to confine the English colonies between the Alleghany mountains and the sea. A series of these forts was accordingly commenced along the lakes on the one side, and on the Mississippi and the Ohio on the other. The vast chain was nearly completed, when, the jealousy of the court of England being effectually roused, the conferences respecting Nova Scotia were abruptly broken off. A desultory warfare then commenced in America, the English colonists contending that the forts were erected within their boundaries, and the French stimulating the Indians and the "Neutrals," as the French colonists in Nova Scotia were termed, to attack the English settlements. Hostilities between the two countries soon became inevitable. The war of posts continued with various success; the defeat of General Braddock at Fort du Quesné, and of General Webb at Fort William Henry, being counterbalanced by the success of the British arms in the attack on Louisbourg. It was at last, however, determined to make a general attack on the French settlements, and General Wolfe, who had distinguished himself at Louisbourg, was directed to proceed up the St. Lawrence and besiege Quebec.

Wolfe sailed from Portsmouth on the 14th of March 1759, with a fleet of seventy-four vessels, transports and men of war, commanded by Admiral Holmes. The fleet reached Louisbourg in straggling detachments, having encountered a severe storm. In the beginning of June Wolfe again sailed. On the 27th he landed on the Island of Orleans, a few miles below Quebec; and on the 31st of July he was repulsed in an attack on the entrenched camp of the French near the village of Beauport, between the rivers St. Charles and Montmorenci. It being determined to carry on operations above, or to the westward of the town, notwithstanding the great natural advantages the enemy derived from the steep banks of the St. Lawrence, which were supposed to be inaccessible to troops, the men of war and transports were moved up the

river. The dispatch of General Townsend*, gives so able a statement of the military events which subsequently took place, that we offer no apology to our readers for inserting extracts from it here.

" It being determined to carry the operations above the town, the posts at Point Levi and l'Isle Orleans being secured, the general marched with the remainder of his forces from Point Levi on the 5th and 6th, and embarked them in transports, which had passed the town for that purpose, on the 7th, 8th and 9th. A movement of the ships was made by Admiral Holmes, in order to amuse the enemy, now posted along the shore.

" The light infantry, commanded by Colonel Howe, the regiment of Braggs (28), Kennedy (43), Lascelles (97), and Anstruther (58), with a detachment of Highlanders, and the American grenadiers, the whole being under the command of Brigadiers Monkton and Murray, were put into flat-bottomed boats; and, after some movement of the ships, made by Admiral Holmes to draw the attention of the enemy above, the boats fell down with the tide, and landed on the north shore, within a league of Cape Diamond, an hour before daybreak. The rapidity of the tide of ebb carried them a little below the place of attack, which obliged the light infantry to scramble up a woody precipice, in order to secure the landing of the troops, by dislodging a captain's post which defended the small entrenched path the troops were to ascend.

" After a little firing, the light infantry gained the top of the precipice, and dispersed the captain's post; by which means, the troops, with very little loss from a few Canadians and Indians in the wood, got up and were immediately formed. The boats as they emptied were sent back for the second disembarkation, which I immediately made. Brigadier Murray being detached with Anstruther's battalion to attack the four-gun battery upon the left, was recalled by the general, who now saw the French army crossing the river St. Charles. General Wolfe thereupon began to form his line, having his right covered by the Louisbourg grenadiers. On the right of these again, he afterwards brought Otway's (35): to the left of the grenadiers were Braggs', Kennedy's, Lascelles', Highlanders, and Anstruther's. The right of this body was commanded by Brigadier Monkton, the left by Brigadier Murray. His rear and left were protected by Colonel Howe's light infantry, who was returned from the battery just mentioned, which was soon abandoned to him, and where he found four guns.

" General Montcalm, having collected the whole of his force from the Beauport side, and advancing upon us, showed his intention to flank our left, which I was immediately ordered to protect with General Amherst's battalion (15), which I formed *en potence*. My numbers were soon after-

* This dispatch has been lately published in "Chelsea Hospital and its Traditions," vol. iii. p. 305.

wards increased by the arrival of the two battalions, Royal Americans (60). Webb's (48) was drawn up by the general as a reserve, in eight subdivisions with large intervals.

"The enemy lined the bushes in their front with fifteen hundred Canadians and Indians, and I dare say had placed some of their best marksmen there, who kept up a very galling, though irregular fire, upon our whole line, who bore it with the greatest patience and good order, reserving their fire for the main body now advancing. This fire of the enemy was, however, checked by our posts in our front, which protected the forming of our own line.

"The right of the enemy was formed of half of the troops of the colony, the battalions of La Sarre, Languedoc, &c.; the remainder of them Canadians and Indians. Their centre was a column, and formed by the battalions of Bearn and Guyenne; their left was composed of the remainder of the troops of the colony, and the battalion of Royal Russillons, This was, as near as I can guess, their line of battle. They brought up two pieces of small artillery against us; and we had been able to bring up only one gun, which, being admirably well served, galled their column exceedingly.

"My attention to the left will not permit me to be very exact with regard to every circumstance which passed in the centre, much less to the right; but it is most certain that the enemy formed in good order, and that their attack was very brisk and animated on that side. Our troops reserved their fire till within forty yards, which was so well continued, that the enemy everywhere gave way. It was there our general fell, at the head of Braggs' and of the Louisbourg grenadiers, advancing with their bayonets. About the same time Brigadier-general Monkton received his wound at the head of Lascelles'. In the front of the opposite battalions fell also Monsieur Montcalm; his second in command has since died of his wounds on board our fleet. Part of the enemy made a second faint attack; part took to some thick copse-wood, and seemed to make a stand.

"It was at this moment that each corps seemed to exert itself with a view to its own particular character. The grenadiers, Braggs', Lascelles', pressed on with their bayonets. Brigadier Murray, advancing the troops under his command briskly, completed the rout on his side; when the Highlanders, supported by Anstruther's, took to their broad-swords and drove part into the town, part to their works at the bridge on the river St. Chales."

Quebec capitulated a few days after this victory. In the subsequent year the Marquis de Vaudreuil surrendered with the remainder of the French army at Montreal, and Canada became an English colony.

CHAPTER II.

The Canadas.

IN the first chapter we endeavoured to show that Mr. Roebuck, and the members of parliament who adopted his opinions, were in error, when they asserted the similarity of thought and feeling of the French Canadian on the banks of the St. Lawrence, and of the Anglo-American on the Hudson and Connecticut. It was not, however, our intention, to lead our readers to infer, that a perfect resemblance existed between the Puritans of New England and the first *British* colonists in Canada. They were of the same race, spoke the same language, and had a common love of constitutional liberty; but years had rolled on since the Pilgrim Fathers landed at Plymouth, and those years were fraught with mighty changes in the social and political state of the mother country. The doctrines of the Commonwealth had been discarded, as false maxims condemned by experience,—the despotic government of Cromwell was referred to only as another example, afforded by history, of the inevitable fate of democracies, and the inefficiency of popular power to give security to rational freedom,—the constitutional principles of the revolution of 1688, loyalty to the House of Hanover, and hostility to the exiled royal family, had become the received and orthodox opinions of the majority,—the people cheerfully submitted to the real power of an aristocracy, sufficiently identified with them to promote the leading interests of the country, while the national pride was soothed with the theory of a mixed form of government, and the national vanity gratified with the discovery of a constitution, assumed to be as nearly perfect as the imperfection of human institutions would permit. Considered, therefore, as social beings, the Englishmen who landed on the shores of Massachussets in the year 1620, and the British settlers in Canada, after the conquest of the colony, differed in many important attributes.

The first British settlers were a portion of the army by whose gallantry the enemy had been defeated on the plains of

Abraham. The military appointments of the newly-acquired colony were open to the officers; others preferred the rude, but easy and independent life of a Canadian proprietor, to the partial patronage and doubtful promotion of the royal army; and instances were not wanting of individuals who discovered a charm in the life of a Backwoodsman, which neither the force of habit, nor the allurements of society, nor all the ties and feelings associated with the name of Home, could break. Independently of these, a supply of civil servants, judicial, fiscal, and administrative, were not slow in arriving, and the two staple productions of the country, fur and timber, soon attracted the attention of the capitalists of London. After the American revolution of 1776, some "Loyalists" from the United States, attached by interest or principle to the British government, sought a refuge in the colony, and many American citizens took up their abode in the border townships; but it was not till of late years, that the immigration of an agricultural and labouring population from the United Kingdom, reached any considerable amount.

The British inhabitants of the Canadas, at the present day, are composed of these various classes and of their descendants, the Anglo-Canadians by birth. In the two colonies they nearly equal the French Canadians, who are confined to the Lower Province. From the combined effect of immigration, and the natural increase of population, their numbers advance in a much more rapid ratio,—they are besides more intelligent and enterprising, and derive advantages from a community of language and ties of relationship with the parent state, from which their Gallic brethren are excluded. Thus united by a common language and a similarity of manners, customs, and pursuits, they almost unanimously supported the colonial government during the late disturbances; yet within this British circle many jarring opinions, many conflicting interests and feelings are to be found; and it is only injustice that can allege, and ignorance that can believe, it to be composed exclusively of an "aristocratic party," or an "official tribe."

It was, however, the fur-trade that first gave vitality to the Canadian provinces. Destitute of the precious metals which attracted so many adventurers to America, they never-

theless possessed sources of wealth that might almost rival the mines of Mexico and Peru. The Indians, unacquainted with the artificial value given to some descriptions of furs in European society, bartered away quantities for trinkets and cheap commodities; immense profits were thus made by the early French traders, and the traffic was pursued with avidity. After the conquest this trade was contracted within very narrow limits; it was soon, however, revived with much emulation by individual merchants and adventurers. To put an end to the ruinous jealousies and rivalships which necessarily ensued, several of the principal merchants of Montreal entered into a partnership, in the year 1783, which was augmented by amalgamation with a rival company in 1787. We borrow a notice of their extensive confederation from the introduction to the romantic history of Astoria.

" Thus was created the famous 'North-west Company,' which for a time held a lordly sway over the wintry lakes and boundless forests of the Canadas, almost equal to that of the East India Company over the voluptuous climes, and magnificent realms of the Orient. The company consisted of twenty-three shareholders or partners; but held in its employ about two thousand persons as clerks, guides, interpreters, and 'voyageurs' or boatmen. These were distributed at various trading-ports, established far and wide in the interior lakes and rivers, at immense distances from each other, and in the heart of trackless countries and savage tribes.

" As to the principal partners or agents, who resided in Montreal and Quebec, they formed a kind of commercial aristocracy, living in lordly and hospitable style. Their early associations, when clerks at the remote trading ports, and the pleasures, dangers, adventures, and mishaps which they had shared together in their wild wood life, had linked them heartily to each other, so that they formed a convivial fraternity. Few travellers that visited Canada some thirty years since, in the days of the M'Tavishes, the M'Gillivrays, the M'Kenzie, the Frobishers, and the other magnates of the North-West, when the Company was in all its glory, but must remember the round of feasting and revelry kept up amongst these hyperborean nabobs. Sometimes one or two partners, recently from the interior ports, would make their appearance in New York in the course of a tour of pleasure and curiosity. On these occasions there was always a degree of magnificence of the purse about them, and a peculiar propensity to expenditure at the goldsmiths and jewellers for rings, chains, brooches, necklaces, jewelled watches, and other rich trinkets, partly for their own wear, and partly for presents to their female acquaintances; a gorgeous prodigality, such as was often noticed in former times in Southern Planters and West Indian Creoles, when flush with the profits of their

plantations. To behold the North-West Company in all its state and grandeur, however, it was necessary to witness an annual gathering at the great interior place of conference established at Fort-William, near to what is called the Grand Portage, on Lake Superior.

"On these occasions might be seen the change since the unceremonious times of the old French traders: how the aristocratical character of the Briton shone forth magnificently, or rather the feudal spirit of the Highlander.

"The partners from Montreal, however, were the lords of the ascendant; coming from the midst of luxurious and ostentatious life, they quite eclipsed their compeers from the woods, whose forms and faces had been battered and hardened by hard living and hard service, and whose garments and equipments were all the worse for wear. Indeed, the partners from below considered the whole dignity of the Company as represented in their persons, and conducted themselves in suitable style. They ascended the rivers in great state, like sovereigns making a progress, or rather like Highland chieftains navigating their subject lakes. They were wrapped in rich furs, their huge canoes freighted with every convenience and luxury, and manned by Canadian 'voyageurs' as obedient as Highland clansmen. They carried up with them cooks and bakers, together with delicacies of every kind, and abundance of choice wines for the banquet which attended this great convocation. Happy were they, too, if they could meet with some distinguished stranger,—above all, some titled member of the British nobility,—to accompany them on this stately occasion, and grace their high solemnities. Fort William, the scene of this important annual meeting, was a considerable village on the banks of Lake Superior. Here, in an immense wooden building, was the great Council Hall, as also the banqueting chamber, decorated with Indian arms and accoutrements, and the trophies of the fur-trade.

"These grave and weighty councils were alternated by huge feasts and revels, like some of the old feasts described in Highland castles. The tables in the great banqueting rooms groaned under the weight of game of all kinds; of venison from the woods; of fish from the lakes, with hunters' delicacies, such as buffaloes' tongues and beavers' tails, and various luxuries from Montreal, all served up by experienced cooks brought up for the purpose. There was no stint of generous wine, for it was a hard drinking period,—a time of loyal toasts and bacchanalian songs, and brimming bumpers.

"Such was the North-West Company in its powerful and prosperous days, when it held a kind of feudal sway over a vast domain of lake and forest! We are dwelling too long, perhaps, upon these individual pictures, endeared to us by the associations of early life, when, as yet a stripling youth, we have sat at the board of the 'Mighty North-Westers,' then lords of the ascendant at Montreal, and gazed with wondering and inexperienced eye at their baronial wassailing, and listened with astonished ear to their tales of hardships and adventures. It is one object of our task, however, to present the scenes of the rough life of the wilderness, and we are tempted to fit these few memorials of a transient state

of things, fast passing into oblivion:—for the feudal state of Fort William is at an end: its council chamber is silent and deserted: its banquet hall no longer echoes to the burst of loyalty, or the ‘auld world’ ditty: the lords of the lakes and the forests have passed away; and the hospitable Magnates of Montreal—where are they*?”

We cannot close this brief record of the “Great North-Westerns” without a passing notice of a class of persons who were almost called into existence by their commercial enterprise. We quote again the graphic words of Washington Irving, who writes of the Land of Lake and Forest with an accuracy of description and a truth of feeling, which proclaim him native-born.

“The ‘Voyageurs’ form a kind of confraternity in the Canadas, like the arrieros or carriers of Spain, and like them are employed in long internal expeditions of travel and traffics.

“The dress of these people is generally half civilized, half savage. They wear a capot or surcoat, made of a blanket, a striped cotton shirt, cloth trousers, or leather legging, and a belt of variegated worsted, from which are suspended the knife, tobacco-pouch, and other implements. Their language is of the same pie-bald character, being a French patois embroidered with Indian and English words and phrases.

“No men are more submissive to their leaders and employers, more capable of enduring hardship, or more submissive under privations. Never are they so happy as when on long and rough expeditions, toiling up rivers, and coasting lakes; encamping at night on the borders, gossiping round their fires, and bivouacking in the open air. They are dexterous boatmen, vigorous and adroit with the oar and paddle, and will row from morning until night without a murmur. The steersman often sings an old traditional French song, with some regular burden in which they all join, keeping time with their oars; if at any time they flag in spirits or relax in execution, it is only necessary to strike up a song of the kind, to put them all in fresh spirits and activity. The Canadian waters are vocal with these little French *chansons*, that have been echoed from mouth to mouth, and transmitted from father to son, from the earliest days of

* The competition and success of the North-West Company roused the dormant energies of the Hudson's Bay Company. The conflicting interests and pretensions of the two companies were naturally productive of much ill-will. Under the auspices of the late Earl of Selkirk, who was, for a considerable period, at the head of the Hudson's Bay Company, a colony was projected and formed on the Red River, which runs into Lake Winnipeg. The North-West Company regarded this establishment as an encroachment upon their peculiar rights; and the animosities thence arising led to the most violent proceedings on the part of the servants of both companies. At length, however, the more moderate individuals of each party began to perceive that their interests were not materially different; and the rival companies, wearied and impoverished by their dissensions, ultimately united under the name of the “Hudson's Bay Company,” which at present engrosses most of the fur trade of British North America.—*McCulloch's Dictionary of Commerce*, Art. *Fur Trade*.

the colony ; and it has a pleasing effect in a still, golden, summer evening, to see a 'batteau' gliding across the bosom of a lake, and dipping its oars to the cadence of these quaint old ditties, or sweeping in full chorus on a bright sunny morning down the transparent current of one of the Canadian rivers.

"But we are talking of things that are fast fading away ! The march of mechanical invention is driving everything poetical before it. The steamboats which are fast dispelling the wildness and romance of our lakes and rivers, and aiding to subdue the world into common-place, are proving as fatal to the race of Canadian 'voyageurs' as they have been to that of the boatmen on the Mississippi. Their glory is departed. They are no longer the lords of our internal seas, and the great navigators of the wilderness. Some of them may still occasionally be seen, coasting the lower lakes with their frail barks, and pitching their camps and lighting their fires on the shores ; but their range is fast contracting to those remote waters, and shallow and obstructed rivers, unvisited by the steamboat.

"In the course of years they will gradually disappear ; their songs will die away like the echoes they once awakened, and the Canadian 'voyageurs' will become a forgotten race, or be remembered like their associates, the Indians, among the poetical images of past times, and as themes for local and romantic associations."

The merchants engaged in the timber trade constitute the other great commercial interest in the colony. It was subsequently to 1808, when events seriously threatened our relations with the Baltic, that Mr. Vansittart, in pursuance of his favourite policy, imposed the present heavy duties on European timber ; and the following comparative table will show to what an extent a preference for our colonies has been carried.

An Account of the rates of Duty payable in Great Britain on the principal Articles of Wood.*

Timber.	Of Foreign Countries.	Of the British Plantations in America.
BATTENS, 6, not exceeding 6 feet long, and not exceeding 2 $\frac{3}{4}$ inches thick, per 120	£. s. d. 10 0 0	£. s. d. 1 0 0
16, and not exceeding 21 feet long, and not exceeding 2 $\frac{3}{4}$ inches thick, per 120	11 10 0	1 3 0
Exceeding 21 feet long, or if exceeding 2 $\frac{3}{4}$ inches thick, per 120	20 0 0	2 0 0
DEALS, 8, and not above 10 feet long, and not 1 $\frac{1}{2}$ inches thick, per 120	8 2 6	

* McCulloch's Commercial Dictionary, Art. *Timber Trade*, p. 1154.

Timber.	Of Foreign Countries.	Of the British Plantations in America.
6, and not above 16 feet long, and not exceeding 3½ inches thick, per 120	19 0 0	2 0 0
16, and not exceeding 21 feet long, and not exceeding 3½ inches thick, per 120	22 0 0	2 10 0
21, and not 45 feet long, and not exceeding 3½ inches thick, per 120	44 0 0	
Exceeding 45 feet long, or above 3½ inches thick, (not being timber 8 inches square or upwards,) the load containing 50 cubic feet .	2 10 0	
And further, the 120	6 0 0	
N.B.—There is no class of deals brought from the colonies of the same dimensions as the two previous classes; but the preference of those that do come corresponds to its amount on other articles. (See Tariff.)		
DEAL-ENDS, 6 feet long, and not exceeding 3½ inches thick, per 120	6 0 0	0 15 0
And exceeding 3½ inches thick, per 120	12 0 0	1 10 0
LATHWOOD, in pieces under 5 feet long, per fathom	4 5 0	0 15 0
5, and under 8 feet long	6 16 0	
8, and under 12 feet long	10 4 0	} 1 5 0
12 feet long and upwards	13 12 0	
MASTS, 6 and under 8 inches in diameter, each	0 8 0	0 1 6
8 and under 12 inches in diameter, each	1 2 0	0 4 0
12 inches in diameter and upwards, per load	2 15 0	0 10 0
OAK PLANK, 2 inches thick or upwards	4 0 0	0 15 0
SPARS, under 4 inches in diameter, and under 22 feet long, per 120	2 8 0	0 9 0
And 22 feet long or upwards, per 120	4 5 0	0 16 0
4 and under 6 inches in diameter	9 0 0	1 15 0
STAVES, not exceeding 36 inches long	1 3 0	0 2 0
Above 36 and not exceeding 50 inches long, per 120	2 6 0	0 4 0
Above 50 and not exceeding 60 inches long, per 120	3 0 0	0 6 0
Above 60, and not exceeding 72 inches long, per 120	4 4 0	0 8 0
Above 72 inches long	4 16 0	0 10 0
N.B.—Staves of the United States of America, of Florida, of the Ionian Isles, or of the British Colonies, and not exceeding 1½ inch in thickness, are chargeable with one-third part only of the above rates.		
FIR, 8 inches square or upwards, per load	2 15 0	0 10 0
OAK, ditto ditto	2 15 0	0 10 0
Unenumerated	1 8 0	0 5 0
WAINSCOT-LOGS, 8 inches square or upwards, per load	3 15 0	0 12 0

It is well observed by Mr. McCulloch, that "so long as a foreigner can lay his finger on such a table as this, it will not be easy to convince him that our commercial system has lost much of its exclusive character." But we insert this table for other purposes. It is obvious that the excessive advantages secured to our colonial timber,* must attract a

* It is not within the scope of this article to discuss the question of the timber trade; but the following observations by Mr. McCulloch will not, we are persuaded, be considered impertinent, when we are touching upon this branch of the subject.

"It is objected to the abolition of the discriminating duties on timber, that it would be injurious to Canada and the shipping interest. We believe, however, that the injury would not be nearly so great as has been represented; that it would in fact be quite inconsiderable. So far from the 'lumber trade,' or the trade of felling wood, squaring it, and floating it down the rivers to the shipping ports, being advantageous to a colony, it is quite the reverse. The habits which it generates are quite subversive of that sober, steady spirit of industry so essential to a settler in a rude country; to such a degree, indeed, is this the case, that *lumberers* have been described as the pests of the colony, 'made and kept vicious by the very trade on which they live.'"

"Mr. Richards, who was sent out by government to report on the influence of the lumber trade, represents it as most unfavourable; and observes, 'that when time or chance shall compel the inhabitants to desist from this employment, agriculture will begin to raise its head.' p. 52. The statements of Captain Moorsoom, in his *Letters from Nova Scotia*, are exactly similar. He considers the depression of the timber market, although a severe loss to individuals, a 'decided gain to the colony,' from the check it has given to the 'lumbering mania.'"

"The ship-owners would undoubtedly have more cause to complain of injury from the equalization of the duties; but even as respects them, it would not be nearly so great as is commonly supposed. The statement usually put forth by those who represent the timber trade to North America as of vital importance to the shipping interest, is that it employs 1800 ships of 470,000 tons, navigated by 20,000 sailors. The entries inwards of British ships, from our possessions in North America, correspond with the sums now stated; but at an average every ship employed in the trade makes 1½ voyages a year, so that in point of fact only 1028 ships, of 270,000 tons and 11,127 men, are employed in the trade. From this latter number must, however, be struck off ships employed in other branches of trade; for no one pretends that the only trade we carry on with North America is in the importation of timber. We believe that the number so to be struck off may be estimated at 200 ships of 54,000 tons, and 2200 men, leaving about 800 ships of 216,000 tons and 9200 men to be affected by the change. Inasmuch, however, as about one-third part of the timber now brought from Canada would continue to be brought, for the purposes already referred to, were the duties equalized, only 544 ships of 144,000 tons and 6134 men would be forced to change their employments. Now of these at least a half would be employed in bringing from the Baltic the same quantity of timber that is brought from America; and as the price of timber would be materially lowered by the reduction of the duty, the demand for it would no doubt materially increase; so that it is abundantly plain that very few if any ships would be thrown out of employment by the abolition of the discriminating duties. It is material to observe, too, that whatever temporary inconvenience the shipping interest might sustain from the change, its future consequences would be singularly advantageous to it. The high price of timber employed in building ships is, at present, the heaviest drawback on the British ship-owners; but the equalization of the duties would materially reduce this price; and we have the authority of the best practical judges for affirming, that were the duty, as it ought to be, entirely repealed, ships would be built decidedly cheaper in England than in any part of the world."—*McCulloch's Commercial Dict., Art. Timber Trade*, pp. 1155—1157.

wealthy class of individuals to the colony, whose power, both in Canada and in England, cannot fail to exercise a considerable influence on its welfare; and, if any portion of the Anglo-Canadian population could, with an approach to truth, be said to afford materials for the formation of a local aristocracy, such an aristocracy would be found in the commercial circles of the fur and timber trade. It would, however, be hypercritical, if not invidious, to inquire what attributes—beyond the possession of comparative wealth in a poor country, or the skill and industry necessary to acquire it—these individuals possess, to entitle them to a social distinction over their fellow-citizens; and a fatal objection to such a plan exists in the fact, that they are not, for the most part, identified with the permanent interests of the colony. A few members of the North-West Company, from a long residence in the interior, have imbibed an attachment to Canadian habits, which has induced them to become landed proprietors; but the vast majority of the “mercantile interest,” look upon the Canadian provinces, merely as a place where, by act of parliament, an opportunity has been afforded them of amassing money. No feelings of Anglo-Canadian nationality ever obtrude themselves upon their utilitarian projects. The huge mis-shapen raft of wood, dotted over with temporary huts, and impelled by a motley display of canvass, of various hues and of every imaginable shape, excites an interest in their minds paramount to every other consideration, as it floats heavily down the St. Lawrence, towards the vessels that are destined to bear it to the markets of England. The gains of each year are anxiously counted, as the only means by which a painful period of banishment can be shortened; and the hoped-for retirement of Harley Street, or of a “fashionable watering-place,” possesses a charm in the distance, which the wild beauties of the surrounding lakes and rivers cannot break.

Assuming, therefore, that the manners and customs which must necessarily prevail in a new country, as yet unsubdued by the industry of man, did not militate against such a scheme,—that the rooted prejudices of the people in favour of an equal partition of landed property did not forbid it,—that the example of the neighbouring United States did not render it impracticable,—the establishment of a colonial aristocracy,

whether social or political, from the higher commercial classes, would afford at best but the mockery of such an estate, in any Canadian constitution that could be framed.

With these few remarks on the various classes which, in their aggregate, constitute what is called the "British party" in Canada, we shall now attempt, by resuming our chronological notices, to establish our second proposition, and to prove,—

"That the geographical position of the two provinces, and
"the necessity of promoting the amalgamation of the two
"races, as the only means of securing the permanent welfare
"of both, demand that Upper and Lower Canada should be
"united under one executive government; and that the re-
"presentatives of the English and French populations should
"meet in the same Legislative Chamber."

The treaty of Paris, by which the possession of the Canadas was secured to Great Britain, was signed on the 10th Feb. 1763, and a proclamation was issued by the king on the 7th of October, in the same year, providing for the government of his newly-acquired dominions, including "East Florida, West Florida, and Grenada, as well as the province of Quebec." By this proclamation the governors were directed to "summon and call General Assemblies, within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America, which are under our immediate government"; and until such assemblies should be summoned, all persons resorting to these colonies, were directed to confide in the royal protection, "*for the enjoyment of the benefit of the laws of our realm of England.*" As representative assemblies were never convened in Canada, under the authority of this proclamation, the laws of England were, in fact, introduced by it, and continued in full force, till the passing of the "Quebec Act," (14 Geo. III. c. 83.)—English courts of justice were established, trial by jury was introduced, and the French laws, both in civil and criminal causes, in matters relating to real as well as personal property, were at once and somewhat abruptly superseded.

The French Canadians complained that a violent and unnecessary revolution was thus brought about, and that these regulations were passed in defiance of treaties, of justice, and

humanity. Their alleged grievances were also embodied in a petition to the King, which we insert, as a proof, amongst many others, that the disputes in Canada are between two rival races, and may be traced even to the first years of our government of that country.

“ Au Roy.

“ Sire,

“ Vos très-soumis et très-fidèles nouveaux sujets de la province de Canada prennent la liberté de se prosterner au pied du trône, pour y porter les sentiments de respect, d'amour, et de soumission dont leurs cœurs sont remplis envers votre auguste personne, et pour lui rendre de très-humbles actions de grace de ses soins paternels.

“ Notre reconnaissance nous force d'avouer que le spectacle effrayant d'avoir été conquis par les armes victorieuses de votre Majesté n'a pas longtemps excité nos regrets et nos larmes. *Ils se sont dissipés à mesure que nous avons appris combien il est doux de vivre sous les constitutions sages de l'empire Britannique.* En effet, loin de ressentir au moment de la conquête les tristes effets de la gêne et de la captivité, le sage et vertueux Général qui nous a conquis, digne image du Souverain glorieux qui lui confia le commandement de ses armées, nous laissa en possession de nos loix et de nos coutumes. Le libre exercice de notre religion nous fût conservé, et confirmé par le traité de paix : et nos anciens citoyens furent établis les juges de nos causes civiles. Nous n'oublirons jamais cet excès de bonté : ces traits généreux d'un si doux vainqueur seront conservés précieusement dans nos fastes ; et nous les transmettrons d'âge en âge à nos derniers neveux.— Tels sont, Sire, les doux liens qui dans le principe nous ont si fortement attachés à votre Majesté : liens indissolubles, et qui se resserreront de plus en plus.

“ Dans l'année 1764, votre Majesté daigna faire cesser le gouvernement militaire dans cette colonie, pour y introduire le gouvernement civil. *Et dès l'époque de ce changement nous commençames à nous appercevoir des inconveniens qui résultaient des loix Britanniques, qui nous étoient jusqu'alors inconnues.* Nos anciens citoyens, qui avoient réglé sans frais nos difficultés, furent remerciés : cette milice, qui se faisoit une gloire de porter ce beau nom sous votre empire, fût supprimée. *On nous accorda à la vérité le droit d'être jurés : mais, en même tems, on nous fit éprouver qu'il y avoit des obstacles pour nous à la possession des emplois. On parla d'introduire les loix d'Angleterre, infiniment sages et utiles pour la mère-patrie, mais qui ne pourroient s'allier avec nos coutumes sans renverser nos fortunes et détruire entièrement nos possessions.* Tels ont été depuis ce tems, et tels sont encore, nos justes sujets de crainte ; tempérés néanmoins par la douceur du gouvernement de votre Majesté.

“ *Daignez, illustre et généreux Monarque, dissiper ces craintes, en nous accordant nos anciennes loix, privilèges, et coutumes, avec les limites du Canada, telles qu'elles étoient ci-devant.* Daignez répandre également vos bontés sur tous vos sujets sans distinction. Conservez le titre glorieux de souverain d'un peuple libre. Eh ! ne seroit-ce pas y donner atteinte, si

plus de cent milles nouveaux sujets, soumis à votre empire, étoient exclus de votre service, et privés des avantages inestimables dont jouissent vos anciens sujets?—Puisse le ciel, sensible à nos prières et nos vœux, accorder à votre Majesté un règne aussi glorieux que durable! Puisse cette auguste famille d'Hanovre, à laquelle nous avons prêté les sermens de fidélité les plus solennels, continuer à régner sur nous à jamais!

“ Nous finissons en suppliant votre Majesté de nous accorder, en commun avec ses autres sujets, les droits et privilèges de citoyens Anglois. Alors nos craintes seront dissipées; nous filerons des jours séreins et tranquilles; et nous serons toujours prêts à les sacrifier, pour la gloire de notre Prince et le bien de notre Patrie!” *

In considering whether the complaints of the French Canadians, at this period, were justified by the course of policy adopted towards them, it is desirable to inquire, in the first place, whether the faith of any treaty was violated by the acts of the British government. We distinctly deny the charge. The following are extracts from the articles of capitulation signed at Montreal, on the 8th September, 1760, by General Amherst and the Marquis de Vaudreuil, by which not only that city but the remainder of the province was in fact surrendered.

Article 41. (Proposed by the Marquis de Vaudreuil.)

“ The French Canadians and Acadians, of what state and condition soever, who shall remain in the colony, shall not be forced to take arms against his most christian Majesty or his allies, directly or indirectly, on any occasion whatever; the British Government shall only require of them a strict neutrality.”

Answer of General Amherst.

“ THEY BECOME SUBJECTS OF THE KING.”

Article 42. (Proposed by the Marquis de Vaudreuil.)

“ The French and Canadians shall continue to be governed according to the custom of Paris, and the laws and usages established for this country, and they shall not be subject to any other imposts than those which were established under the French dominion.”

Answer of General Amherst.

“ ANSWERED BY THE PRECEDING ARTICLES, AND PARTICULARLY BY THE LAST.”

The only other treaty applicable to the question is the treaty of Paris; but it contains no reservation in favour of

* A petition of divers inhabitants of the province of Quebec to the King's Majesty, transmitted to the Earl of Dartmouth, His Majesty's Secretary of State for America, in the month of December, 1773, and presented to His Majesty in the month of February, 1774.

the French laws and usages ; on the contrary, by that treaty, "the sovereignty, property, possession, and all rights, acquired "by treaty or otherwise, which the most Christian King and "the Crown of France*" then possessed over Canada were ceded to the King of England.

The French Canadians, therefore, became "subjects of the king," by right of conquest and by the very words of the treaties made in pursuance of that right, without reservation or condition of any kind—"A right" (says Blackstone, quoting Puffendorf) "allowed by the law of nations, if not by that of "nature ; but which in reason and policy can mean nothing "more than that, in order to put an end to hostilities, a com- "pact is either expressly or tacitly made between the con- "queror and conquered, that if *they* will acknowledge the "victor as their Master, *he* will treat them for the future as "subjects, and not as enemies †."

If, then, the Anglo-Canadian is asked, by what title he claims the establishment of an English nationality in preference to a French ? his answer is, that his ancestors won it, when the bayonets of Wolfe's grenadiers bristled on the plains of Abraham,—when the claymores of the Highlanders drove the French battalions "partly behind their fortifications in Quebec, and partly into the St. Charles‡." The right was then sealed with the blood of brave men, whose graves have not yet mouldered away, and will be defended with his own, if necessary. May he not further declare, that he disclaims the arbitrary and impolitic dismemberment of his native country by the Act of 1791 ; that in Upper and Lower Canada united, the British even now all but equal in number the French inhabitants, and that after the lapse of a few brief years, the Anglo-Saxon race is destined, beyond the possibility of a doubt, to constitute the immense majority ; that this question of nationality *must be decided*, whether the Canadas remain under the dominion of England, or become

* 4th Article of the definitive Treaty of Peace, concluded at Paris the 10th Feb. 1763.

† Commentaries, vol. i. p. 103., ed. 1809.

‡ The war was defensive not aggressive on our part. It was occasioned by the ambitious designs of the court of France, and more particularly by the attempt of M. de la Galissonnière, the governor of New France, to surround our colonies with an extensive chain of forts. British and Foreign Review, No. xiii. p. 220, and p. 29. *infra*.

incorporated in the American Union*, or be elevated to the rank of independent states? The deluded peasant who fought at St. Charles and St. Denis, can excite no other feeling but one of sympathy for his own sufferings, and contempt and indignation for some of his leaders; but the real traitor is he, who for personal and party purposes, to promote some selfish interest, or to gratify a miserable vanity, seeks to keep alive the embers of dissension and strife, which in generations yet unborn and in ages untold, may again kindle into anarchy and civil war.

The humanity and justice with which a conquered people are treated, are obviously, however, questions totally distinct from the right to deal with them as subjects. It is equally obvious that there are inconveniences, and even hardships, incident to the very position of a people so circumstanced, from which they cannot be relieved without inflicting equal, if not greater inconveniences on the members of the new national family into which they have been received, and of which they are destined to form a part. We contend, that the laws and usages of the victors, in the particular instance of Canada, were an inconvenience, not a hardship, of the kind we refer to. Why did we conquer the Canadas? If the object was merely to call into existence a people on

* What says the Clockmaker? "Thinks I to myself, this is a good time to broach our interests; and if there is to be a break-up here, to put a spoke in the wheel for our folks—a stitch in time saves nine. So says I, you needn't flatter yourselves, Doctor; you can't be a distinct nation; it ain't possible, in the natur' o' things. You may jine us, if you like, and there would be some sense in that move,—that's a fact; but you never can stand alone here—no more than a lame man can without crutches, or a child of six days old. No, not if all the colonies were to unite, you couldn't do it. Why, says I, gist see here, doctor; you couldn't show your noses on the fishing ground for one minut—you can hardly do it now, even tho' the British have you under their wing. Our folks would drive you off the banks, seize your fish, tear your nets, and lick you like a sack—and then go home and swear you attacked them first, and our government would seize the fisheries as an indemnification. How could you support an army, and a navy, and a diplomacy? Why, you couldn't build and support one frigate, nor maintain one regiment, nor garrison Quebec itself, let alone the outposts. Our folks would navigate the St. Lawrence in spite of your teeth, and the St. John River too, and how could you help yourselves? They'd smuggle you out of your eye-teeth, and swear you never had any. Our fur-traders would attack your fur-traders, and drive them all in. Our people would enter here and settle—then kick up a row, call for American volunteers, declare themselves independent, and ask admission into the Union; and afore you know'd where you were, you'd find yourselves one of our States. Gist look at what is goin on to Texas, and what has gone on to Florida, and then see what will go on here."—*The Clock-maker, or Sayings and Doings of Samuel Slick*. 2nd series, p. 256.

the banks of the St. Lawrence, speaking a foreign language, governed by a foreign code of laws, and cherishing an hereditary dislike to the very name of England, it would have been better to have left them to France; our task would then have been accomplished much more effectually, than by the clumsy means we have adopted. If, on the contrary, it was intended, as we believe it was from the first, to hold these provinces, if possible, in perpetuity,—to make them in reality, and not in appearance only, integral parts of the British empire,—it was our bounden duty to legislate for futurity as well as for the passing hour, and to bear in mind, that possessions enjoying the natural advantages of the Canadas, would necessarily attract British settlers, cherishing, in a distant country even more pertinaciously than at home, the manners, customs, and the very prejudices of their native land.

Cælum non animum mutant qui trans mare currunt.

Unfortunately, these considerations were either overlooked or did not receive that attention, in all their probable results, which their importance required. The consequence in the year 1838 is, that we behold in Canada the monstrous anomaly of two distinct races, each claiming a beautiful and fertile country as their birthright, yet as much severed language and opinions, as if the broad Atlantic rolled between them. This is the political Frankenstein we have created,—nay, more, we have breathed into it the spirit of party strife and hatred, and who shall now foretell the excesses it may commit?

The most strenuous exertions were, however, made by the English inhabitants to maintain the English laws established under the Proclamation of 1763, and, more particularly, the trial by jury in all civil as well as criminal cases. They represented that,*

“ In justice to the bulk of the Canadian inhabitants who have formerly smarted under the rigour of the French government, and the caprice of petty tyrants of those days, we must confess that they prefer infinitely English law, which secures their liberty and property, and gives a free scope to their industry, and dread falling again under the laws and customs of Canada. This we declare upon our own certain knowledge, as very great

* An Account of the British Inhabitants of Quebec. London: 1775. MSS. papers relating to Canada.

numbers throughout the province have offered to join us in petitioning for the continuance of English laws, and disavowing their consent, privity, or knowledge, of the petition which was sent hence last year in their names, though signed only by a few persons in the province. But when we had prepared a paper, at their desire, for them to sign, expressing these well-known facts, they informed us that they were withheld by their superiors,* and commanded not to join the English in any public representations, for, if they did, they would infallibly be deprived of their religion, but, if they remained quiet, they might depend upon it that the English laws would not be changed."

They also asserted that the more impartial and independent of the French Canadians were not opposed to the continuance of the laws of England, and expressed themselves in the following terms:—

"Il faut avouer que les loix d'Angleterre sont fort douces, et que nous avons été fort heureux depuis que Messieurs les Anglois ont conquis le pays. Car nous avons nôtre religion tout à fait libre, avec nos prêtres et nos églises, tout comme auparavant: et puis on nous laisse tranquilles, chacun chez soi, sans nous rien ôter par des impôts, sans nous faire travailler ni marcher à des postes éloignées pour le roi, sans nous rien dire, ni demander, en pleine et parfaite paix et sûreté, comme de petits rois. Seulement cela est trop bon pour durer: et nous craignons qu'un jour on nous fasse sentir un revers de tout ce bonheur qui nos fera regretter le bon tems d'aujourd'hui."†

These appeals were made in vain. The troubles in our ancient American colonies had already commenced, and a high state policy was supposed to dictate the prudence of creating a power in Canada capable of checking, if not of neutralizing, the democratic tendency of the Provincial Assemblies. The Quebec Act (14 Geo. III., c. 83) was therefore passed, containing the following section, the fruitful cause, as the past has taught us, of many events that we now vainly deplore, and

* "L'acquisition d'un territoire immense n'est pas toutes fois le plus grand fruit que la Grande Bretagne doit retirer de la prospérité de ses armes. La population considérable qu'elle y a trouvée est un avantage bien plus important. A la vérité quelques uns de ces nombreux habitants ont fui une domination nouvelle qui n'admettoit entre les hommes d'autre différence que celles des qualités personnelles, de l'éducation, de l'aisance, de la faculté d'être utile à la société. Mais l'émigration de ces êtres méprisables, dont l'importance n'avoit pour base que des coutumes barbares, a-t-elle dû être regardée comme une calamité?— La colonie n'auroit elle pas beaucoup gagné à être débarrassée de tous ces nobles oisifs, qui la surchargeoient depuis si longtems; de ces nobles orgueilleux, qui y entretenoient le mépris de tous les travaux?"—*Histoire Philosophique et Politique des Colonies Européennes dans les deux Indes.*

† An Account of the British Inhabitants of Quebec. London, 1775.

destined, it may be, to accumulate more painful evidence of its impolicy :

“That in all matters of controversy, relative to property and *civil rights*, resort shall be had to the laws of Canada, as the rule of the decision of the same ; and all causes that shall hereafter be instituted in any courts of justice, to be appointed within and for the said province, by his Majesty, his heirs and successors, shall, with respect to such rights, be determined agreeably to the said laws and customs of Canada.”

The criminal law of England was also introduced, and a qualified legislative power was given to a council, nominated by the king ; but as the French law was revived, not only in matters of property, but also in questions affecting “civil rights,” the act was justly considered by the English inhabitants to be of a very arbitrary character, as it not only deprived them of the trial by jury in civil actions, but contained no provision for the issuing of the writ of *Habeas Corpus*, a writ entirely unknown to the French law. It was even supposed by the late Mr. Baron Maseres,* who had been Solicitor-General in the colony, that in consequence of this extensive introduction of the French law, a *Lettre de Cachet* might be issued by the crown against any of its Canadian subjects. To remove the alarm occasioned by this state of things, an ordinance was passed in the year 1782, by the governor in council, for securing the liberty of the subject, by establishing the writ of *Habeas Corpus* ; and a further ordinance was passed in 1787, to introduce the trial by jury “in actions of a commercial nature, and of personal wrongs to be compensated in damages.” With these slight modifications, the *Coûtume de Paris* became as much the common law of the province as it was under the French government.

We now approach the period when a representative assembly was conferred upon Canada. On the 25th of February, 1791, a message was presented to the House of Commons from the king, by Mr. Pitt, recommending that the province of Quebec should be divided into the two provinces of Upper and Lower Canada. The “Quebec Government Bill,” which was introduced in consequence of this message, was much de-

* Vide Mr. Maseres' examination at the bar of the House of Commons.—*Parliamentary History*, vol. xvii. p. 1371.

bated in the House of Commons, and independently of other circumstances, those debates are memorable for the open rupture they occasioned between Mr. Fox and Mr. Burke. We shall notice such portions as are interesting at the present time, in considering the provisions of the Act of Parliament* in which they terminated.

Mr. Pitt stated†, "that the intended Bill consisted of such particulars as were calculated with a view to promote the happiness and internal policy of the province, and to put an end to those differences of opinion that had for some years existed in Canada, between the ancient inhabitants and the new settlers from England and America, on several important points, and bring the government of the province, as near as the situation of it would admit, to the British constitution."

What a commentary do recent events afford on these words!—what a living example are the words themselves, of the foresight of the minister who uttered them!

The royal intention of dividing the province of Quebec into the two provinces of Upper and Lower Canada, having been communicated to parliament, the proposed Bill vested the legislative authority, in each province, in a governor, a legislative council, and a representative assembly. By this arrangement it was assumed that the "British Constitution," or something very like it, would at once be established. We repeat that this was *assumed*, for those who pause to inquire on what basis Mr. Pitt's *dictum* rests, will be satisfied that an assumption more extravagant and untenable was never advanced in parliament. The peculiar and complicated social system, known by the name of the "British Constitution," never has been introduced into Canada, and no form of government even approximating to it in practice, can be established in that country until a moral and physical revolution has occurred, which must be the work of ages, if it ever take place. We speak not now of the relative value and excellence of theoretical constitutions, and abstract forms of government, but of an existing state of things; and as a preliminary objection, we deny the practicability of giving to any of our colonies a

* 31 Geo. III. c. 31.

† Par. Hist. vol. xxviii. p. 1376.

local government similar to the constitution of the parent state.

I. THE GOVERNOR.

The "Governor" in England, that is the Sovereign, is so by hereditary right. We are taught from infancy that he is the key-stone of the political arch—the fountain of honour—the dispenser of mercy—an estate of the realm, which rejects or assents to laws in the last resort. His hereditary title is cherished by the people, because it banishes the feuds and jealousies which distract a state where the office of first magistrate is elective, and establishes a ministerial for a royal responsibility. The "Governor" in England "reigns but does not govern."

Alas, for the colonial governor! how shall he compare his attributes to these? He is the nominee of the minister of the day, frequently the offspring of a job, always the servant, if not the slave, of the Colonial Office. He neither reigns nor governs; even Lord Durham, who supposed his authority to be "all but despotic," was soon taught this humiliating lesson. Under Mr. Pitt's Bill, the mimic sovereign of Canada enjoyed, however, in a mediate state, some of the prerogatives of royalty. He had the power of convening, proroguing, and dissolving the provincial parliament. He might give or refuse his assent to bills which had passed the other branches of the legislature, but the king had the power to revoke, within two years, the consent so given. He might also reserve his assent till the pleasure of the king was known*. He was further invested with certain portions of the king's authority in ecclesiastical matters†, and was *ex officio* a member of the court of appeals, the highest court established in the colony. By virtue of the royal commission he was moreover the head of the colonial army, including the militia; he might in the king's name exercise the prerogative of mercy, and appoint judges, justices of the peace, militia, and police-officers.

We are far from underrating the importance of these powers, nor could they, in our opinion, be materially enlarged without destroying the dependence of the colony. All we contend is, that it is incumbent on those, who believe there is some inhe-

* 31 Geo. III. c. xxxi. §. 30-31.

† §. 39 & 40.

rent virtue in the "British Constitution" which renders it the best possible form of government for every country, whatever may be the peculiarities of its natural or social position, to show what analogy exists between the duties, prerogatives, and position of the monarch of the empire, and those of a colonial governor.

II. THE LEGISLATIVE COUNCIL.

By the third section of the Canada Constitution-act, it was declared to be "lawful for his Majesty, his heirs, and successors, by an instrument under his or their sign manual, to authorize and direct the governor, lieutenant-governor, or person administering the government in each of the said provinces respectively, in his Majesty's name, and by an instrument under the great seal of the province, to summon to the said legislative council, to be established in each of the said provinces respectively, a sufficient number of discreet and proper persons, being not fewer than seven, to the legislative council of Upper Canada, and not fewer than fifteen to the legislative council of Lower Canada." By a subsequent section it was also provided, that the king might annex to hereditary titles of honour, the right of being summoned to the legislative council. These councils, with a house of assembly in each province, Mr. Pitt again declared*, would confer upon the Canadians all the benefits of the "British Constitution."

We do not feel ourselves called upon, in noticing this provision of the statute, to discuss the question of an aristocracy, considered as an institution of civil government. We shall confine ourselves to the inquiry, whether materials do or not exist in Canada for the formation of an aristocratic chamber; and if none exist, we shall presume, that even those who are most convinced of the social and political benefits to be derived from a privileged class, in a mixed form of government—*ponderibus librata suis*—will admit the necessity the Canadians are under, of denying themselves those benefits.

The real power of the aristocracy of England rests upon two or three well-understood principles; the right of primogeniture—the power of entailing, or rather of settling estates

* Par. Hist. vol. xxviii. p. 1377.

for a definite period—and the privilege of using hereditary titles of honour. It is unnecessary to inquire how they first acquired these or similar powers; we all know that it was by violence in a remote age, which cannot be attempted at the present time with a shadow of success; but few will deny that the privileges we have enumerated, strengthened by the manners, usages, and prejudices to which those very privileges have given birth, are the main supporters of our nobility as a distinct class.

In touching upon this question, with reference to America, and in endeavouring to illustrate the relation it bears to the two countries, by placing in juxtaposition the peculiarities of each, we quote the opinions of writers who cannot be supposed to be influenced by any extraordinary bias in favour of our aristocracy*; but although experience may have taught them, that democratic institutions are the best suited—or rather the only institutions suited—to the actual condition of America, yet their writings show, that this conviction is not inconsistent with a capacity to appreciate, and a willingness to admit, the advantages which are secured in a different state of society by different means.

“Well, the next link in the chain,” (says the Clockmaker,) “(chains enough, poor wretches! says father; but it ’s good enough for them tho’ I guess)—Well, the next link in the chain is the nobility, independent of the crown on the one side, and the people on the other; a body distinguished for its wealth, its larnin’, its munificence, its high honour, and all the great and good qualities that ennoble the human heart. Yes, says father, and they can sally out o’ their castles, seize travellers, and rob ’em of all they have; hav’n’t they got the whole country enslaved?—the debauched, profligate, *effeminate* tyrannical gang as they be.

“I tell you these are mere lies, says minister, got up here by a party to influence us ag’in the British.

“Then there is the gentry, and a fine honourable manly race they be, all on ’em suns in their little spheres, illuminatin’, warmin’, and cheerin’ all within their reach. Old families attached to all around them, and all attached to them, both them and the people recollectin’ that there have been twenty generations of ’em kind landlords, good neighbours, liberal patrons, indulgent masters; or if any of ’em went abroad, heroes by field and by flood. Yes, says father, and they carried back somethin’ to brag on from Bunker’s Hill, I guess, didn’t they? We spoil the pretty faces of some of their landlords, that hitch, any how, ay, and their tenants too; hang me if we didn’t! Then there is the professional men, rich marchants, and

* This was written previously to the publication of the “Bubbles from Canada.”

opulent factorists, all so many out-works to the king, and all to be beat down afore you can get to the throne. Well, all these blend and mix, and are entwined and interwoven together, and make that great, harmonious, beautiful, social and political machine called the British Constitution.

"Well, you see by the House of Lords getting recruits from able Commoners, and the Commoners getting recruits from the young nobility by intermarriages—and by the gradual branchin' off of the young people of both sexes, it becomes the *people's nobility*, and not the *King's nobility*, sympathisin' with both, but independent of either. That's gist the difference 'atween them and foreigners on the continent; that's the secret of their power, popularity, and strength: the king leans on 'em, and the people leans on 'em. *They don't stand alone, a high cold snowy peak, a' over-lookin' of the world beneath, and ath'owin' a dark deep shadow o'er the rich and fertile regions below it.* They ain't like the cornish of a room, pretty to look at, but of no airthly use whatever; a thing you could pull away and leave the room standin', gist as well without; but they are the pillars of the state,—the flooted and grooved, and carved, and ornamental, but solid pillars.—You can't cut away the pillars, or the state comes down.—You can't cut out the flootin', groovin', or carvin', for it is in so deep you'd have to cut the pillars away to nothin' a' most to get it out.

"Well, says minister, gist see here, Colonel; instead of all these gradations and circles, and what not, they're got in England—each havin' its own principle of action, harmonizin' with one another, yet essentially independent—we have got but one class, one mass, one people. Some Natur' has made a little smarter than others, and some education has distinguished; some are a little richer, some a little poorer—but still we have nothin' but a mass, a populace, a people; all alike in great essentials, all havin' the same power, same rights, same privileges, and of course same feelin's;—*Call it what you will it's a populace in fact.*"—*The Clockmaker, or Sayings and Doings of Samuel Slick: Second Series, pp. 218-221.*

"America," says M. de Tocqueville, "is the only country in which it has been possible to witness the natural and tranquil growth of society, and where the influence exercised on the future condition of states, by their origin, is clearly distinguishable.

"America, consequently, exhibits in the broad light of day, the phenomena which the ignorance or rudeness of earlier ages conceals from our researches. Near enough to the time when the states of America were founded, to be accurately acquainted with their elements, and sufficiently removed from that period to judge of their results, the men of our own day seem destined to see further than their predecessors into the series of human events. Providence has given us a torch which our forefathers did not possess, and has allowed us to discern fundamental causes in the history of the world, which the obscurity of the past concealed from them.

"Another remark is applicable not only to the English, but to the French, the Spaniards, and all the Europeans who successively established

themselves in the New World. All these European colonies contained the elements, if not the development, of a complete democracy. Two causes led to this result. It may safely be advanced that, on leaving the mother country, the emigrants had in general no notion of superiority over one another. The happy and the powerful do not go into exile, and there are no surer guarantees of equality among men, than poverty and misfortune. It happened, however, on several occasions, that persons of rank were driven to America, by political and religious quarrels. Laws were made to establish a gradation of ranks; but it was soon found that the soil of America was opposed to a territorial aristocracy. To bring that refractory land into cultivation, the constant and interested exertions of the owner himself were necessary; and when the ground was prepared, its produce was found to be insufficient to enrich a master and a farmer at the same time. The land was then naturally broken up into small portions, which the proprietor cultivated for himself. *Land is the basis of aristocracy, which clings to the soil that supports it; for it is not by privileges alone, nor by birth, but by landed property, handed down from generation to generation, that an aristocracy is constituted.*

"All the British colonies had then a great degree of similarity at the epoch of their settlement. All of them, from their first beginning, seemed destined to witness the growth, not of the aristocratic liberty of their mother country, but of that freedom of the middle and lower orders, of which the history of the world had as yet furnished no complete example.*"

The question, then, as to the policy of establishing an aristocratic legislative chamber in Canada, resolves itself into this. Are there any circumstances in the state of society, in the laws, in the usages of the people, or in the condition of the country, which make it an exception to other American settlements, and peculiarly point it out as the only place in the New World, where the principle of European aristocracy can take root?

In a previous chapter, we endeavoured to show that the Canadian "Seigneurs" were neither sufficiently numerous, wealthy, or powerful, to form a distinct political estate in the government; and our remarks in this article on the mercantile society of Canada, may have convinced our readers, that for such a purpose, it would be in vain to look for materials amongst them. Where, then, are the Canadian "nobility and gentry" to be sought for? Every impartial person who has visited the country, and observed the manners and condition of the people, will not

* De Tocqueville's Democracy in America, vol. i. pp. 18, 20, 21.

hesitate to declare that no such classes exist—that in Canada, as in other parts of America, it seems to be incident to the actual state of the country and the condition of its inhabitants, that there shall be, for the present, and even for an indefinite period to come, but “*one class, one mass, one people.*”

The French Canadian is too ignorant for self-government, —too indolent for commercial enterprise,—and too contented with his lot to display any extraordinary energy when the consequence would be a change in his position; though he will fight, as we have seen, and fight bravely too, in defence of what he considers his nationality. The Anglo-American inherits also the courage of his ancestors; but he is comparatively well educated—intelligent in matters affecting the public interests—enterprising in commercial pursuits, and restless and migratory in his habits. On these points the races differ, yet the elements of an aristocracy are to be found in neither.

It only remains, therefore, to inquire whether the laws actually in force in Canada are likely to *create* a landed aristocracy. In that portion of Lower Canada settled by the French, inheritances are divided into two kinds*. In the first are included all lands held by a title of nobility (*noblement*), such as *Fiefs* and the *Franc-alleu noble*;—in the second are included inheritances held by an ignoble title, such as vassal-lands in the Seigneuries, and the *Franc-alleu simple*, without the privileges of nobility being annexed to it. The precise operation of these laws, which are extremely complicated, was well explained by Mr. Gale, an advocate of the Canadian bar, before the Committee of the House of Commons in 1828.

“Supposing a person possessed of real property in the Seigneuries were to die intestate, what would happen then?”

“His real property would, if it was ignoble property, be equally divided amongst his children; if it were noble, that is, if it were a Fief or Seigneurie (or *Franc-alleu noble*) it would not be divided quite equally; but the eldest son would have an extra portion; that is, he would have two-thirds if there were only one child besides himself, and he would have one-half if there were several children.

* Coutume de Paris.—Titre des Fiefs.

“ What power has a person over his real property to settle by will in both these cases ?

“ It would depend in a good measure upon the precaution he had taken before he married.

“ Supposing he dies without being married ?

“ If he dies without being married, he may do as he likes with his property, he may bequeath it all ; but if he dies, being married, the right he has over his property depends upon his having taken the precaution, previous to his marriage, to establish his right by contract or not. If under the contract he has reserved to himself a perfect and entire control, and disposal over all his property, in that case he has a right to bequeath it all by will. If he has not taken this step, then he cannot dispose of a very considerable portion of it.

“ What proportion ?

“ He could not dispose of that which would be liable to dower, which would be one-half of the lands that he possessed at the time of his marriage, or that he might have succeeded to by inheritance.”*

It is to be observed, with respect to this evidence, that the great mass of real property within the Seigneuries are vassal-lands, and that the qualified right of primogeniture which obtains where the tenure is noble, prevails therefore only to a very limited extent. It will also be observed, that a testator's power over his real property may be controlled by a variety of incidents, independently of the general disinclination to make bequests in favour of one son. Of the prevalence of this disinclination, even amongst the French Canadians, the testimony is decisive and abundant. A member of the House of Assembly of Lower Canada, gives the following evidence :—

“ You state there can be no aristocracy in Canada. What makes you say so ?

“ The laws of the country are against the acquirement of property sufficiently large to create an aristocracy in the country, and the manners of the people of America are decidedly against the system of aristocracy.

“ Do you apply that to America generally, or is there anything peculiar in Canada ?

“ To America generally.

“ What is it that prevents the accumulation of property in large masses in the hands of individuals ?

“ The subdivision of property.

“ What produces the subdivision of property ?

“ The laws of descent.

* Minutes of Evidence before a Select Committee of the House of Commons on the Civil Government of Lower Canada in 1828, p. 151.

"Is it not frequently the case among the French inhabitants of Lower Canada, that they leave their property to the *younger son*, while the elder sons go elsewhere?"

"It has hitherto been the case, but that custom is dying away very fast. There have been considerable abuses of that mode of giving away property; I believe it is not now very generally followed in Canada.

"Then the almost universal practice in Lower Canada is to divide the property among the children?"

"It is by an equal division."*

In the townships of Lower Canada, that is, in the portions of the province situated beyond the Seigneuries, and in Upper Canada, the laws of England, under certain modifications, and the right of primogeniture, are supposed to prevail; but the evidence taken before the Committee of 1828, as well as that accumulated by the Canadian Commissioners, is equally conclusive as to the opinions of the Anglo-Canadians on this subject.

Mr. Gale again examined.—"Do you know anything of the law of descent of landed property in Upper Canada?"

"The law of descent in Upper Canada is, I believe, the English law of primogeniture; but I believe the mass of English inhabitants there would desire that law to be altered.

"Is there not some local statute which has modified that law?"

"A local statute has either been passed, or attempted to be passed, but I cannot say which.

"Is it not the prevailing opinion of both provinces, that the law of primogeniture is not suited to those colonies?"

"I believe that the inhabitants in general would prefer a law making an equal division, which would save them the trouble of making a will.

"Do you think the inhabitants of Upper and Lower Canada would not be perfectly satisfied with having it in their power to distribute their property as they please by will?"

"They possess that power already, but they would prefer that, without the trouble of making a will, the law should distribute as they wish.

"Do you recollect the doctrine of the English law with respect to entails ever having been acted upon in the townships?"

"No, I do not.

"Was any such thing ever heard of?"

"I do not recollect ever having seen a will that established an entail in the townships.

"Do you recollect ever to have heard of any case arising, and brought before the courts of justice, in which that question, or anything like that question, has been discussed?"

"I do not recollect any."†

* Minutes of Evidence, 1838, p. 361.

† Minutes of Evidence, 1828, pp. 263—168.

Assuming, however, that the opinions and prejudices of the people and the practice of the law were the other way, still large individual accumulations of real property would be impossible, in the actual condition of the country. If the father of a family, who by his labour had brought a portion of the wilderness into cultivation, were to bequeath his property, so improved, to his eldest son; is it credible that the younger sons would engage in laborious and unhealthy employments, when a moderate degree of industry, bestowed upon a portion of waste land, would place them in a position of perfect equality, and secure all the comforts and independence of a landed proprietor? The question, therefore, of a landed aristocracy, cannot even be mooted in America, with any practical result, at present. Her trackless forests forbid it,—the genius of her prairies rends the enactment from our statute-book, as she beckons the pioneers of civilization to her boundless domains,—and the surface of that vast continent must be peopled by millions yet unborn, before the social combinations and political interests necessary to create a permanent privileged class can arise. But it may be asked, what has been the practical effect of the attempt made by Mr. Pitt to introduce an aristocratic chamber into such a state of society? The answer is given by Mr. Nelson, then a member of the House of Assembly, in his examination before the committee of 1828. These are the frank revelations he makes, with something, it must be admitted, of the bluntness of a backwoodsman.

“ Will you describe the constitution of the Legislative Council?

“ When I left the province there were resident in it twenty-seven legislative counsellors; Jonathan Sewell, Speaker, with a salary of 900*l.* a year; President of the Executive Council and Court of Appeals, with a salary of 100*l.*; Chief Justice of the province and of the district of Quebec, with a salary of 1500*l.* besides about 150*l.* for circuits, making altogether 2650*l.* sterling. The Rev. C. J. Stewart, Lord Bishop of Quebec, salary and allowances as Bishop, paid by Great Britain, about 3000*l.*; Sir John Johnson, Indian Department, paid by Great Britain, it is supposed 1000*l.* a year; I cannot say whether this is correct or not.

“ What is the Indian Department?

“ There is a department in Canada called the Indian Department; it is a department that was established during the American War, for the direction of Indian affairs. John Richardson, an executive counsellor, 100*l.* a year; Charles St. Ours, half-pay captain, paid by Great Britain;

John Hale, appointed by Lord Dalhousie to act as receiver-general, with a salary of 900*l.* a year, as executive counsellor 100*l.*, making together 1000*l.* a-year.

" Have all the executive counsellors 100*l.* a year in that capacity ?

" They have ; John Caldwell, the late receiver-general, is now paying by agreement for holding his estates, 2000*l.* per annum, which are supposed to be worth much more. That is the only thing that places him in dependence upon the governor. H. W. Ryland, Clerk of the Executive Council, salary and allowances 650*l.*, pension 300*l.* ; Clerk of the Crown in Chancery, no salary is mentioned, fees of office unknown ; total known 950*l.* a year. James Cuthbert is said to be a half-pay captain on the establishment, but I do not know whether he is or not. Charles William Grant, seigneur proprietor, and late of Isle St. Helen, which he has exchanged with the government. P. D. Debartzch, a landed proprietor, supposed to be worth at present 1500*l.* per annum ; James Irvine, late executive counsellor, merchant. M. H. Perceval, collector of the customs and executive counsellor, in the receipt for the last ten years it is supposed of upwards of 3000*l.* per annum ; as executive counsellor, 100*l.* L. De Salaberry, captain, half-pay, and in Indian Department, with a provincial pension of 200*l.*

" Is that for life or during pleasure ?

" The pension has been stated to be instead of an office by the Legislature, and I should suppose he holds it independently of any one ; but I have heard that he is dead since I left the province.

" Are the pensions you mentioned before granted by the executive government ?

" The pension to Mr. Ryland was granted by the executive, but that has been voted several times by the assembly. Mr. De Salaberry is stated to have been replaced by Mr. Taschereau, a judge in the King's Bench at Quebec ; William Burns, late the king's auctioneer, a wealthy retired merchant ; Thomas Coffin, chairman of the Quarter Sessions for Three Rivers, with a salary of 250*l.* ; Roderick M'Kenzie, a retired merchant ; L. P. C. Delery, grand voyer (road surveyor) of the district of Montreal, with a salary of 150*l.*, and fees unknown ; Louis Guky, late sheriff of Three Rivers, promoted to Montreal, office supposed worth, per annum, 1800*l.* ; Charles De Salaberry, seigneur ; James Ker, judge, King's Bench, Quebec, 900*l.* a year ; executive counsellor, 100*l.* a year ; judge of Vice Admiralty Court, 200*l.* a year, besides fees for circuits, 150*l.*, making together 1350*l.* Edward Bowen, judge of King's Bench, Quebec, 950*l.* a year, and circuits 150*l.* making 1050*l.* Matthew Bell, merchant, lessee of the King's Forges ; William B. Felton, agent for Crown lands, supposed 500*l.* a year. Toussaint Pothier, seigneur ; John Stewart, late merchant, and sole commissioner of the Jesuits' estates, and executive counsellor, salary supposed to be 600*l.* a year ; John Forsyth, merchant. The total amount of the sums received by different members of the Legislative Council from the public is 17,700*l.*

" How much of the 17,700*l.* is paid by the province ?

"I suppose about 5000*l.* or 6000*l.* of the 17,000*l.* are paid by Great Britain. Of the twenty-seven members of the Legislative Council, there are fourteen who receive payment out of provincial funds, four out of British funds, and nine receiving no pay; nine of them are natives of Lower Canada; and of the eighteen above mentioned who receive pay from the public, seven are also executive counsellors.

"Are not all the commissions in the colonies during pleasure?"

"All commissions are during pleasure; all may be suspended by the governor."

Some changes have taken place in the composition of the legislative council since the year 1828, but these are fair specimens of the colonial aristocracy, forced into an unnatural and sickly existence by Mr. Pitt's attempt to introduce this part of the "British Constitution" into Canada*.

* Mr. Fox, in the debates on the Canada Bill, condemned the separation of the two provinces, and strongly advocated the necessity of adapting the new institutions to be given to them to the real wants and habits of the people. His observations are recorded here, as the opinions of a statesman who, experience has shown, took a far more correct view of this question than his great political opponent.

"Of all the points of the bill, that which struck him the most forcibly was the division of the province of Canada; it had been urged that by such means we could separate the English and the French inhabitants of the province, that we could distinguish who were originally French from those of English origin. But was this to be desired? Was it not rather to be avoided? Was it agreeable to general political expediency? *The most desirable circumstance was, that the French and English inhabitants of Canada should unite and coalesce as it were into one body, and that the different distinctions of the people might be extinguished for ever.* If this had been the object in view, the English laws might soon have prevailed universally throughout Canada, not from force, but from choice and conviction of their superiority. He had no doubt that on a fair trial they would be found free from all objection. The inhabitants of Canada had not the laws of France."

"He trusted that the house would also seriously consider the particular situation of Canada; it was not to be compared to the West Indies; it was a country of a different nature; it did not consist of a few white inhabitants, and a number of slaves, but it was a country of great growing population, which had increased very much, and which he hoped would increase much more. It was a country as capable of enjoying political freedom in its utmost extent, as any other on the face of the globe. This country was situated near the colonies of North America; all their animosity and bitterness on the quarrel between them and Great Britain was now over, and he believed that there were very few people among those colonies who would not be ready to admit every person belonging to this country into a participation of all their privileges, and would receive them with open arms. The governments now established in North America were, in his opinion, the best adapted to the situation of the people who lived under them of any of the governments of the ancient or modern world; and when we had a colony like this capable of freedom, and capable of great increase of population, it was material that the inhabitants should have nothing to look to among their neighbours to excite their envy. Canada must be preserved to Great Britain by the choice of its inhabitants; but it should be felt by the inhabitants that

III. THE HOUSE OF ASSEMBLY.

To establish the assumed analogy between the constitution of the parent state, and that about to be introduced into Canada, it became necessary to form a third branch of the legislature, to represent the people. This was accomplished by the 12th and several of the following sections of Mr. Pitt's bill, by which the governor was authorized to convene representative assemblies in each province. The period of their session was limited to four years, and the right of voting in counties was given to all adult males, possessing land of the value of 40*s.* a year, whether held by a freehold title under the English law, or by a noble or vassal-tenure under the French. In towns, the elective franchise was conferred upon all persons possessing a dwelling-house or land

their situation was not worse than that of their neighbours. He wished the Canadians to be in such a situation as to have nothing to envy in any part of the king's dominions; but this would never be the case under a bill which held out to them something like the shadow of the British Constitution, but denied them the substance. In a country where the principles of liberty were gaining ground, they should have a government as agreeable to the genuine principles of freedom as was consistent with the nature of circumstances. He did not think that the government intended to be established by the bill would prove such a government; and this was his principal motive for opposing it. The legislative councils ought to be totally free, and repeatedly chosen, in a manner as much independent of the governor as the nature of a colony would admit."

"As to the points of hereditary powers and hereditary honours, to say that they were good, or that they were not good, as a general proposition, was not easily maintained; but he saw nothing so good in hereditary powers and honours, as to incline us to introduce them into a country where they were unknown, and by such means distinguish Canada from all colonies in the West Indies. In countries where they made a part of the constitution he did not think it wise to destroy them, but to give birth and life to such principles in countries where they did not exist, appeared to him to be exceedingly unwise. Nor could he account for it, unless it was that Canada having been formerly a French colony, there might be an opportunity of reviving those titles of honour, the extinction of which some gentlemen so much deplored, and to revive in the West that spirit of chivalry which had fallen into disgrace in the neighbouring country. He asked if those red and blue ribbons which had lost their lustre in the old world were to shine forth again in the new? It seemed to him peculiarly absurd to introduce hereditary honours in America, where those artificial distinctions stunk in the nostrils of the natives. He declared he thought these powers and honours wholly unnecessary, and tending rather to make a new constitution worse than better."—*Par. Hist.* vol. xxix. pp. 407-411.

to the annual value of 5*l.*, and upon householders paying a rent of 10*l.* sterling annually. In a country where property is so equally distributed, these provisions constituted the great majority of the "made population, above twenty-one years of age, electors; and they were unrestricted in their choice of candidates, for no property qualification was required to enable a member to take his seat in the assembly.

To determine how far any analogy could exist between an elective body thus formed, and the House of Commons, it is necessary to consider the state of society in each country, and its probable action on this branch of the legislature as well as on the House of Lords and the legislative council. Theoretical writers have lauded our mixed form of government as one in which each estate, under a species of moral attraction and repulsion, revolves in its proper orbit, and in the performance of its own peculiar functions assists in preserving the harmony of the system of which it forms a part. But history and our own experience teach us, that this is theory and not practice. In the early periods of the constitution the predominating principle was the monarchical—since the revolution of 1688 it has been the aristocratic. We also know that under the "British Constitution", the aristocracy are not only represented by hereditary right in the House of Lords, but also, to no slight extent, by the election of the people in the House of Commons; and that the harmonious working of our institutions is not, in truth, the effect of co-equal and co-ordinate powers, each restraining the other, but the result of one estate of the government, or rather the materials of which that estate is composed, modifying and controlling the power of the other two. Hence we find members of our aristocracy, under the rank of peers, representing even large constituencies; and when an opportunity occurs, the wealth and influence of every grade of the "order," are eagerly and not unsuccessfully engaged, in endeavouring to procure the return of persons professing political principles in accordance with their own.

In our American colonies there is, as we have shown, but "one mass, one class, one people." An elective assembly, therefore, chosen by them, will not, as in England, represent the mixed feeling which pervades a community composed of

various ranks, but the spirit of democratic equality which reigns throughout the constituencies will infuse itself into the body they elect; and its members, raised above the broad level of democracy, only by the suffrages of their equals, will identify themselves with the opinions of those by whom they are called into public life. These are the characteristics of the representative assemblies in our colonies generally, and they seem to be a condition of their existence; but in Lower Canada peculiarities exist, which demand special attention. In this then, as in other colonies, there is but "one mass," but the French portion of that mass had never, when Mr. Pitt's bill passed, been accustomed to the possession of political rights, and the most illiterate people, within the pale of civilization, have been slow to learn the duties of freemen. The members returned by them to the House of Assembly have, therefore, been clothed with the outward trappings of representatives of the people, and important constitutional privileges have been conferred upon them; but the total absence of an intelligent, vigilant, and jealous constituent body, has left society without the best guarantee of good government; and enjoying all the weight and authority associated with popular favour and support, these pseudo-representatives could, in the very name of the people, exercise irresponsible power. It was soon, in consequence, observed at elections, that the feeling uppermost in men's minds, and the one most successfully appealed to, was not whether the candidate was a Tory, a Whig, or a Democrat, but whether he was English or French; and the contest of nationality, which had its birth at the conquest, has been renewed again and again on the hustings of the province. We are aware that this is denied by Mr. Roebuck, but we will venture to assert that our opportunities of studying the French Canadian character have been equal to his, and our testimony—we say it not offensively—is we hope as disinterested. Nor have we any prejudices to overcome, for we entertain a lively recollection of the frank, warm-hearted, but ignorant *Habitans*, however indignant we may feel at the "leaders" (?) who have consigned them to an ignominious death on the scaffold, or have exposed them (*not themselves*) in the field, to the rifles of their English fellow-countrymen, and the bayonets of the Queen's troops.

What resemblance then can be traced between the House of Assembly of Lower Canada, and the British House of Commons?

Let it not be supposed however that we desire to see elective institutions abolished in Lower Canada; on the contrary, we think that there, as elsewhere, they are the only secure basis on which political freedom can rest; but we do wish our readers to infer from what we have written, that it would have been sound policy never to have divided the province of Quebec into the two provinces of Upper and Lower Canada, and that it would be equally sound policy now, to endeavour to promote the amalgamation of the two races by their union under one constitutional government. These views are strongly supported by the authority of Mr. James Stuart's Evidence, taken before the Committee of the House of Commons in 1834. Mr. Stuart was then Attorney-General of the province, but has lately, we believe, been appointed Chief Justice, and his testimony will have due weight with every person to whom his talents and experience are known.

“ To what causes do you ascribe the dissatisfaction which has prevailed in Lower Canada, and what remedies would you suggest?

“ The question is complicated, and not to be answered otherwise than by referring to general permanent causes, though these no doubt have been recently rendered more injurious in their operation by temporary circumstances, to which it is not necessary to advert. The political disorder and the consequent dissatisfaction which now prevail in Lower Canada, I conceive, are mainly ascribable to the composition of the House of Assembly, in which a few individuals are enabled to exercise a power and influence inconsistent with the rights of their fellow-subjects and with good government, and over which there is not that check and control, on the part of the constituent body, which ought to be found in a representative government.

“ Do they not represent the opinions of the people?

“ In the present state of Lower Canada, the opinions by which the Assembly are governed can hardly be said to be those of the people. They are the opinions of a few people, possessing uncontrolled power in the Assembly, which they disseminate with unceasing activity among the people, and call their opinions. The people are possessed of excellent natural intelligence, and of the best qualities and intentions; but they are without the advantage of education, and are not conversant with the political subjects on which they are called to decide; they are therefore liable to be deceived.

" You have stated that you think the great bulk of the population of Lower Canada hardly competent to form an opinion upon political subjects ; but do they not feel very great confidence in those whom they send to represent their interest in the Assembly ?

" The fitness of that confidence would depend upon the qualifications and character of the individuals in whom it is reposed ; in many cases the greater the confidence the greater the evil, where confidence may have been misplaced.

" Do you mean to say that the political education of the people of Canada is in so very backward a state, that they can hardly be competent to enjoy, with advantage to themselves, the right of a free constitution ?

" I mean to say that practically the mass of electors in Lower Canada, in the present condition of the country, do not exercise over their representatives the control which is essential to check excess in the popular branch of the government ; and that this is a main cause of the misgovernment under which the province labours.

" How would you suggest that the Assembly should be composed ?

" I am not aware that any effectual remedy for the existing composition of the Assembly can be found, *otherwise than by an union of Upper and Lower Canada under one legislature.* As lesser but permanent causes contributing to the misgovernment of Lower Canada, I would mention the vicious system of judicature which is now in force, and the consequent defective and unsatisfactory administration of justice which it causes throughout the province. I would mention also the defective composition of the Executive Council, which, as a court of justice in the last resort, and as being charged with important duties in the government of the country, it is essential, in my opinion, should be placed on a footing of efficiency and respectability. For these causes of misgovernment, if found to exist, the remedies are of course, a new system of judicature, adapted to the present state of the country, and a re-construction of the Executive Council by which its composition may be improved*."

The geographical situation of Lower Canada indicates even more urgently than the considerations we have thus stated, the necessity of promoting the amalgamation of the two races. The French Canadians, amounting from 400,000 to 500,000 persons, occupy narrow strips of land on the banks of the St. Lawrence and its tributary streams, commencing 150 miles below Quebec, and extending about 200 miles beyond that city. A glance at the map will show, that the districts they occupy are not a distinct and isolated portion of the country, but such as are destined, from their position, to become the highway by which the produce of the fertile territories bordering on lakes Erie and Ontario, will be exchanged

* Minutes of Evidence taken before a Committee of the House on Lower Canada in 1834, p. 181.

for the manufactures of Europe and the commodities of other countries. This traffic too will be carried on by a people of a different race, already exceeding them in numbers in British America, and far excelling them in all the qualifications that create the power and prosperity of states. Towards the Atlantic Ocean are the provinces of Nova Scotia, Cape Breton, New Brunswick, Prince Edward's Island and Newfoundland, with an English population estimated at upwards of 400,000. The population of British origin in Lower Canada itself is not less than 150,000 at the present time*, and in Upper Canada the official returns made to the House of Assembly in 1833 state the population in that province to be 296,544†, while the neighbouring American states of Maine, New Hampshire, Vermont, and New York, possess an aggregate population of English descent, of between three and four millions‡. The mere statement of these facts is, we conceive, sufficient to show how futile every attempt must eventually be which seeks to preserve the manners, the language, and customs—the *nationality*, in fact—of the French Canadians; but it does more; it casts upon us the duty of encouraging their amalgamation with the British population by all lawful means; for if a heavy responsibility already attaches to us for the policy we have pursued towards these provinces, a heavier still will be incurred by measures introduced now, which leave either partially or altogether untouched the causes which have produced the late disastrous events. Thus we have endeavoured to establish our second proposition, in favour of a union of the provinces and an amalgamation of the two races.

IV. THE CHURCH.

To perfect the resemblance in Church and State between the British and Canadian Constitutions, it was provided by the 36th Section of Mr. Pitt's Bill, that when any appropriation of land should take place in an unsettled parish or township, one-seventh should be reserved for the support

* It is estimated by Mr. Montgomery Martin in a recent work as high as 210,000.—*History and Statistics of Upper and Lower Canada*. London. 1838.

† *Ibid.*

‡ By the census of 1830, the population of these states amounted to 2,868,030.

and maintenance of a Protestant clergy. The words "Protestant Clergy" are used in this section, but it is apparent, from the subsequent provisions, that the clergy of the Church of England were contemplated. At the time when this enactment was proposed and passed, the great majority of the inhabitants of Canada were French Canadians, professing the Roman Catholic religion. Even amongst the British population, the members of the Church of England were a small minority; the larger portion consisting of Presbyterians of the Kirk of Scotland, or of dissenters from that church and from the Church of England.

It is not our intention to discuss this portion of Mr. Pitt's Bill; every impartial person, to whatever persuasion he belongs, admits its impolicy; and its practical effect on the prosperity of the province is recorded in the following recital of the Act of Parliament (7th and 8th Geo. IV. c. 62.) providing for the sale of these "clergy reserves":—

"Whereas, by an Act passed in the Thirty-first Year of the Reign of his late Majesty King George the Third, it is amongst other things enacted, that it shall and may be lawful for His Majesty, his heirs or successors, to authorize the Governor or Lieutenant-Governor of each of the provinces of Upper Canada and Lower Canada respectively, or the person administering the government therein, to make, from and out of the lands of the Crown within such provinces, such allotment and appropriation of lands as are therein mentioned, for the support and maintenance of a Protestant clergy within the same; and it was further enacted, that all and every the rents, profits or emoluments which might at any time arise from such lands, so allotted and appropriated as aforesaid, should be applicable solely for the maintenance and support of a Protestant clergy within the province in which the same should be situated, and to no other purpose whatever: And whereas, in pursuance of the said Act, such allotments and appropriation of land as aforesaid, have from time to time been reserved for the purposes therein mentioned; which lands are known within the said province by the name of the *Clergy Reserves*: and whereas the said *Clergy Reserves* have in great part remained waste and unproductive, from the want of capital to be employed in the cultivation thereof, and it is expedient to authorize the sale of certain parts of such *Clergy Reserves*, to the intent that the monies arising from such sale may be employed in the improvement of the remaining part of the said Reserves, or otherwise for the purposes for which the said lands are so reserved as aforesaid. Be it therefore enacted"—(Here follow provisions for the sale of the *Clergy Reserves*, and the investment of the proceeds of such sale.)

We cannot, however, touch upon this important subject, without expressing our belief, that the bitterness of religious

dissension has been to a very slight degree, if at all, mixed up with the late unfortunate events in Canada; but if this element of discord is to be excluded for the future, it will be by the rejection of every proposal for the establishment of a dominant church in connexion with the government. The members of the Church of England, even now, form but a minority of the Canadian community, and the other sects in the province will demand perfect religious and civil equality. Without, therefore, stating reasons which would far exceed the space which remains to us, we reluctantly dismiss this momentous part of the question, by recording our deliberate opinion, that if charity and good-will are hereafter to be maintained in Canada, it will be by the equal payment of all persuasions of Christians under the authority of the law, or by the introduction of the voluntary system.

It is not our intention to inquire minutely into the struggles which took place between the House of Assembly and the colonial executive government. It would indeed have been strange, if such an incongruous mass of legislation as Mr. Pitt's Bill had produced any other result than confusion. But we charge the imperial government, and this without reference to a Tory or a Whig administration, with a culpable neglect of these provinces. Every one connected with the country has known for years, that the business of government was practically suspended, and that a crisis was gradually but surely approaching, which might involve the descendants of two high-spirited nations in bloodshed and civil war. What, we ask, was done to avert this approaching catastrophe? Committees of the House of Commons sat, inquired, and reported. An extravagantly-paid Commission proceeded to Canada, made further inquiries, and in due time produced further reports upon matters which every person of ordinary industry could make himself acquainted with, from sources of information already in existence. The only approximation to an enlarged and enlightened legislation, suited to the pressing exigencies of the province, was made by Sir Robert Wilmot Horton in 1822, when he introduced his Union Bill—a bill which failed, however, under the assaults of party in the House of Commons. In contrast with this attempt stand out in strong relief the resolutions of Lord

John Russell in 1837—memorable examples of the hard measure of justice dealt out by England to her colonial subjects, for a state of things produced by her own misgovernment. The facts recorded in these resolutions are an historical epitome of this misgovernment—a condensed record of the practical results of Mr. Pitt's Bill—the Whig commentary of 1837 on the Tory policy of 1791, and as such we insert them here.

“ ‘ *The Resolutions* ’ proposed by Lord John Russell and carried in the Parliament of 1837.

1. “ That, since the 31st day of October, in the year 1832, no provision has been made by the Legislature of the province of Lower Canada, for defraying the charges of the administration of justice, and for the support of the civil government within the said province, and that on the 10th day of April, 1837, there was required for defraying in full the charges aforesaid to that day the sum of 142,160*l.* 14*s.* 6*d.*

2. “ That at a Session of the Legislature of Lower Canada, holden at the city of Quebec, in the said province, in the months of September and October, 1836, the Governor of the said province, in compliance with his Majesty's commands, recommended to the attention of the House of Assembly thereof the estimates for the current year, and also the accounts, showing the arrears due in respect of the Civil Government, and signified to the said House his Majesty's confidence, that they would accede to the application which he had been commanded to renew for payment of the arrears due on account of the public service, and for the funds necessary to carry on the Civil Government of the province.

3. “ That the said House of Assembly, on the 3rd day of October, 1836, by an Address to the Governor of the said province, declined to vote a supply for the purposes aforesaid, and by the said Address, after referring to a former Address of the said House to the Governor of the said province, declared that the said House persisted, amongst other things, in the demand of an elective Legislative Council, and in demanding the repeal of a certain Act passed by the Parliament of the United Kingdom in favour of the North American Land Company; and by the said Address the said House of Assembly further adverted to the demand made by that House of the free exercise of its control over all the branches of the Executive Government; and by the said Address the said House of Assembly further declared, ‘ That it was incumbent on them, in the present conjuncture, to adjourn their deliberations until his Majesty's Government should by its Acts, especially by rendering the second branch of the Legislature conformable to the wishes and wants of the people, have commenced the great work of justice and reform, and created a confidence which alone could crown it with success.’

4. “ That in the existing state of Lower Canada, it is unadvisable to make the Legislative Council of that province an elective body; *but that*

it is expedient that measures be adopted for securing to that branch of the Legislature a greater degree of public confidence.

5. "That while it is expedient to improve the composition of the Executive Council in Lower Canada, it is inadvisable to subject it to the responsibility demanded by the House of Assembly of that province.

6. "That the legal title of the North American Land Company to the land holden by the said Company, by virtue of a grant from his Majesty, under the public seal of the said province, and to the privileges conferred on the said Company by the Act for that purpose made in the fourth year of his Majesty's reign, ought to be maintained inviolate.

7. "That it is expedient, that so soon as provision shall have been made by law, to be passed by the Legislature of the said province of Lower Canada, for the discharge of lands therein from feudal dues and services, and for removing any doubts as to the incidents of the tenure of land in free and common socage in the said province, a certain Act made and passed in the sixth year of the reign of his late Majesty King George IV., commonly called 'The Canada Tenures Act;' and so much of another Act passed in the third year of his said late Majesty's reign, commonly called 'The Canada Trade Act,' as relates to the tenures of land in the said province, should be repealed; saving, nevertheless, to all persons, all rights in them vested under or by virtue of the said recited Acts.

8. "That for defraying the arrears due on account of the established and customary charges of the administration of justice and of the civil government of the said province, it is expedient that, after applying for that purpose such balance as shall, on the said 10th day of April, 1837, be in the hands of the Receiver-General of the said province, arising from his Majesty's hereditary, territorial, and casual revenues, *the Governor of the said province be empowered to issue from and out of any other part of his Majesty's revenues in the hands of the Receiver-General of the said province, such further sums as shall be necessary to effect the payment of the before-mentioned sum of 142,160l. 14s. 6d.*

9. "That it is expedient that his Majesty be authorized to place at the disposal of the Legislature of the said province the net proceeds of his Majesty's hereditary, territorial, and casual revenue, arising within the same, in case the said Legislature shall see fit to grant to his Majesty a Civil List for defraying the necessary charges of the administration of justice, and for the maintenance and unavoidable expenses of certain of the principal officers of the civil government of the said province.

10. "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."

These decisive proceedings, on the part of the ministry, produced a strong effect upon the public mind in Canada, and

the resolutions are entitled to the equivocal merit, of having occasioned, in some instances, a kind of reaction amongst individuals of the "British party," by several of whom they were as severely condemned as by the French Canadians. A striking illustration of their operation, even upon the most loyal of the Anglo-Canadians, is afforded by the Report of a Committee of the Legislative Council of Upper Canada, on the state of the province after the first outbreak in 1838. The following is the emphatic language the Committee use:—

"It is impossible, in the opinion of your Committee, that any one conversant in the affairs of Lower Canada, can look upon the resolutions referred to as pointing out a satisfactory course. They provide but for the present moment, and that in a manner most liable to exception; for clearly the government has no right, and none can be given to it, to take from the provincial Treasury monies paid into it under acts of the local Legislature, which acts expressly reserve to that Legislature the exclusive right of appropriation.

"The constitutional charter, under which the Colonial Legislature acts, may undoubtedly be rescinded by Parliament; *but while it is suffered to stand in force, it ought not to be violated.* The case is not such as to require so desperate a remedy, and it is hardly possible—perhaps not possible—to conceive any case that would warrant it."

The "Constitution" of Lower Canada had, in truth, practically ceased to exist before these resolutions were passed, but their effect upon it was something like the action of galvanism on the natural body after death. A violent distortion was produced, and the minister availing himself of the unnatural vitality he had infused into his victim, perpetrated his unconstitutional attack on the political rights of the Canadians. This was the principal and proximate cause of their rebellion, and it afforded them the best, perhaps the only plea for resistance they possessed.

We are sensible, that in the observations we have thus offered, we may be reproached with pointing out the defects of the late Canadian constitution, and the errors committed by successive administrations at home, without suggesting any remedies for existing and pressing evils. We will therefore, even at the hazard of subjecting ourselves to a charge of presumption, venture to submit a few suggestions, fairly, we believe, deducible from the facts we have stated, but offered with unfeigned diffidence, rather as points for discussion than as propositions free from all possible objection. We request our

readers at the same time to bear in mind, with M. de Tocqueville, that in the constitutions of all nations, of whatever kind they be, a certain point exists, at which the legislator is obliged to have recourse to the good sense and virtue of his fellow citizens; and that there is no country in the world, in which everything can be provided for by the laws, or in which political institutions can prove a substitute for common sense and public morality.

We would suggest then, in the first place, the union of the two provinces, and of the representatives of the two races in the same elective chambers.

We should hesitate, we confess, in giving our assent to any extensive plan of confederation of the whole of our North American provinces, if, by such a plan, a separate elective assembly were conferred upon Lower Canada, or any portion of it. To such an assembly a preponderating French majority would inevitably be returned, and it would, as inevitably, form the nucleus of a future contest for nationality.

We would surround the king's representative with an executive council, chosen by the crown and dismissible at pleasure. To such a council, we would call all persons who, from talents, station, and property, enjoyed in a pre-eminent degree the confidence of the community in which they lived; carefully excluding the judicial power, but freely admitting members of the two legislative chambers, the heads of departments, and other officers of government. From this council it might be the prerogative of the governor to summon, from time to time, such a cabinet as he should deem best calculated to assist him in carrying on the ordinary business of the government, and on great emergencies the whole of its members might be convened.

It will be inferred from our remarks, that we would make the upper chamber or legislative council elective. It would not, however, necessarily follow that it should in all respects resemble the lower house; though it would be difficult, we confess, in such a community as the Canadian, to vary the constituency by which the two chambers would be chosen, if both were elected by the people; but if, as we trust will be the case in any new scheme of government that may be proposed, elective municipalities be established in the rural di-

stricts, and corporations, popularly chosen, in the towns, it would deserve consideration, whether the right of returning members to the legislative council might not be advantageously conceded, either altogether or in part, to those bodies. Other points of difference might also be introduced. If the lower chamber sat for three or four years, the upper might sit for six or seven; and to render it, during the period of its session, independent both of the power of the crown and of the immediate action of the popular will, it might be constituted a fixed and permanent body, notwithstanding the dissolution of the lower house by the governor. The possession of a certain amount of property, and a more advanced age than twenty-one years, might also be required as qualifications in its members. A legislative council so formed would, we believe, be as aristocratic* as the country could produce, or as the people would cheerfully submit to; and it would, we also believe, be composed of respectable and intelligent men. To it, therefore, we would yield the much-contested right of trying impeachments preferred by the House of Assembly, subject to an appeal to the House of Lords, or to the judicial committee of the Privy Council.

The only change of importance that would take place in the constitution of the House of Assembly would be consequent upon the union of the two provinces. A numerous Anglo-Canadian minority—or it might be an actual majority—would be returned; and the executive government, instead of being in open hostility with the representatives of the people, would at once be placed in the more advantageous position, of holding the scales between two powerful and contending parties.

We would also claim for our North American Colonies generally, that direct representation in the Parliament of the United Kingdom, to which their importance justly entitles them. The objection formerly urged by Mr. Burke to a similar scheme cannot now be maintained. The power of steam has bridged the Atlantic, and the length and uncertainty of voyages to and from America are already matters of history. Thus the member for the district of Toronto, Montreal, Que-

* Connecticut and Rhode Island, the most democratic of our former American colonies, were among the last to rebel.

bec, or Halifax, would require but little more time to reach the capital of the empire than the representative of the Orkneys. We believe too that this direct representation would be a powerful link to bind the colonies to the parent state; but we should very seriously doubt, whether a federal union of all the colonies in British America would tend to preserve and strengthen the integrity of the empire. The questions of international law, if we may be permitted to apply the term to such a state of things, which would arise between a colonial federal government and the imperial government, would be dangerous and complicated. The claim to tax our former colonies was such a question, and it severed the empire. We would rather, therefore, consider the government at home as the central power, presiding over both the United Kingdom and the Colonies; but by giving our American fellow-subjects a voice in the Imperial Legislature, and a free system of local government, we would, at the same time, protect them against the exercise of that power in a manner prejudicial to their interests.

We repeat, that we offer these suggestions with diffidence and distrust; for the more the subject is considered, the more will it appear surrounded by difficulties—difficulties which are much increased by the disturbed state of these provinces. Nor can we claim for our plan any very striking resemblance to the British Constitution; but as the attempt to confer that constitution on the Canadians is now an acknowledged failure, they may perhaps not unreasonably expect institutions to be given to them, moulded on no theoretical model of perfection, but such as are sanctioned by experience and analogy, and are demanded by the manners and the customs of the people, and the actual condition of their country.

The Montreal Petition in 1822.

THE following is the Petition of the British Inhabitants of Montreal to the House of Commons, in December 1822, agreed to after the news of the defeat of the Union Bill had reached Canada. From this document, it will be seen that it is now sixteen years since the unnomulous state of Lower Canada, and the consequences to be apprehended from that state, were pointed out to the Imperial Parliament.

*Petition of the British Inhabitants of Montreal, in 1822,
praying for a Legislative Union of the Provinces of
Lower and Upper Canada.*

To the Honourable the Knights, Citizens, and Burgesses representing the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled,

The Petition of the Subscribers, his Majesty's dutiful and loyal subjects, of British birth or descent, inhabitants of the city and county of Montreal, in the province of Lower Canada,

Humbly sheweth—That your petitioners learnt with the most lively satisfaction, that the measure of uniting the provinces of Upper and Lower Canada under one Legislature, had been submitted to the consideration of your honourable house in the last session of the Imperial Parliament, and have been impressed with sentiments of the most respectful gratitude, for the attention which you have been pleased to bestow on this measure, of vital importance to both provinces.

Under the agreeable anticipation that the evident policy and urgent necessity of a union of the provinces, will induce a renewal of the measures in the next session, your petitioners most respectfully beg leave to submit to your honourable house, the principal considerations that render them in the highest degree anxious for the adoption of the proposed union.

Your petitioners in all humility represent, that the division of the late province of Quebec into two provinces, must be referred to as a measure which has been most prolific of evil. At the time the division took place, upwards of thirty years had elapsed from the conquest of the country by his Majesty's arms; and notwithstanding the unlimited generosity which had been displayed towards the conquered, by confirming to them their laws and their religion, by admitting them to a

participation in the government and in all the rights of British subjects, and by continued demonstrations of kindness towards them, no advances had been made in effecting a change in the principles, language, habits, and manners which characterized them as a foreign people. Such change, as well from past experience as from the known operation of the feelings common to mankind, could not be expected while the conquered people were permitted exclusively to regulate their own government, and thus cherish and maintain the national peculiarities, which it was equally the interest of the parent state and of the colony should be gradually effaced by an intimate union with their fellow-subjects of British origin. On this account it seemed evidently necessary, in framing a new constitution of government, that the representation should be so regulated as to ensure a fit and reasonable influence of British feelings and principles on the conduct of the Colonial Legislature. The measures for this purpose were at the time facilitated by the increase of the British population which had taken place, and by the settlements which had been formed by American loyalists in the upper districts of the late province of Quebec; in consequence of which a sufficiently numerous body of persons of British origin might, under a proper system of representation, have been introduced into the Colonial legislature without offending against any principle of justice, and certainly in strict conformity with the dictates of sound policy. Had this course, which was anticipated at the time by the French Canadian population, and would then have been cheerfully acquiesced in by them, been pursued, your petitioners are confident that the province would now have been, in all essential particulars, an English province. Unfortunately, your petitioners, in common with their fellow-subjects of British origin, have to lament that, instead of adopting the policy which has been mentioned, the measure of dividing the province was unexpectedly, and to the utter surprise of the persons who had petitioned for a change in the constitution, without imagining that it was to be accompanied by any such measure, resolved on; by which the English population in Lower Canada was rendered inefficient, from the comparative smallness of their numbers, and the whole power of the representative branch of the government was given to the French Canadians. It is a fact also, not unimportant to be stated, that both the British and French Canadian subjects who had united in a joint petition to the Imperial Parliament, praying for a change in the government, concurred through their agent in petitioning, and were heard by counsel, against the division of the province; but their efforts were unavailing.

It is from this impolitic measure, your petitioners state with confidence, that the political evils under which Lower Canada has since laboured have principally resulted, as their primary cause. The French-Canadian population, for a short period of time after the adoption of the present constitution, partly from incapacity to exercise the political powers with which they had become invested, and partly from some remaining deference for their English fellow-subjects, used their ascendancy with moderation; but this disposition was not of long continuance, and soon yielded to the inveterate anti-British and anti-commercial prejudices, by which they have not ceased to be actuated. The consequence has been, that persons of British origin, with the exception of a very small number, who have been elected rather for the sake of appearances than from any regard for their qualifications, have been excluded from the House of Assembly. The proportion of English representatives, for many years past, has hardly ever amounted to one-fourth of the entire number; and, at the present time, of fifty members who represent Lower Canada, only ten are English. This branch of the government may indeed be said to be exclusively in the possession of the uneducated peasantry of the country, under the management and control of a few of their countrymen, whose personal importance, in opposition to the interest of the country at large, depends on the continuance of the present vicious system. As illustrative of the spirit by which this body has been actuated, it will not be deemed irrelevant to mention that, since the establishment of the present constitution, no person of British origin has been elected Speaker of the Assembly, although, if regard had been had to ability, knowledge, and other qualifications, a preference must have been given to persons of that description.

The composition of a legislative body, such as that which has been described, under the influence of the prejudices of a foreign people, without the requisite ability for the discharge of its functions, and from which persons who, by their knowledge, their property, and their respectability and influence in society, would constitute its most eligible members, stand excluded, certainly cannot be deemed fit for regulating the concerns of a British province of so much importance as Lower Canada, consistently with the interests of the province itself or those of the mother country. And if to those causes of disqualification be added the most marked repugnance to every measure calculated to assimilate the inhabitants of the country with their fellow-subjects in other parts of the empire, and to promote its commercial prosperity, it is impossi-

ble not to observe in the constitution of the Assembly of Lower Canada the fertile sources of all the evils complained of. Hence it is, indeed, that the ever-recurring differences between the several branches of the Legislature have principally arisen. Hence it is that the powers of the executive government for the improvement and advancement of the colony have, in a great measure, become paralyzed and utterly inefficient. Hence it is that the extension of British settlements has been impeded, and the increase of British population, by the tide of emigration which for some years past has flowed so copiously into this province, been prevented. Hence it is, in fine, that all commercial enterprise and improvement have been crippled and obstructed, and the country remains with all the foreign characteristics which it possessed at the time of the conquest; that is, in all particulars, French.

The experience which your petitioners have had of these evils, and the prospect of still greater, if an effectual remedy be not applied, have rendered the proposed union of the provinces, to them, a matter of the most intense interest. They will, therefore, it is hoped, stand excused if, on a question involving their dearest interests, as well as those of their posterity, as British subjects, they speak the language of truth without reserve. In doing so they feel themselves constrained on this part of the subject to declare, that in their humble apprehension the adoption or rejection of the union will determine whether this province is to be in fact, as well as in name, a British province, or whether, under the disguise of British dependence for some time longer, it is to be for ever French. In assuming the latter to be the consequence of not adopting the union, your petitioners are grounded on the most conclusive facts. The French population of Canada at the time of the conquest was estimated at 60,000, and it is supposed may now exceed 300,000. The whole of this population, though, with the exception of an inconsiderable number, born under the English dominion, is as strongly marked by the characteristics of their foreign origin, as to language, manners, habits, and dispositions, as they were at the time of the conquest. Without a union this population must retain its present ascendancy in the government of the country, and will not of course, of its own accord, cease to be French. Its progressive increase, under the fostering protection of Great Britain, would therefore necessarily lead to the result which, without a union, is anticipated. And your petitioners cannot omit to notice that the unreasonable extent of political rights which has been conceded to this population, to the prejudice of their fellow-subjects of British

origin, together with a sense of their growing strength, has already had the effect of realizing, in the imaginations of many of them, their fancied existence as a separate nation, under the name of the "*Nation Canadienne*"; implying pretensions not more irreconcilable with the rights of their fellow-subject, than with a just subordination to the parent state. Your petitioners would respectfully submit whether a system of government which has had such effects, and which, in its ulterior consequences, must expose Great Britain to the mortification and disgrace of having, at immense expense, reared to the maturity of independence a foreign conquered colony, to become the ally of a foreign nation, and the scourge of its native subjects and their descendants, ought to be persisted in.

In respectfully representing the considerations requiring a union derived from the foreign character of a great part of the population of Lower Canada, and its inimical disposition to everything British, your petitioners have only stated those grounds for the measure to which their situation and past experience have given peculiar force and urgency. But if these were even excluded from view, and the population of both provinces were entirely homogeneous, the necessity of uniting them for their common interest, as well as that of the mother country, would still be unquestionable. It is a consequence of the relative geographical situation of these provinces that Upper Canada is entirely dependent on Lower Canada for the means of communicating with the parent state and other countries: it is only through Lower Canada that the upper province can receive its supplies or export its surplus commodities. The port of Quebec is the entrance common to both. This being situated in Lower Canada, the inhabitants of Upper Canada can have neither free ingress into nor egress from their country, except in so far as it may be permitted by the government of Lower Canada. This your petitioners humbly represent is a cause for the union of the provinces perpetual in its operation, and which cannot be counteracted without a long series of inconveniences and disasters to both. If, while it may still be done, the population of the two provinces be not gradually assimilated and identified in their interests by a union, the differences between them, from the causes now in operation, and the collisions to which they will give rise, must have the effect of rendering the inhabitants of each a separate and distinct people, with the most hostile feelings towards each other, requiring only a fit occasion to urge them into measures of actual violence. In the progress of things, towards this conclusion, the inhabitants of Upper Canada would imperceptibly be induced to form connections

with their American neighbours; and being unnaturally disjoined from Lower Canada, would seek to diminish the inconveniences thence arising, by a more intimate intercourse with the adjoining states, leading inevitably to a union with that country. The natural tendency of things to this result, while the provinces continue under separate Legislatures, it is to be observed is likely to be much promoted by the artificial means of communication by canals, which have been lately formed, at immense expense, in the state of New York, affording to Upper Canada, if the outlet by the port of Quebec should be rendered inconvenient to her, an easy communication to American sea-ports. And her disposition to avail herself of this communication will obviously be increased, while the lower province continues in its character to be French.

Some of the inconveniences arising from the division of countries thus united by nature, your petitioners beg leave to represent, have been practically exhibited in the disputes respecting revenue between the two provinces. Upper Canada relies on the revenue to be derived from import duties for the payment of her civil expenditure. The nature of her local situation precludes her from conveniently or effectually levying these duties within her own limits; it is at the port of Quebec only she can levy them: but this is in another province; and while she has a separate Legislature, beyond the authority of her government. The consequence has been, that, till the recent interposition of the power of the Imperial Parliament, she has been dependent on the good will of the Legislature of Lower Canada for a proportion of the duties levied at the port of Quebec, and has been virtually subjected to taxation by the Legislature of another province, without her concurrence or consent. It is in the nature of things impossible to determine what proportion of the duties in question ought to be allowed to Upper Canada, regard being had to strict justice between the provinces; and it has been urged that the claims of natural justice, on the part of Upper Canada, would only require for her either a free transit for goods imported for that province, or the payment to her of the duties actually levied on such importations at the port of Quebec. Your petitioners will not, on this occasion, presume to canvas the merits of the conflicting rights of the two provinces on this subject, but will only observe, that if the provinces be not united under one Legislature, no system which human ingenuity can devise will be found effectual or satisfactory in obviating this ground of difference between them, or exclude just cause of complaint by one or other of the parties concerned.

In what respects the regulations, recently established by an act of the Imperial Parliament, for settling the differences now referred to, your petitioners, while they acknowledge the beneficent views which have dictated them, feel it incumbent on them respectfully to state that those regulations, if considered in any other light than a temporary expedient, would not be found reconcilable with the just rights of the lower province or of its Legislature, and would be productive of great evils. Your petitioners cannot omit to observe, that the proportion of duties allowed to Upper Canada is greater than, if regard were had to her present consumption of dutiable articles imported at Quebec, she could be considered fairly entitled to; nor can they pass over in silence the extreme inconveniences and injury that would be occasioned by the restrictions imposed on the power of the Legislature of Lower Canada, as a permanent measure, nor the inadequacy of arbitration to regulate, as proposed, the important interests in question. With the most perfect submission, your petitioners beg leave to express their belief that neither of the provinces would be satisfied, for any length of time, with the arrangement referred to; and that the advancement and improvement of both would be most injuriously retarded by the incapacity under which the Legislature of each would labour to provide, by its own authority, a revenue adequate to its wants.

While your petitioners thus humbly represent the conviction they feel that the regulations above referred to must create dissatisfaction, and be found inadequate for the purposes intended, they cannot but observe in this inadequacy the strongest reason for adopting the remedy of a union, by which the evil intended to be palliated by those regulations would not only, by the removal of its cause, be extinguished for ever, but a multitude of other evils be removed and prevented.

In adverting to the injurious consequences arising from the division of the late province of Quebec, your petitioners cannot omit to notice more particularly the effect that measure has had in preventing the increase of the British population in Lower Canada, and the development of its resources. The predominance of the French population in the Legislature has occasioned obstacles to the settlement of British emigrants that have not been surmounted—so that the vast increase of British population to have been expected from this cause has been in a great degree prevented. The injury sustained in this particular may be easily appreciated when it is observed that, since the late American war, upwards of

80,000 souls (that is, a number equal to one-fourth of the actual French population) have found their way to this province from Great Britain and Ireland; and of these scarcely one-twentieth part remain within its limits; the rest, with the exception of a small number who have settled in Upper Canada, having been induced by the foreign character of the country in which they had sought an asylum, and the discouragements they experienced, to try their fortune in the United States. The loss thus sustained is not confined to those who left the country, but comprises their connections and friends who would have followed them. In the same proportion as the increase of British population has been prevented has the agricultural and commercial prosperity of the country been retarded and obstructed, as it is to the enterprise, intelligence, and persevering industry of that population that both agriculture and commerce must be principally indebted for their advancement. On this head it may be fairly advanced that, had not the impolitic division of the late province of Quebec taken place, and had a fit plan of representation been adopted, the British population would now exceed the French, and the imports and exports of the country be greatly beyond their present amount.

The injury thus produced to the interests of the mother country, and those of the colony, by the French character which now belongs to this country, and the predominance of French principles, your petitioners humbly represent, without a union of the provinces, must be aggravated by the augmented influence of those causes, arising even from a recent act of liberality on the part of the mother country towards her colonies. According to the colonial system recently adopted, a direct intercourse between Lower Canada and France is now permitted, the immediate effects of which will unquestionably be to give increased strength to those national feelings and prejudices, which, during 60 years of interdicted communication with France, have remained unabated, and to render more inveterate the causes of disunion between his Majesty's subjects in Lower Canada; which effects, as well as others more remote, affecting the stability of his Majesty's government, can only be counteracted by the proposed union of the provinces under one Legislature.

Your petitioners, without trespassing on the patience of your honourable house by a longer detail of the injurious consequences produced by the division, will beg leave to specify succinctly the benefits to be expected from a union of the provinces. By this measure the political evils complained of in both provinces would be removed. The French

population of Lower Canada, now divided from their fellow-subjects by their national peculiarities and prejudices, and with an evident disposition, under the present system, to become a separate people, would be gradually assimilated to the British population of both provinces, and with it moulded into one people of British character, and with British feelings: all opposition of interest and cause of difference between the provinces would be for ever extinguished: an efficient Legislature, capable of conciliating the interests of the colony with those of the mother country, and providing for the security and advancing the agricultural and commercial prosperity of the country, would be established: by means of which the internal improvement of both provinces would not only be rapidly promoted, with the consequent benefits thence arising to Great Britain, but their strength and capacity to resist foreign aggression be greatly increased: the ties of connection between the colony and the parent state would be strengthened and confirmed, and a lasting dependence of the Canadas on the latter be insured to the mutual advantage of both.

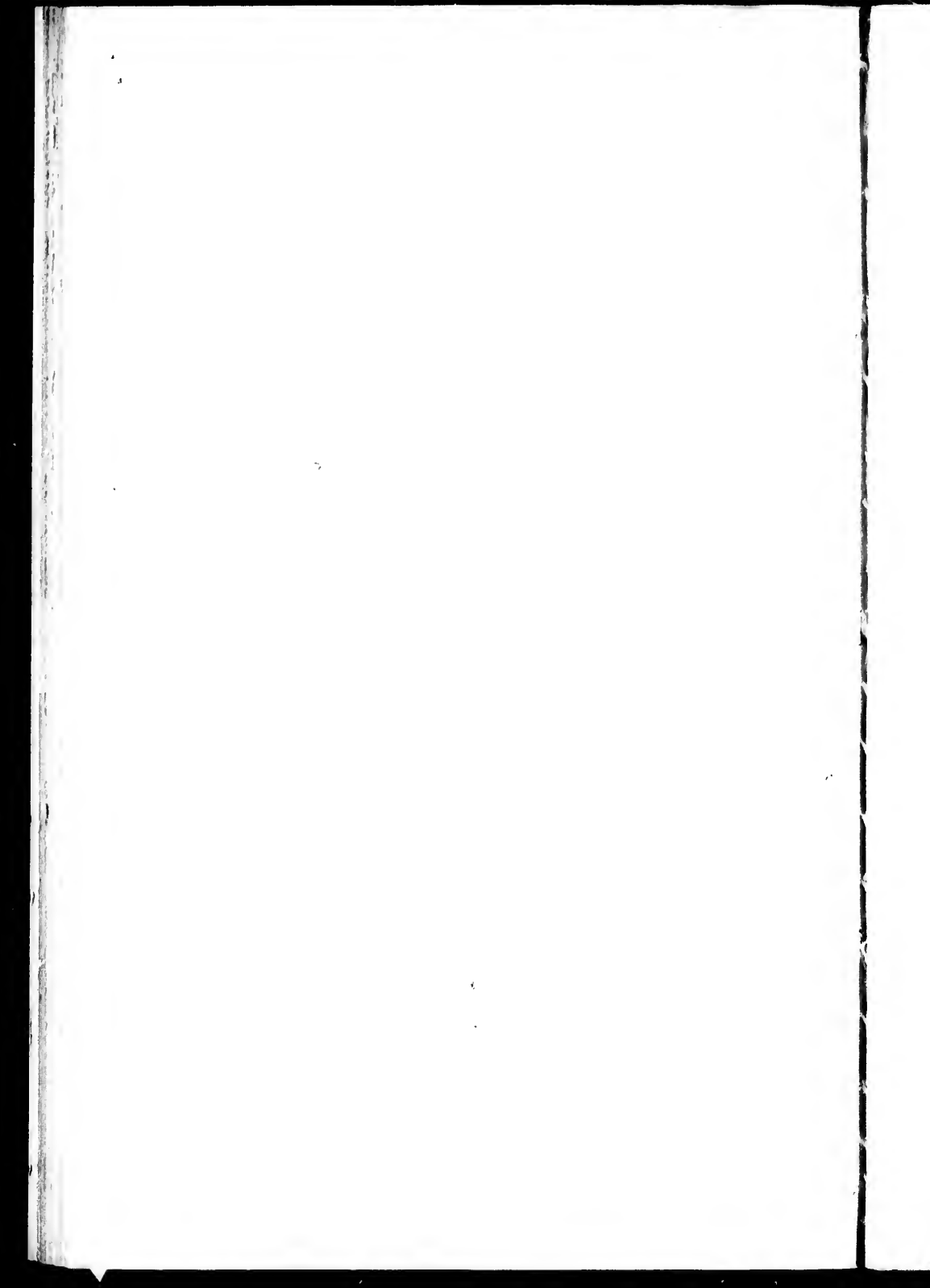
Under a full conviction that these important and lasting benefits will be realised by a union of the provinces, your petitioners humbly pray that an act for uniting the provinces of Upper and Lower Canada, under one Legislature, may be passed with such provisions for rendering the measure effectual as, in your wisdom, may appear expedient.

And your petitioners, as in duty bound, will ever pray,

&c., &c., &c.

Montreal, Dec. —, 1822.

THE END.



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