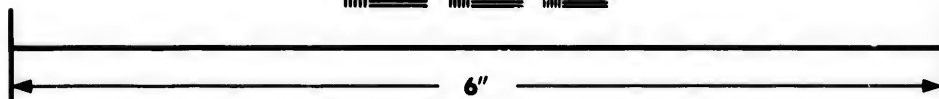
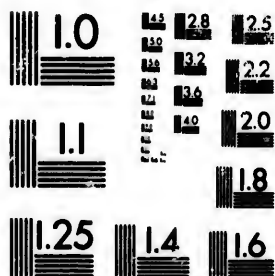


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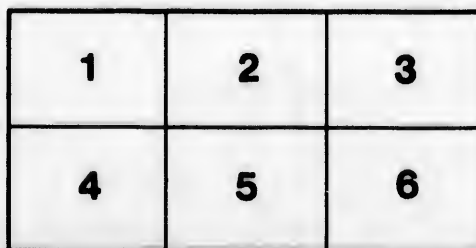
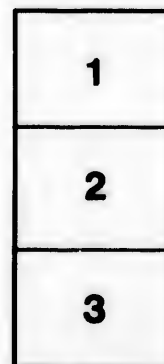
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HISTORY
OF
CANADA;

FROM ITS
FIRST DISCOVERY,
TO THE
YEAR 1791.

By WILLIAM SMITH, ESQUIRE ;
Clerk of the Parliament and Master in Chancery of the Province of
Lower Canada.

NE QUID FALSI DICERE AUDEAT, NE QUID VERI NON AUDEAT.

VOL. II.

QUEBEC:
PRINTED FOR THE AUTHOR,
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JOHN NEILSON,
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CHAPTER 1.

*From the Establishment of Civil Government, in 1764 to
the Siege of Quebec in 1775.*

BY the fourth and seventh articles of the Treaty of Peace, of the year one thousand seven hundred and sixty-three, Canada was ceded to Great Britain in its utmost extent. In the month of October following, about eight months after the conclusion of the definitive treaty above mentioned, His Majesty published his Proclamation, under the Great Seal of Great Britain, for erecting four new Civil Governments, to wit, those of Quebec, East Florida, West Florida, and Granada, in the countries and islands in America, which had been ceded to the Crown by the definitive treaty. In this proclamation the King exhorted his subjects as well of his kingdoms of Great Britain and Ireland as of his colonies in America, to avail themselves, with

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all convenient speed, of the great benefits and advantages that would accrue, from the great and valuable acquisitions ceded to His Majesty in America, to their commerce, manufactures, and navigation; and, as an encouragement to them to do so, he informed them, that in the commissions he had given to the civil Governors of the said four new provinces, he had given express power and directions that, so soon as the state and circumstances of the said colonies would admit thereof, they should, with the advice and consent of the members of His Majesty's Councils in the said provinces, summon and call general Assemblies of the people within the said governments, in such manner as was used in those colonies and provinces in America which were under His Majesty's immediate government; and "*that in the mean time, and until such assemblies could be called, all persons inhabiting in, or resorting to His Majesty's said colonies, might confide in His Majesty's royal protection for the enjoyment of the benefit of the laws of his realm of England:*" that for that purpose His Majesty had given power, under the great seal, to the Governors of His Majesty's said new colonies, to erect and constitute, with the advice of His Majesty's said Councils respectively, courts of judicature, and public justice within the said colonies, *for the hearing and determining all causes, as well criminal as civil, according to law and equity, and, as near as may be, agreeably to the laws of England;* with liberty to all persons who might think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal, under the usual limitations and restrictions, to His Majesty in his Privy Council.

ON the twenty-first day of November, one thousand seven hundred and sixty-three, about six weeks after the publication of the aforesaid proclamation, His Majesty issued his commission of Captain General and Governor in Chief of the province of Quebec to Major General Murray, which was received by him, and published in the province in the month of August, one thousand seven hundred and sixty-four. This commission, and the instructions that accompanied it, seemed every where to pre-suppose that the laws of England were in force in the province, being full of allusions and references to those laws on a variety of different subjects, and did not contain the least intimation of a saving of any part of the laws and customs that prevailed there, in the time of the French government.

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It seemed therefore, upon the whole, from the proclamation and commission, to have been His Majesty's intention, with respect to the said province of Quebec, to assimilate the laws and government of it to those of the other American colonies and provinces which were under His Majesty's immediate government, and not to continue the municipal laws and customs by which the conquered people had heretofore been governed, any farther than as those laws might be necessary to the preservation of their property. And His Majesty's ministers appeared, at the time of passing those instruments, to have been of opinion, that, by the refusal of General Amherst to grant to the Canadians the continuance of their ancient laws and usages; and by the reference made in the fourth article of the definitive treaty of

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peace to the laws of Great Britain, as the measure of the indulgence intended to be shewn them with respect to the exercise of their religion, sufficient notice had been given to the conquered inhabitants of that province, that it was His Majesty's pleasure, that they should be governed for the future, according to the laws of England; and that the inhabitants, after being thus apprised of His Majesty's intention, had consented to be so governed, and had testified their said consent, by continuing to reside in the country, and taking the oath of allegiance to His Majesty, when they might have withdrawn themselves from the province, with all their effects, and the produce of the sale of their estates, within the eighteen months allowed by His Majesty in the treaty of peace, for that purpose.

IN pursuance of this supposition that the laws of England had been introduced into the province, by the aforesaid proclamation and commission, Governor Murray and his Council, in the great ordinance dated on the seventeenth day of September, one thousand seven hundred and sixty-four, (passed at the commencement of the civil government of the province, for the establishment of courts of justice in it,) directed the Chief Justice of the province, (who was to hold the superior court, or *Court of King's Bench*, established by that ordinance,) *to determine all criminal and civil causes agreeable to the laws of England and the ordinances of the province*; and the judges of the inferior court, established by the said ordinance, (which was called the *court of common Pleas*,) *to determine the matters before them agreeable to equity, having regard nevertheless to the laws of England, as far as the circumstances and situation of things*

would permit, until such time as proper ordinances for the information of the people could be established by the Governor and Council, agreeable to the laws of England; with this just and prudent proviso, "that the French laws and customs should be allowed and admitted in all causes in the said court between the natives of the said province, in which the cause of action arose before the first day of October, one thousand seven hundred and sixty-four."

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IN consequence of these instruments of Government, all purporting to introduce the laws of England into the province of Quebec, those laws were generally understood to have been introduced into it, and consequently to be the rule and measure of all contracts and other civil engagements entered into by the inhabitants after the introduction of them, that is, after the establishment of the civil government of the province, or after the said first day of October, one thousand seven hundred and sixty-four. Thus were the laws of England supposed to have been introduced, until the revival of the French laws in matters of property and civil rights by the Quebec Act passed some years afterwards.

As General James Murray had been appointed Governor* of the province, and had been empowered by a Royal Instruction to nominate a Council of eight members of his choice, with power to make laws and ordinances; he was sworn in as Governor this year, and the Council nominated by him, were :

William Gregory †—Chief Justice,
Paulus Emilius Irving,

* 21st November, Council Books.

† Recalled on the representation of General Murray.

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Adam Mabane, Thomas Dunn,
Walter Murray, François Mounier.

As His Majesty's commander in chief in America, General Amherst, immediately after the conquest of this country, had ordered and directed that justice should be administered to the inhabitants by military courts established for that purpose in the several governments, which were afterwards approved by His Majesty, with an order that they should exist until civil government could be restored ; the Legislative Council, therefore, at the first meeting, passed an ordinance to confirm the decrees of the several military courts, and the act declared that from the eighth day of September one thousand seven hundred and sixty, the date of the capitulation of Montreal, to the time civil government took place throughout the province, all orders, judgments and decrees of the military councils of Quebec, and of all other courts of justice in the said government, or in those of Montreal and Trois Rivières, should be approved, ratified and confirmed, and have full force and effect, except in cases where the value in dispute exceeded the sum of three hundred pounds sterling, in which case the other party was allowed to appeal to the Governor and Council of the province, on the appeal being lodged with the clerk of the Council of Quebec, within two months after the publication thereof, on sufficient security being given by the appellant to pay costs and charges as might be awarded, if the decree was affirmed, and an appeal allowed to the King and Council where the value in dispute was above five hun-

dred pounds, the appellant giving security, if the decree was affirmed. It was also declared by the ordinance, that if any person had been arrested, or process had been issued upon any matter that had been already tried before any of the courts before the tenth of August, one thousand seven hundred and sixty-four, the person arrested was directed to lay his cause in writing before the Governor and Council, with an attested copy of the decree or decrees, that if on examination it was properly founded, the action might be dismissed, with a right of appeal however where the matter so tried, exceeded the sum of three hundred pounds sterling, and it also ordained, that the Judges, Justices of the Peace, and other Magistrates, should on the application of the several parties put in execution all orders and judgments of these courts, not then executed, allowing to the parties a right of appeal.*

THE ordinance passed by the Governor in Council, introducing the English form of proceedings in the administration of justice, preparatory to the establishing the English laws, by proper ordinances for the information of the people, occasioned great disquietudes among the inhabitants, and therefore, in the month of November of the same year, the Governor and Council passed an ordinance enacting, that in actions relative to the tenure of lands and rights of inheritance, the laws and usages of Canada should be observed as the rule of decision according to equity, conformable to the former ordinance.

THOUGH a common law court had been established

* Ordinance passed 20th September, 1761.

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by a provincial ordinance, yet a court of equity was much wanted, and this induced the government to set up the Court of Chancery, at the head of which presided the Governor as Chancellor, with two masters, two examiners and one register : this court was absolutely necessary to moderate the rigour of the common law, considering as that court always does, the intention rather than the words of the law. This establishment continued until the Quebec Act was passed in one thousand seven hundred and seventy four, and then it merged into the new courts formed at that time.

THE Art of Printing was introduced into Canada, in the year one thousand seven hundred and sixty four, by William Brown and Thomas Gilmore. They published the first number of the Quebec Gazette on the twenty-first of June of that year. The establishment had been projected in Philadelphia the year before ; Gilmore was sent to England to purchase types and and other materials in the autumn of that year, and Brown proceeded to Quebec with a prospectus of the Gazette to procure subscribers, and make the necessary arrangements for commencing business in the spring. The subscription list then amounted to about one hundred and fifty, half of whom were Canadians. The tardy establishment of the Press in Canada, and the quarter from whence it was first introduced, are facts than which none can be more strongly illustrative of the genius of the government and people of Canada, and of the then British Colonies in North America. Canada had been longer settled than any of them : its population was then probably nearly as numerous as that of Pennsylvania, yet the first Printing Establishment for Canada, was projected and carried into effect from that Colony.

DURING the course of the war in Canada, *Pondiac*, a brave and experienced chief of the Ottawas, had preserved the strongest attachment to the French interest, and notwithstanding that peace had been concluded, his inveterate hatred to the English urged him on to engage not only his own but other Indian nations, to rekindle a war. *Pondiac* had conceived a plan of attacking the English posts of Detroit and Michilimackinack, by surprise. In furtherance of his plan, he sent forward a party of Indians, composed of Hurons, Ottawas, Chippawas, Poutawatamies and Messessagas to that place, under the specious pretext of making a visit to the commandant. On their arrival at the fort, the chief of the band advanced to the Governor of the fort, with protestations of the warmest attachment for him and his garrison, which was returned by assurances of reciprocal regard. They then began to play the *jeu de balle*, a game the Indians are much accustomed to, and from which they derive much amusement. The ball was frequently thrown within the pallisades of the fort, which was as repeatedly brought back by some of the party, when a favorable opportunity presenting itself, they seized the centry at the south entrance, and the whole party rushed in and took immediate possession of the fort with little resistance on the part of the garrison. A lieutenant and seventeen soldiers were killed, but none of the merchants were put to death, but were all carried prisoners to Montreal, where they were liberated on a sum of money being paid for them.

THE success that attended the reduction of Michili-

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mackinac, led *Pondiac* to think, that availing himself of similar address, he might seize the garrison of Detroit ; with this view he collected an Indian force, amounting to three hundred warriors, and at their head marched for that place, garrisoned with three hundred men, under the command of Major Gladwin, a brave and experienced officer. On the seventh May, the Indians came to the fort, and held a treaty with the Major, who had, however, been apprised the evening before, that their design was to murder the officers in Council, while they were to have had parties at the different merchant's houses to treat them in the same manner, and then make themselves masters of the garrison, by rushing into the guard house and barracks to seize on the arms. To shew them that he was not afraid of them, he allowed them admittance, but took the precaution to have the whole garrison under arms, and the merchants were desired to shut up their houses, and to assemble with their servants at nine o'clock, all completely armed. The Indians all entered about ten o'clock, and made dispositions according to their plan. *Pondiac* had in his pouch a belt of wampum, which was to have been the signal for commencing the massacre, but finding the garrison under arms, he did not dare to produce it, declaring at the same time his surprize at the Major's conduct, and feigning ignorance of the soldiers being paraded. The Council was of course at an end, and they retired much disconcerted, to the farther side of the river, where they encamped. The young warriors on their return, reproached *Pondiac* for not producing the signal, observing, that they would have carried the fort, with the loss of a few men only : to which he replied, that if he had known that they would have consented to lose any of their men, he cer-

tainly would have commenced an attack, but as they were willing, he would soon give them another opportunity to attack the garrison, whether under arms or not.

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IN consequence of these resolutions, *Pondiac*, with several of the other chiefs, came to the fort the next day, to smoke the calumet of peace with the Major, who to shew his detestation of their treachery refused to go near them; but told Captain Campbell, if he had a mind, he might go and hear what they had to say. Campbell having met them, *Pondiac* told him, that he would propose a meeting with the Major the next day, and to wipe away all cause of suspicion, he would bring all his old and young men to take him by the hand in a friendly manner. He then withdrew to his camp. At eight o'clock next morning, sixty-four canoes crowded with Indians, were discried from the fort, crossing the river above it, where they landed, when a deputation from them was sent to the Major, to demand permission for the whole to be admitted into Council. This request, however, the Major absolutely refused, but observed that they might send forty or fifty chiefs, which he looked upon as a sufficient number for that purpose. With this resolution they returned to the rest, who by this time were at the distance of two hundred yards, lying all round the fort, to whom, on its being communicated, they all got up and fled, yelping like so many devils. They then fell on a small plantation about a mile from the fort, murdered Mrs. Turnbull, to whom it belonged, with her two sons, and from thence proceeded to Hog's Island, about a league up the river, where they tomahawked a man by the name of Fisher, and his wife and four sol-

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diers, carrying off Fisher's children and a maid servant into captivity. Returning on the morning of the tenth of May, they began an attack on the fort in the most resolute manner, and supported a heavy fire until the evening, when losing a number of their men, they retreated to the woods. Apprehensive of a second attack, the French inhabitants proposed to the Major, that terms of pacification should be offered, to which he the more readily assented, as there was but three weeks provision for the garrison, at a pound of bread and two ounces of pork for each man per day, and without the least prospect of any supply. The deputation of the French inhabitants that was sent to *Pondiac*, returned with five Indians, who demanded in the name of the rest, that two officers should go out and hold a treaty with them in camp, and they requested that Captain Campbell might be one of them. The Major assented the more readily to this proposal, as the French inhabitants who had proposed the accommodation assured him, that there was no risk, and that they would be responsible for his safe return. He went off in the afternoon of that day, and took with him Lieutenant M'Dougall, accompanied by the five Indians and an equal number of Frenchmen, who had given a solemn promise that he should return safe; regardless however, of their word, they delivered up both Campbell and M'Dougall into the hands of *Pondiac*. The terms on which this Indian chief proposed the garrison of Detroit should surrender, were, that they should lay down their arms, leave their cannon, magazines, merchants' goods, and two vessels, which should be the property of the captors, and that they should be conveyed in batteaux to Niagara. To these proposals the Major returned an an-

swer, that he was resolved to defend the post to the last extremity. Upon this, hostilities were recommenced, and the blockade continued during two months. On the twenty-ninth of July the garrison was agreeably surprised with the arrival of Captain Dalzel and his party, which though vigorously attacked by *Pondiac* and his people, made his way to the fort, without the loss of a single man, though he had several wounded. The garrison being now reinforced, and the Indians still continuing in their camp at a small distance from the fort, Capt Dalzel, on the evening of the thirtieth, formed the design of surprising *Pondiac*, under cover of the night. To this proposal the Major readily assented, and the two hundred men destined for this service were in readiness at half past two o'clock of the next morning, and marched out under his command. Two armed boats were ordered to row along shore, to cover the retreat, and take off the killed and wounded. As the distance to the Indian encampment was but two short miles, the troops soon arrived there, where, instead of finding them unprepared, they found he was apprized of the design, and had taken possession of the houses along the road, from which they kept up an incessant fire, which galled the troops excessively. Captain Dalzel made many efforts to dislodge them, but without effect, though he showed great courage and resolution, and was well seconded by his whole detachment. At the moment that a retreat was ordered, Captain Dalzel received a mortal wound, and the command devolving on Captain Grant, he retreated in good order with his detachment, having lost in the action nineteen men killed and thirty-nine wounded. It would have been next to impossible for the garrison to have held out much longer,

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had not a supply of provisions arrived to their relief. These succours were brought by a schooner from a post above Niagara, which anchored in Detroit river on the third of September. In the evening of the succeeding day, *Pondiac* projected a plan to seize this vessel, and pushed forward a detachment which attacked her in the most resolute manner. After repeated attempts to board the schooner, they were at length beat off with great loss, and the vessel meeting with no further interruption, arrived at the place of her destination. The master however, and one seaman were killed, and four others wounded. The succours received augmented the spirits of the garrison, as much as it depressed *Pondiac's* ardour, and at length convinced of the uselessness of his efforts, he proposed an accommodation on terms highly favorable to the English interest. A treaty being concluded, the Indians returned home, and no further interruption was given to the English traders.

IN consequence of the supposed change of his sentiments, and with a view of purchasing his attachment, the British government settled a pension upon him ; but this had no effect in repressing his spirit of hostility, which frequently broke forth, and ultimately became the cause of his own destruction. In the year one thousand seven hundred and sixty-seven he attended a grand Council in the Illinois country, and there made a speech couched in such language as evinced his ancient hatred to the English. An Indian friendly to the English government, availing himself of this opportunity, rose up in the assembly and stabbed him to the heart. The Illinois, far from being displeased with their countryman, approved of his conduct, and the nations that had been

so long under his influence, no longer shewed a spirit of hostility, but sued for peace, which was happily restored.

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AMONG the transactions of this year, a most atrocious attack was made on the person of a Mr. Thomas Walker, a Justice of the Peace, at Montreal, on the sixth day of December.—The circumstances attending this assault appear to be these: Governor Murray had issued an order for lodging the troops in private houses. The lodgings occupied by Captain Fraser, being vacant by his appointment to be Paymaster General of the troops, he having been provided with one at the public expence, an officer insisted upon having those rooms, in the name and right of Captain Fraser. These lodgings before Captain Payne had taken possession of them, had been rented to another gentleman. At a meeting of the Justices of the Peace, among whom was Mr. Walker, a warrant was issued, commanding Captain Payne to give up the lodgings. This Captain Payne refused to do, and the Captain was sent to gaol. After continuing in gaol a few days, he applied to the Chief Justice of the Province for an *habeas corpus*, and he was set at liberty. Soon after this, a resolution was taken to punish Mr. Walker, who, it was thought, had been the principal promoter of the warrant, and of Captain Payne's commitment to prison. On Thursday, the sixth day of December, the plot that had been laid against Walker, was put into execution, and the assault was actually committed. At a quarter after nine o'clock at night, as Mr. and Mrs. Walker were sitting in their hall at supper, a sudden noise was heard at the door, as if made by a number of people striving hastily to get into the

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house. Mrs. Walker upon hearing it, immediately cried out, *entrez*, imagining it was a number of Canadians coming to Mr. Walker upon business as a Justice of the Peace; but looking towards the door, and seeing through the glass of the inner door a crowd of black faces rising one above the other as they stood on the steps without, she cried out, "Good God, what is this! this is murder, this 'is the army come to revenge themselves!" While Mrs. Walker was crying out in this manner, the ruffians entered the room. Mrs. Walker's exclamation made Mr. Walker turn his head back, at the instant they were entering, who, upon sight of these assassins, started up from his chair, and in rising, received a wound five inches long, on the fore part of his head with a broad sword, but did not sink under it; recollecting that his arms were in his bed chamber, he made towards them, but received so many blows from five or six of these ruffians, that he could not reach them, but sunk down, spent with wounds and the loss of blood, into an arm chair that was standing in the further corner of the parlour adjoining to the door of the bed chamber. He continued in this situation for a short time, almost deprived of his senses, but was roused to make another attempt to defend himself by the terror occasioned by the threat of instant death. Mr. Walker resolved, though quite unarmed, to do what he could to defend himself, and attacked two of the ruffians with his fists, but was soon over powered by the rest, one of whom seized him by the throat, while another took hold of his right thigh, and endeavoured to throw him into the fire. The terror of this cruel death giving him new strength and spirit, he disengaged himself from them both, by putting his hands against the chimney piece, and pushing him-

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self from it with all his force ; but at that instant he received a dangerous wound on the left side of the head, which felled him to the ground, when one of the ruffians kneeling down, cut off a part of his right ear, and endeavoured at the same time to cut his throat, which they were prevented from doing, by Mr. Walker's squeezing his head down close to his shoulder, and putting up his left hand ; they, being in a hurry to get away, as the neighbourhood began to be alarmed, they made off, taking the ear in triumph. In consequence of this outrage, the whole province was thrown into the greatest possible alarm. The inhabitants of Montreal went armed in the streets, and never went to dinner or to their homes without pistols before them. Whenever a soldier entered a shop to purchase an article, a pistol was presented at him, to prevent his committing outrage. As soon as this horrid assault was known in England, the King issued a proclamation* of-

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* LONDON GAZETTE.—ST. JAMES'S, 29th March, 1766.

Whereas it has been humbly represented to the King, that on the sixth day of December, one thousand seven hundred and sixty four, between the hours of eight and nine in the evening, a most audacious and wicked attempt was made to assassinate Thomas Walker, Esq. of Montreal, one of His Majesty's Justices of the Peace for that district, by a number of persons in disguise, who, after giving him above fifty wounds and contusions, many of them of the most dangerous nature, left him for dead, but not till they had cut off a part of his right ear, which they carried away in triumph : His Majesty, for the better discovering and bringing to justice the persons concerned in that felonious attack, is graciously pleased to promise his Royal Pardon to any one of the said offenders, who shall voluntarily surrender himself to any of His Majesty's Justices of the Peace in Great Britain or Ireland, or in the Province of Canada, or any other of His Majesty's dominions, and who shall make a full discovery of his accomplices, so that they may be apprehended and convicted thereof : and also a reward of one hundred guineas, to be paid by the Right Honourable the Lords Commissioners of His Majesty's Treasury, upon the conviction of any one or more of the offenders principally concerned in the said facts : and further, if such evidence

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fering a reward of one hundred guineas for the apprehension and conviction of any person concerned in cutting off Mr. Walker's ear, and the Governor of the province offered, also, a reward of two hundred, more.

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SEVERAL gentlemen had been taken up on suspicion of being concerned in the assault on Walker, and several inhabitants, in order to obtain the release of these gentlemen, presented a memorial to the then Governor of the Province. They stated that they had the utmost abhorrence of the breach of public order in the outrage committed on the person of Mr. Thomas Walker, and their wishes for the discovery of the perpetrators of it, yet they could not be unmoved when they considered the circumstances of the gentlemen, torn from their families and imprisoned on suspicion thereof. That until they had heard the crime proved against them, they could not but help interesting themselves for men, who from their families, stations, services and established characters (until this surprising stroke) had stood in the highest degree of estimation in the province. That they not only felt for them, but for their families, and for the affliction experienced by his Majesty's new subjects, who beheld the grey hairs of their countrymen so unexpectedly, and perhaps irretrievably affronted. They therefore supplicated his authority to mitigate the rigor of the law; a dispensation which they thought justifiable, and they offered to become bail for their appearance at their trial, and for the safety of Mr. Walker's

shall happen to be in any regiment in His Majesty's service, he shall, if he desires it, have his free discharge. (Signed) H. S. CONWAY.

And the said Thomas Walker doth hereby promise a reward of one hundred guineas, to be paid immediately on the conviction of any one or more of the offenders principally and actually concerned in the said assault.

person from any hurt in consequence of their enlargement. His Excellency returned an answer, in which he stated, that he had received their memorial, and that as the Chief Justice had refused to accept bail, and suffer them to be at large till the time of their trial, it was not possible for him to interpose his authority, and to enlarge them consistently with his duty : that he thought it necessary to apprise them of the evil tendency of interfering in numbers in the free course of justice ; that they should solicit persons to sign the petition, and that they should assemble in numbers to wait on the Governor to enforce their request, in hopes of making him swerve from his duty, was highly reprehensible, tending to overturn law, justice and good government. The Governor therefore gave them a positive denial, and the gentlemen remained in custody. The answer was so little relished by the subscribers, that they replied to the Governor, that they had paid a respectful attention to his letter, and that lest any unfavorable impression might have been conveyed, they begged leave to lay before him the whole of their proceedings and intentions, which they flattered themselves, would be some apology, even if they had been ignorantly led into a breach of positive law.*

** Copy of a Letter to the Lieutenant-Governor of Quebec, from Col. Jones, Col. Irving, and Capt. Morris, in answer to his to Col. Irving.*

SIR—With the respectful attention due to a letter from you, we have perused that sent to Lieut. Col. Irving, and directed to be communicated to all that subscribed a Petition in behalf of the gentlemen brought prisoners from Montreal. Lest any unfavourable impression may have been conveyed ; lest the silence even of those amongst the presenters, not particularly charged, should countenance such impression, we beg leave to lay before you the whole of our proceedings and intentions : intentions, which, we flatter ourselves, would be some apology, even had we been ignorantly led into a breach of a positive law.

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At the Court held at St. James's on the twenty-second of November, one thousand seven hundred and

Saturday night it was told, the gentlemen confined were not to be bailed, and that it was expected they would be sent back prisoners the next afternoon ; that having no other resource, they intended to apply to the Governor by Memorial, and would be obliged to their friends to present it. They found on this occasion, more friends than they expected, all were touched with their very particular circumstances, all freely offered their service, (few or none who had opportunity declined.)

The memorial was a request to the Governor to interpose, whether by causing bail to be accepted, or otherwise, we were not informed, for none of us read it, but heard it was drawn up by proper advice. It was decent to accompany it with a Petition ; several motives offered for so doing ; no time was to be lost, as soon as a fair copy could be made out, it must be delivered : The expressions must remain such as they were, such as were inspired by a warm zeal for our friends ; for gentlemen unexpectedly thrown into the most mortifying circumstances men could fall into ; yet, so unanimous were all, that not one of the various persons who read and signed it, all unsolicited (as far as we know) most, unconnected by any but the ties of humanity, and an opinion of the prisoners innocence, made the least exception to a single sentence. They thought it would be but justice to these gentlemen, to give the strongest testimony of their characters, and the esteem in which they stood in the country. They thought it humanity to alleviate the odium which their unhappy situation must throw on those characters, and to obviate, as far as in them lay, the ill consequences likely to ensue on their affairs and interests : In fine, that it was a proper occasion to inform those who had not opportunities of being acquainted with this Province, that an impression very different had been made here in regard to the perpetration of the outrage on Mr. Walker, from what may have been given in England.

To lay open these their sentiments, they flattered themselves would not be unacceptable, and as they thought it incumbent on them to propose the most persuasive motives for every possible indulgence, they hoped every becoming measure for justifying such indulgence would be pleasing. They never presumed to prescribe in what manner authority was to be interposed ; if the law did not allow bail to be taken, some mitigation in the manner of the prisoners confinement was hoped for : these were the views, in which we gave that evidence of our sincerity, as well dependance on these Gentlemen's honour, in offering the most unlimited security we could for them.

By authority we meant no other than the authority usually vested in Governors, neither did we conceive that word implied any thing arbitrary. Were we mistaken in supposing an authority for doing something that could not be done, were the application of that authority (did it really exist) improper, a word or hint would have been taken, as the rebuke of our Governor, our Genc-

sixty-five, at which His Majesty was present, the Report was made in these words : CHAP.
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THE King's most Excellent Majesty in Council, upon reading at the Board a Report to His Majesty from the Lords of the Committee of His Majesty's Most Honourable Privy Council, dated the fifteenth of this instant, in the words following, viz.

“ WHEREAS the Lords of the Committee of Council since their Report to your Majesty of the eighth of last month, have received the opinion of your Majesty's Attorney and Solicitor General, upon some

ral, and our Friend. As such we looked upon what you said to us, Sir, on our presenting the memorial, and should have come off thankful for what could legally or conveniently be done for their relief : But had any such authority existed, had we not the only moment when our endeavours could avail, exerted ourselves in behalf of our Friends and Brother Officers, had we seen them after Scandal, Imprisonment and Vexation, prove their Innocence ; had we then remembered that we left undone any thing possible to be done for their relief, we should certainly reproach ourselves, and the world would probably ask, why were we so luke-warm.

These were our thoughts ; these our motives, and seemed to be of all that signed ; if from their speeches and behaviour then, we are to judge : For on these matters we have had no communication before, and very little, even in common discourse since, with any of them.

We declare, that we never had any intimation that our petitioning would be ill received : The Town Major, sent to give notice of our intention, brought back no such message : Major Mills, indeed, said it would be disagreeable to go in numbers ; it was instantaneously decided, a few only should go ; most seemed willing to be of these few. We thought it would be wanting due respect, to suffer to be presented to the Governor by persons of an inferior rank to ours, a petition to which our names were signed.

The bare exposition of these our motives and proceedings, will, we hope, be their apology. The spring of them all was zeal for our Brother Officers, whose Fortunes, Lives, and Honours, are closely attacked. Even this should never lead us to an undutiful act ; for we were, and remain, with unalterable obedience to Public Authority.

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doubts which had arisen, in regard to the authority of the Governor of Quebec, to cause Courts of Oyer and Terminer to be held at Trois Rivières, for the trial of the offenders concerned in the assassination of Mr. T. Walker at Montreal, and in the riot, breach of prison and rescue of divers persons taken up on that account, at which Court several of the offenders had been tried and acquitted, and your Majesty's said Attorney and Solicitor General being of opinion that the Governor of Quebec is fully authorised and empowered by his commission and instructions, to appoint Courts of Oyer and Terminer within all the districts of that Province, and that no Special Commission can be lawfully issued for a new trial of those persons who had been indicted, tried and acquitted at the said Court held at Trois Rivières, but as there is reason to believe there are several other principal offenders who have not yet been apprehended or brought to trial, the Committee think it advisable for your Majesty, to require your Governor or Commander in Chief of the Province of Quebec, to exert himself in causing a diligent search to be made after such persons and bringing them to trial in due course of law, in the vicinage of the place where the offence was committed, and by a Jury of the said vicinage."

"His Majesty this day took the said Report into consideration, and was pleased, with the advice of his Privy Council to approve thereof, and to order, as it is hereby ordered, that the Right Honorable Henry Seymour Conway, Esquire, one of His Majesty's Principal Secretaries of State, do signify his Majesty's pleasure to the

Governor or Commander in Chief of His Majesty's Province of Quebec, for the time being, to exert himself in causing a diligent search to be made after such of the said principal offenders who have not yet been apprehended and brought to trial, and in bringing them to trial in due course of law, in the vicinage of the place where the offence was committed, and by a Jury of the said vicinage."

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"SIR—This* will be delivered to you by Mr. Walker, who had the misfortune to have met with such treatment at Montreal, as is a disgrace to all government. As no material complaint has been made against him for misconduct as a Magistrate, and as his general character is supported by the testimony of very respectable people in Canada, and in London, and as it seems unjust that a person should be turned out of the Magistracy for any other cause but his misconduct therein, especially after the unparalleled cruelties exercised on Mr. Walker, I am therefore to acquaint you, Sir, that he should be immediately restored, and put into the Commission of the Peace, and also that you would omit nothing in your power, to support him in that unmolested pursuit of trade which, as a British subject he is entitled to, wherever he chuses to settle."

"As to the persons concerned in the horrid attempt to assassinate Mr. Walker in his own house, I hope, that in consequence of His Majesty's Order in Council of the twenty-second day of November, one thousand seven hundred and sixty-five, transmitted to you in my

* This Letter was dated St. James's, March 21. 1766.

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"It is not without extreme concern, that I find the conduct of some who are honored with His Majesty's Commission in his army, has raised a suspicion of their having been engaged in this atrocious wickedness; I hope there is no foundation for such a suspicion, if any such there are, their crime is double as men and as officers, in so extravagant a violation of the laws of the land, and so flagrant a breach of that order and discipline which is the life and soul of all armies, and especially of the British, whose glory it is to be the supporters of the laws and liberty of their country; wherever His Majesty's forces are found to be actuated by a spirit contradictory to that principle, they are a disgrace to his service, and must expect to incur his highest displeasure; their honor and their interest require, that the military should so carry themselves, as to ensure to themselves the respect and love of the people. I am, therefore, by His Majesty's express commands to recommend it to you, and all the principal officers in America, that the utmost attention be given to preserve the strictest discipline, and that on no account, the smallest encouragement be given to any idle pretensions of exclusive privileges in the military service; such pretensions are altogether unsuitable to the nature of our constitution, and can tend only to the ruin of good order and discipline; for which reason I am confident you will think it particularly your duty to discountenance all such destructive and dangerous opinions."

“ I persuade myself you will feel as strongly as I can, the great and crying injustice that any resentment should remain against Mr. Walker, after the cruel wrongs he has suffered. As a man, he has a right to pursue those who would have murdered him. It is the common cause of humanity that they should be pursued, and in fact, a man cannot, that I see, entertain a resentment against Mr. Walker for seeking justice, without in some sort, making himself a party in this very black affair. The good sense and the equity of the gentlemen of the army, will, I doubt not, demonstrate, that however particular men may have been engaged, the army in general were not actuated by any common prejudice to this unfortunate man. If there should, however, be any persons so very wrong headed and ill minded as to intend him mischief, I recommend it particularly to you, Sir, to exert your utmost endeavors to frustrate their malice, and protect him.”

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WHEN the Supreme Court was held at Montreal, on the twenty-eighth of February, one thousand seven hundred and sixty-seven, only one bill of indictment was preferred by the Grand Jury, and that was against Daniel Disney, a Captain in the forty-fourth regiment. On the eleventh of March, Captain Disney was arraigned and tried, and after a hearing of eight hours, and many witnesses examined on both sides, was most honorably acquitted, the case being so clear, that the Petty Jury did not take more than half an hour to consider on their verdict, which time was barely sufficient to read over the notes of the depositions made by the several witnesses. On the trial George M'Govock, who had been

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a witness for the Crown, was so contradictory in his evidence, and appeared so completely to have perjured himself, that the Grand Jury presented a bill of indictment against him for perjury, and he was immediately sent to prison. The other gentlemen who had been in confinement, were discharged by proclamation. The Grand Jury the day after the trial, presented, that by the alibi of Capt. Disney proved in Court, Mr. Thomas Walker, and Mrs. Walker, his wife, had been guilty of perjury, for that they did on oath, positively swear, that the said Capt. Daniel Disney in disguise, had been in the house of the said Thomas Walker, when the assault was committed on him on Thursday the sixth day of December, in the year of our Lord one thousand seven hundred and sixty-four, between the hours of eight and nine o'clock in the evening of that day; and also that George M'Govock, late soldier in his Majesty's twenty-eighth regiment, was guilty of wilful and corrupt perjury, for that he, at sundry times, and places, being under oath legally administered, did commit perjury, and particularly on the eleventh day of March, in open Court, did positively swear, he was present at the assault committed on Mr. Walker, on the sixth day of December, one thousand seven hundred and sixty-four, and that he did carry intelligence of the said assault from the said Walker's house to Captain Payne and Lieutenant Tottenham, who were then at the house of Serjeant Mee, and for that the said M'Govock did then and there utter divers other wilful and corrupt perjuries.

ON the departure of Governor Murray, the Province was entrusted to Paulus Emilius Irving, Esquire, as the oldest Counsellor; the Chief Justice being deem-

ed incapable from his official situation, of holding the reins of government ; and Brigadier General Carleton succeeded him as Lieutenant Governor.

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THOUGH the raising a revenue in America, had been often a subject of discussion in the Parliament of England, it was at length carried into execution, by an Act of Parliament being passed, that would have excited a rebellion, had it not been repealed the next year, from the resistance made to it in America. None of the Colonies on the Continent acquiesced in its provisions, but Canada and Nova Scotia, and even by these the Act was viewed as a measure of extreme hardship, imposing a duty by Act of Parliament, which the Colonies deemed England had no right to impose without their consent.

COMPLAINTS having been sent to England respecting the establishment of the Courts of Justice in Canada, and of several of the ordinances and proceedings of the Governor and Council to the Plantation Board. A reference was made of the petitions and memorials of the King's subjects, English and Canadian, to the Attorney and Solicitor General, who, on the fourth of April made their report in the following words :

" To the Right Honourable the Lords of the Committee for Plantation Affairs.

" My Lords--In humble obedience to your order of the nineteenth of November last, wherein it is recited, that His Majesty having been pleased to refer to your Lordships, several Memorials and Petitions from his Subjects

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in Canada, as well British as French, complaining of several of the ordinances and proceedings of the Governor and Council of Quebec, and of the present establishment of Courts of Judicature and other civil constitutions, your Lordships had on that day, taken the said papers into your consideration, together with a report made thereupon by the Lords Commissioners for Trade and Plantations, dated the second day of September last, and finding, that the said Lords Commissioners had proposed another system of Judicature to be substituted in lieu of that which is now subsisting, you thought it proper to order, that the said Memorials, Petitions and Report, (which were thereunto annexed,) should be referred to us, to consider and report our opinion and observations thereon, together with such alterations to be made in what is proposed in the said Report of the Lords Commissioners for Trade and Plantations, and such other regulations and propositions as we should think fit to suggest, for the forming a proper plan of Civil Government for the said Province of Quebec; and to that end, we were directed to take into our consideration such parts of the annexed Report of Governor Murray upon the state of the said Province, as relate to the Civil Government thereof, whilst the same was annexed to the Crown of France; and we were also required to send for Lewis Cramahé, Esq. Secretary to Governor Murray, and Fowler Walker, Esq. Agent for the said Province of Quebec, who were ordered to attend us from time to time, to give us such further lights and information, as might be requisite for the purpose before mentioned.

“ We have perused the several papers referred to us,

together with the said two Reports, and have also been attended by the gentlemen named in your order, and upon the whole matter beg leave humbly to submit to your Lordships, such reflections as have occurred to us, in the course of that imperfect consideration, which we have been able, at this busy season of the year, to give to the great subject of the Civil Government of Quebec, and the propositions made by the Lords Commissioners of Trade and Plantations.

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“ My Lords, it is evident that two very principal sources of the disorders of the province have been :

“ 1. First the attempt to carry on the administration of Justice, without the aid of the natives, not merely in new forms, but totally in an unknown tongue, by which means the parties understood nothing of what was pleaded or determined, having neither Canadian Advocates and Solicitors to conduct their causes, nor Canadian Jurors to give verdicts, even in causes between Canadians only, nor Judges conversant in the French language to declare the law, and to pronounce judgment. This must cause the real mischiefs of ignorance, oppression, and corruption, or else, what is almost equal in government to the mischiefs themselves, the suspicion and imputation of them.

“ 2. The second and a great source of the disorder was, the alarm taken at the construction put upon His Majesty's Proclamation of October, one thousand seven hundred and sixty three, as if it were his Royal intention by his Judges and Officers in that country, at once to abolish all the usages and customs of Canada, with the

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rough hand of a conqueror, rather than in the true spirit of a lawful Sovereign; and not so much to extend the protection and benefit of his English laws to his new subjects, by securing their lives, liberties, and properties with more certainty than in former times, as to impose new, unnecessary, and arbitrary rules (especially in the titles to land, and in the modes of descent, alienation, and settlement) which might tend to confound and subvert rights, instead of supporting them.

“ 1. To the first of these evils, the order made by your Lordships on the fifteenth of November last, founded on the Report of the Lords Commissioners of Trade and Plantations, requiring the Governor or Commander in Chief of the Province (by an additional instruction) to publish an Ordinance for admitting Canadian Jurors in the several cases therein expressed; and for permitting Canadian Advocates, Attorneys and Proctors, under regulations, provides an adequate remedy.

“ 2. To the second evil, the Lords Commissioners of Trade and Plantations, by their Report, have applied themselves with great care, ability, and judgment to suggest remedies, by pointing out the defects in the late ordinance of September, one thousand seven hundred and sixty-four, and reforming the Constitution of Justice. We concur with their Lordships in the objections made to that Ordinance, and upon the several articles of the plan laid down in that Report, the following observations occur to us, both for the confirmation and improvement of them.

“ 1. The first article proposes a Court of Chancery,

consisting of the Governor and Council, who shall also be a Court of Appeals, from whom an appeal will lie to the King in Council By this article the Lords of Trade very rightly mean to invest the Governor and Council with two different jurisdictions ; the one, as a Court of Equity, to give relief, originally, in that capacity ; the other, as a Court of Errors, to review in the second instance, the judgments of the Court of Common Law, mentioned in the next article.

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“ 2. The second article proposes a superior Court of ordinary Jurisdiction, uniting all the proper powers in criminal and civil cases and matters of Revenue. In this Court, it is recommended, that a Chief Justice should preside, assisted by three puisné Judges. These are required to be conversant in the French Language, and that one of them particularly should be knowing in the French Usages.

“ This proposition appears to us well conceived. And we submit to your Lordships, whether it may not be advisable, that they should be instructed to confer sometimes with the Canadian Lawyers, most respected for learning, integrity, and conduct, who may prove of the greatest assistance to English Judges. Competent salaries, for the encouragement of worthy and able men, seem absolutely necessary in this establishment, with a due distinction between the Chief Justice and his brethren. The new Judge of Vice Admiralty for America, has appointments of eight hundred pounds per annum.

“ 3. The third article relates to terms for the sitting of the Superior Court at Quebec, either according to

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“ 4. The fourth article proposes four Sessions of Assize, Oyer and Terminer and Gaol Delivery at Québec, with like special Commissions once or oftener in the year, at Trois Rivières and Montreal. We submit to your Lordships, that it may be unnecessary to lay down any particular rules for holding four Sessions, in the manner mentioned at Quebec; because all civil and criminal causes, arising in that district, may be tried at bar in term time, or (as the legal expression is) in bank, by order of the Judges, or under the general powers of the Supreme Court. As to the Circuit Courts to be held once or perhaps twice in the year (which seems better) at Trois Rivières and Montreal, we think that it may be proper to require, that the Judges shall continue in each of those places, at the least, for a certain number of days, to give time and opportunity for the resort of parties, and the convenient dispatch of business, in like manner as was done by Henry the Eighth, in establishing the Courts of Great Sessions for Wales, and by Parliament in His late Majesty's reign, when the Circuit Courts were settled for Scotland.

“ 5. The fifth article recommends the distribution of the Province into three Counties or Districts, of which Quebec, Montreal, and Three Rivers shall be the three

Capital Towns, and that an annual Sheriff shall be named, for each. We are humbly of opinion that this distribution of the Province is more natural and convenient than the plan lately followed by the Governor and Council, and it will be more agreeable to the people, as it is conformable to their ancient division of the Country. But, considering the difficulty of procuring English and Protestant Sheriffs, especially at Trois Rivières, (where at present only two persons, who are half-pay officers, reside, thus qualified,) it may deserve consideration, whether such Sheriff should not serve longer than one year, till such time as the gradual increase of Inhabitants may facilitate an annual rotation ; or whether the annual Sheriff of Quebec may not also serve that office for Trois Rivières. This will oblige him to appoint two Deputies or Under-Sheriffs, that is, one for each District ; and if this method be taken, the Sheriff may be made an annual officer, because Quebec can afford a sufficient number of proper persons to supply the rotation ; and Montreal (it is agreed) can do the like.

“ 6. The sixth article proposes to give the Justices of Peace, in the three several districts, at their general Quarter Sessions power to determine finally all causes not exceeding the value of ten pounds, (the title to lands not being in question), with a Jury where it exceeds five pounds ; and without one, where it falls under that sum. It gives also to two Justices in Petty Sessions, similar authority, in similar cases, where the value of the matter in dispute is not more than forty shillings. The latter authority appears to us well proposed ; but we submit, whether it may not be better to reserve the jurisdiction in matters exceeding that value as far as ten pounds to

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be determined in Quebec, by proceeding in nature of the Civil Bill in Ireland, before the Judges of the Superior Court, or by proceeding in nature of the Summary Bench-Actions at Barbadoes; and in like manner, in the Circuit Courts at Trois Rivières and Montreal twice in the year. The value of ten pounds is considerable in such a Colony; and the reputation of the Justices of the Peace, is as yet, scarce enough established for such a jurisdiction. Under this article we beg leave to suggest, that in the Commission of the Peace for each district, it may be useful and popular, and endear His Majesty's government to his new subjects, if one or two Canadians should be appointed Justices, with the others who are British, particularly if Protestants can be found fit for that office.

“ 7. The seventh and last mentioned in the Report of the Lords of Trade, on which we shall observe, is that article, wherein they propose, that in all cases where rights or claims are founded on events prior to the conquest of Canada, the several Courts shall be governed in their proceedings by the French usages and customs, which have heretofore prevailed in respect to such property.

“ THIS proposition is undoubtedly right as far as it goes, in respect of cases which happened antecedent to the conquest; but we beg leave to take occasion from hence, to enlarge a little on this subject of the rule of judgment to be observed in the Courts of Quebec, as it is of the greatest moment to the honor and justice of the Crown, and to the peace and prosperity of the Province.

“ THERE is not a maxim of the Common Law more certain, than that a conquered people retain their ancient customs till the conqueror shall declare new laws. To change at once the laws and manners of a settled country must be attended with hardship and violence ; and therefore wise conquerors, having provided for the security of their dominion, proceed gently, and indulge their conquered subjects in all local customs, which are in their own nature indifferent, and which have been received as rules of property, or have obtained the force of laws. It is the more material, that this policy be pursued in Canada, because it is a great and ancient Colony, long settled, and much cultivated by French subjects, who now inhabit it to the number of eighty or one hundred thousand. Therefore we are humbly of opinion, that the Judges to be employed by His Majesty in this Province, will answer all the ends of their trust, both as to the King and the People, if their conduct in Judicature be modelled by the following general rules :

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1. First, in all personal actions grounded upon debts, promises, contracts, and agreements, whether of a mercantile or other nature, and upon wrongs proper to be compensated in damages, to reflect, that the substantial maxims of Law and Justice are every where the same. The modes of proceeding and trial, and perhaps, in some degree also, the strict rules of evidence, may vary ; but the Judges in the Province of Quebec, cannot materially err, either against the laws of England, or the ancient customs of Canada, if in those cases they look to those substantial maxims.

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“ 2. Secondly, in all suits or actions relating to Titles of Land, the descent, alienation, settlements, and incumbrances of real property, we are humbly of opinion, that it would be oppressive to disturb, without much and wise deliberation, and the aid of laws hereafter to be enacted to the Province, the local customs and usages now prevailing there. To introduce, at one stroke, the English law of real estates, with English modes of conveyancing, rules of descent, and construction of deeds, must occasion infinite confusion and injustice. British subjects, who purchase lands there, may, and ought to conform to the fixed local rules of property in Canada, as they do in particular parts of the realm, or in the other dominions of the Crown. The English Judges sent from hence, may soon instruct themselves, by the assistance of Canadian Lawyers and intelligent persons, in such rules, and may judge by the customs of Canada, as your Lordships do in causes from Jersey, by the custom of Normandy. It seems reasonable also, that the rules for the distribution of personal property in cases of Intestacy, and the modes of assigning and conveying it, should be adhered to for the present.

“ 3. Thirdly, in all suits entertained before the Governor and Council, as a Court of Chancery or Equity, it is obvious that the general rules of Law and Justice must be the same as in the other Courts, according to the subject-matter of the suit, with this difference only, that the relief is more complete and specific, and adapted to supply the defects or allay the rigour of those rules.

“ 4. Fourthly, in criminal cases, whether they be

capital offences or misdemeanors, it is highly fitting (as far as may be) that the laws of England be adopted, in the description and quality of the offence itself, in the manner of proceeding to charge the party, to bail or detain him, to arraign, try, convict, and condemn him. The certainty, the lenity of the English administration of Justice, and the benefits of this constitution, will be more peculiarly and essentially felt by His Majesty's Canadian subjects in matters of Crown Law, which touch the life, liberty, and property of the subject, than in the conformity of his Courts to the English rules, in matters of tenure, or the succession and alienation of real and personal estates. This certainty, and this lenity are the benefits intended by His Majesty's Royal Proclamation, so far as concerns Judicature. These are irrevocably granted, and ought to be secured to his Canadian subjects, according to his Royal Word. For this purpose, it may not be improper, upon the appointment of a new Governor, with a new Commission revised and considered by your Lordships, to direct that Governor to publish an explanatory Proclamation in the Province, to quiet the minds of the people, as to the true meaning of the Royal Proclamation of October, one thousand seven hundred and sixty-three, in respect to their local customs and usages, more especially in titles to land and cases of real property.

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“ 5. Fifthly, in rules of process and the practice of the Courts, we beg leave to suggest, that it may be expedient to order the new Chief Justice, with the assistance of the other Judges to be appointed, and the Attorney General of Quebec, to consider and prepare a suitable plan, adapted to the jurisdiction of the different

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Courts, and the convenience of the suitors. The forms of proceeding ought to be simple, easy, and as summary and expeditious, as may consist with the advancement of right and the protection of innocence. Useful hints may be taken, not only from the Supreme Courts at Westminster, but from the practice of the Courts in Wales, and from many of the Colonies. Some time will be necessary, before such a plan can be framed, and experience alone can perfect it. As soon as they shall have prepared it, the Governor and Council may enact it by Ordinance, and transmit the same in the accustomed manner, to be laid before His Majesty for his Royal Approbation.*

THE Province had been without a Catholic Bishop from the year one thousand seven hundred and sixty, to the year one thousand seven hundred and sixty-six, when Mr. Briand was permitted to return to it as superintendant of that Church. He had only a verbal permission, without any Commission from the King for that purpose. On producing the Pope's Bull, he took the oath of allegiance. On his arrival in the Province, his friends received him with the ceremony and respect that had been usually paid to his predecessors in that office; but he declined these compliments, and made answer, "That he did not come to the country to be a Bishop, upon the same high footing as his predecessors in the time of the French government, and was not therefore entitled, and did not desire, to be treated with the same ceremony and respect as had been used to-

* (Signed)

C. YORKE, Attorney General.

WM. DE GREY, Solicitor General.

14th April, 1766.

wards them, but that he was a mere ordainer of new Priests." * In pursuance of this humble plan, he wore for the first month or two, after his arrival at Quebec, in June one thousand seven hundred and sixty-six, only, a common black gown, like the other Roman Catholic Priests; a short time after, however, he put on the purple robe, with a golden cross at his breast, which are the usual ensigns of the Episcopal dignity among the Roman Catholics.

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THE measure that had been adopted by the Lieutenant Governor, of calling together only a part of the Council, occasioned a remonstrance, from a certain number of the members, by which they stated, that the practice, if followed, might be productive of bad consequences: that they remonstrated against an opinion that the mandamus from England suspended the appointments to the Council by Governor Murray, as they conceived his Commission and Instructions authorised him to constitute a Council, and to make choice of such persons as he thought fit, if not disapproved by His Majesty. That as great difficulties had existed on the new establishment for the Province, that therefore they were entitled to particular regard. That they did not dispute His Majesty's right to increase the number of his Council, yet that they conceived themselves entitled to precedence and to a seat in Council, which had been departed from, since Governor Murray's departure. That if by the Constitution or Customs of the Colonies, the number of the Council was restricted, Mandamus's were in that case, to be regarded only as an order for the admission of the persons named, provided there was

* Un simple faiseur de Prêtres.

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a vacancy. And that if the deference which they felt for every manifestation of the will of the Sovereign had prevented them from objecting to any person possessed of a Mandamus from being sworn into the Council, they conceived, that if the Council should be restricted, the Counsellor last admitted should be considered as the supernumerary. The Governor in answer to the remonstrance, stated his opinion, That in all cases which required the consent of Council, he should call together such Council as he thought best qualified to give information. That he should take the opinion and advice of other persons, though not of the Council, men of sense, truth, candor and impartial justice; persons that preferred their duty to their King, and the tranquility of his subjects, to unjustifiable attachments, party zeal, and to all selfish and mercenary views. That when advice had been obtained, he should act as seemed most expedient for His Majesty's service, and the good of the Province. That His Majesty's Council consisted of twelve members, and that those appointed by the King had the preference, and after them those appointed by Governor Murray. That Mr. Stuart, by virtue of the King's appointment, had precedence of them all, and that His Majesty's service required tranquility and peace, and that it was the indispensable duty of every good subject, and of every honest man, to promote so desirable an end.* The Council were then classed: those of the King's appointment first, and then Governor Murray's, viz.

William Hey, Chief Justice,

Charles Stuart, Superintendant General,

* 28th November, 1766.—Council Books.

H. T. Cramahé,
John Goldfrap,
Thomas Mills,
Samuel Holland,
Walter Murray,

Thomas Dunn,
François Mounier,
Benjamin Price,
James Cuthbert.

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After which the Governor stated to the Council, that he regretted he had been obliged to remove Lieutenant Colonel Irving and Mr. Mabane from being Councillors, and that he would state his reasons to His Majesty.

To show how inconsiderable the duties on Wine and Spirituous liquors were, collected at the Port of Quebec, the whole duties for the three preceding years, only amounted to two thousand three hundred and twenty-seven pounds Halifax Currency.

THE line forty-five, north latitude, being established as the boundary between the Province of Canada and New York, by Commissioners appointed by the respective Governors, Lord Hillsborough, then Secretary of State, by letter of the twenty-fifth of February, one thousand seven hundred and sixty-eight, signified to the Governor of New York, that the King would not allow ancient grants of Canada good for lands, which were never acknowledged to belong of right to the Crown of France, but the inhabitants were not to be disturbed on tracts then settled, taking out Patents under New York, on actual conditions of Quit rent and improvements. This order was read in the Council at Quebec, and entered in the Council Books the year after. 1768.

As it was considered expedient to have a Coadjutor,

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to succeed in the event of Mr. Briand's death, then Superintendent of the Catholic Church, a recommendation was sent to England by the Council, in favor of Mr. D'Eglis.

GOVERNOR CARLETON who had been only Lieutenant Governor of the Province, was appointed on the twelfth of April, one thousand seven hundred and sixty-eight, Governor in Chief and took the oaths in October following.*

HIS Majesty, anxious to have a regular system of judicature established, directed the Governor and Council to take the subject into consideration, and report upon it. They, in obedience to the King's order, the twenty-eighth of August, one thousand seven hundred and sixty-seven, considered the reference made to them. † No plan, however, was finally adopted.

* Council Book B.

† *Abstract of the Report:*

1. Whether any and what defects are now subsisting in the present state of Judicature in Quebec.

2. Whether the Canadians are or think themselves aggrieved, according to the present administration of Justice therein; and in what respects, together with our opinion of any alterations or amendments that we can propose for the general benefit of the Province, and that they be transmitted in form of Ordinances, but not passed, by the Governor, Chief Justice, and Attorney General. If they differ, different opinions, with reasons for such differences.

They then represented—That the laws of England were generally thought to be in force.

The commission of the Chief Justice refers to them. He was to decide according to the Laws and Customs of England. And the Laws, Ordinances, Rules and Regulations of Your Majesty's Province of Quebec, hereafter in that behalf to us ordained and made. That the Ordinance of the seventeenth of September, one thousand seven hundred and sixty-four set forth and erected, a Superior Court or King's Bench, an Inferior Court of Common Pleas, to decide in all causes above £10. Appeal to King's Bench in all above £20. Judges of this

THE City of Montreal suffered this year by fire. On the eleventh April, about ten o'clock in the evening, a dreadful fire broke out at the house of one Tison, near the St. Lawrence's Gate, which continued until

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Court are to determine according to Equity, regarding laws of England and ordinances of the Province, under £5 before a single Justice, above £5 and under £10, before a single Justice or others, at Weekly or Quarter Sessions.

Then the Report sets forth the Ordinance of the sixth of November, one thousand seven hundred and sixty-four. On which it is observed : That all the Lands in the Province whose owners died since the tenth of August, one thousand seven hundred and sixty-five, are subject to English law of Inheritance, Custom of Dower, Rules of Forfeitures, Escheat.

These ordinances have been transmitted and never disallowed. Canadian laws since supposed to be abolished, and Judges conceive themselves bound to proceed according to the English laws.

Besides, there are public instruments in support of the supposition : Statute of 1 Elizabeth, Chap. 1. abolishing authority of the Bishop of Rome, vide fol. 16, 17, 24, 27. This clearly extends to after acquisitions of the Crown.

Statute 15 Car. 2, Chap. 7, fol. 7.

Statutes 7 and 8 William 3. Chap. 22.

We suppose other Acts of Trade less positive in terms, extend also. Hence the Governor's Commission directs him to take the oath prescribed for Plantation Governors relating to Trade. And the Commissioners of the Customs have appointed a Collector at Quebec to carry them into execution. They also understand Statute of 12 Anne, Statute 2, Chap. 10, for preserving Ships stranded, and the 4th Geo. 1, Chap. 12, making it perpetual. The Attorney and Solicitor General in June, one thousand seven hundred and sixty-seven, gave an opinion to the Board of Trade, that it extends to the Plantations, and this opinion is transmitted to the Governor of Quebec.

These before the Conquest of Quebec; there are other Statutes passed since, as

4 Geo. 111. Chap. 11. continuing that part of 8th Geo. 1, concerning importation of naval stores. A copy of this is sent to the Collector of Quebec.

4 Geo. 111. Chap. 19, an Act for importing Salt, &c.

4 Geo. 111. Chap. 15, for granting duties.

Besides these Statutes there is a series of public instruments for introducing Laws of England.

The Articles of Capitulation in one thousand seven hundred and sixty. vide Articles 42, 27, 30.

The Treaty of Peace of tenth of February, one thousand seven hundred and sixty-three. Article four, That Canadians are to have Romish Religion as far as laws of England permits.

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The Proclamation of October, one thousand seven hundred and sixty-three. Upon which they observe :—The British Subjects in the Colony understand English Laws to be thereby introduced, and not the municipal laws of a conquered people continued. That they emigrated on this confidence.

The late Governor so understood it, who by the Ordinance of September, one thousand seven hundred and sixty-four did not mean to overturn all the Canada laws, but to erect Courts for exercised English law supposed to be already introduced.

The Lords of Trade understood it so, for in the seventh and last articles of their Report of second September, one thousand seven hundred and sixty-five, upon Memorials complaining of the Ordinances of the Governor and Council, proposes :—That in all cases where Rights or Claims are founded on events prior to the Conquest of Canada, the several Courts should be governed in their proceedings by the French usages and customs, which have heretofore prevailed in respect to such property.

It is clear then, that if upon events posterior to that Conquest, then the Courts are to be governed by English laws.

We know that the Attorney and Solicitor General, in April, one thousand seven hundred and sixty-six, understood the Proclamation in a more confined sense, as introductive of only some fewer parts of the law of England, particularly beneficial to English Subjects, and not of the whole body of the laws. This they took to be the purport of the word in the Proclamation, the *enjoyment* of the benefit of the Laws of England, and they were of opinion that the Criminal Laws, now almost the only Laws that came under that description, and that the Laws of Descent, Alienations, Settlements, Incumbrances and distribution were not comprehended under it. Your Majesty must determine, Bracton says; *cujus est condere ejus est interpretare*. We lay public instruments before you to judge upon.

The next evidence of introduction of English Laws is: General Murray's Commission in one thousand seven hundred and sixty-four, to be Vice-Admiral. By this the Laws of the English Court of Admiralty take place of French Laws and Customs.—This Commission as Governor, and the Instructions in the same year.

Not the least intimation of any saving of any part of the Laws of England. It seems as if the Capitulation and Treaty of Peace was deemed to be notice enough of introducing English Laws with respect to Religion : especially as they continued in the Country, and took the oaths, when they had eighteen months to withdraw.

Those are the public instruments for evidences of introduction of English

THE conduct of the Justices of the Peace at Montreal, became so objectionable, that complaints were made to the Governor and to the Council, respecting the irregularities in the method of issuing process. On consideration of the subject by the Council, the

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Law, but as the Proclamation and Governor Murray's Commission have never been published in French, and the two Ordinances of February and March, one thousand seven hundred and sixty-four, which have been, are very concise and do not specify the laws introduced, the greater part of the people remain ignorant of the extent of the changes, and imagine ancient laws in many points still in force. When they come to know the change, there will be great uneasiness. Hence at present there is a diversity in the practices of the English and Canadian subjects, with respect to letters of administration and the distribution of intestates effects. Also in the practices of conveying and mortgaging British subjects according to English mode. French by Notaries and Scriveners according to French modes, and so the same lands are conveyed by both modes. Leases by Jesuits are made for twenty-one years though by French law good only for nine years, and sundry other instances of diversity are assigned.

In criminal matters all proceeding according to the English law.

The same as to proceedings in the civil business of the King's Bench.

In the Common Pleas the pleadings are drawn as the parties please, some in French and some in English.

Our arresting body for debt on the mesne process, surprizes the French.

Here follow remarks on the foregoing instruments :

1. They submit it as a doubt whether the Ordinances of September and November, one thousand seven hundred and sixty-four, are sufficient to introduce such laws as were not established by the Proclamation of 1763.

By the King's Commission to the Governor, a certain degree of Legislative authority is communicated to him to be exercised with advice of Council and Assembly and no Legislative Authority without the Assembly, and therefore the Ordinances are considered to be void. If so they are good only as to the erection of Courts.

True there is a private instruction with advice of Council, to make fresh rules, as appear necessary for peace and order, not extending to life, limb or liberty, duties or taxes. But we doubt whether such power can be given except under the Great Seal read and notified, and therefore we think the instruction void as to the conveying a Legislative authority.

If it is not void, the authority is too small for the introduction of English laws, particularly the Criminal, (which all affect life, limb, or liberty) and the arrest of the body, commitments for contempts. But these reasons do not touch the higher Instrument for the introduction of English laws, viz. the Articles of Capitulation, the Treaty, and the Proclamation of one thousand seven hundred and sixty-three.

CHAP. Clerk of the Board was ordered to prepare a letter to
 I. the Justices upon the subject matter of those complaints.
 1769. His letter was approved by the Council,* and copies
 were sent to the Bench of Justices of the Quarter Ses-
 sions of that District.

* 12th July, 1769, Council Book B.

Inconveniencies from the present state of the Laws and administration of Jus-
 tice. Their uncertainty is the greatest: either English or French should be a-
 vowed. A remedy is necessary. There are inconveniencies in the state of Ju-
 dicature. Proceedings expensive, tedious, and more severe than under the
 French. These evinced and explained. A plan held up. A Judicature propo-
 sed for each district of Quebec, Montreal and Three Rivers. One Judge in each,
 a Barrister of five years standing, and a French Assistant, the latter to have no
 deciding power. A Court to be held once a week. The method of proceeding
 to be this.

1. A Plaintiff in French or English. A Summons, if good cause found. If de-
 fendant does not appear, a compensation to Plaintiff for his trouble. Another
 Summons. On default, Judgment. If he appears, Plea in writing. Then the
 Judge to interrogate parties on disputed facts, and answers to be reduced to writ-
 ing. Then he is to state the facts in difference, and ask whether they will have a
 Jury. If they do, a Jury to be summoned next Court. He that desires a Jury,
 to pay their expences, 5s. sterling, each. They are to be appointed as Special
 Juries in England, by striking out twelve, each. No challenges to be allowed.
 A majority to carry a verdict. The verdict is to be a special one. All exami-
 nations *viva voce*. Execution to run against goods and lands. An inventory of
 Defendant's Estate may be required upon his oath, if there is not enough found
 to satisfy the judgment. Penalty of Perjury, if twenty pounds, omitted. Costs
 according to Judge's discre. on.

A Sheriff to be for each District. A King's Attorney in each. Appeals to
 Governor and Council, and thence to the King.

The three Chief Judges and Attornies General to be of the Council, that the
 Board may not want law knowledge.

These Appeals should be only in the nature of Writs of Error, except in the
 instance of a Judges proceeding without a Jury, when the evidence should be
 be reduced to writing, as in a General Court Martial.

New Trials at law to be by a double Jury, and be final. These the outlines
 of the plan.

It remains to consider the first and greatest inconveniencies arising from the
 uncertainty of the law.—Four methods occur:

1. A Code of Laws for this Province, that shall contain all the laws by which
 it is to be governed for the time to come, to the entire exclusion or abolition of

GENTLEMEN—In obedience to an Order in Council bearing date the tenth instant, I transmit to you the sentiments of Government, upon some points relative to the execution of your authority as Justices of the Peace,

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every part of the Laws of England and French Laws that shall not be set down in the Code itself.

II. To revive all the French laws to the exclusion of the English laws, except the Statutes above mentioned, and a few eminently favorable to the liberty of the subject, and to introduce those by a particular Ordinance or Proclamation published in the Province, as to take away torture, the punishment of the rack, introduce the habeas corpus.

III. A third method—Making Law of England the general law with an exception of particular Subjects, to permit former Customs at the time of the Conquest, or,

IV. The Law of England to be the general Law, with an exception in favor of the former Customs, and with respect to these, to enumerate them, and abolish all not enumerated in the Proclamation.

As to the first, it would be troublesome. Canadians would think it rash and dangerous. A Speech is put into their mouths, and the compilers supposed to be incapable to answer it, from the immense difficulty of the undertaking. Some of the old to be rejected, other parts retained. There will be omissions, imperfections, and obscurities. An intimate and long experience necessary to make the choice. There is a strong connection between the parts, and dangerous to break it. If the whole is left, no Code is wanting. The greatest Lawyer in Paris not equal to the work. An Englishman would not know where to look for it. On the other hand, the advantages will be these: The Judges would have a short rule, not be misled by French Lawyers in citing and misapplying &c. The English Subjects would know the law easily. It would deface the idea of French law, and the attachment to a French Government. Imperfections might be removed as experience brought them to light. It would be sufficiently exact at the beginning for all common cases. As to the second method, the inconveniencies would be these:

1. Keep up a respect for the French Laws and Government.
2. Disgust the English, who think they have right to the English Laws.
 1. Imagining the Conquest rendered the French Laws void, though in this the Law is otherwise.
 2. That they were really introduced by the Proclamation of one thousand seven hundred and sixty-three. The 1st method has these inconveniencies:
 1. Maintain a reverence for the laws of Paris, though less than the other methods.
 2. The Canadians will make the following objections:

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 I. to be disputed, that his Majesty's subjects in general,
 but more particularly his Canadian subjects, are daily
 injured and abused to a degree they are no longer able
 to support, nor public justice endure.

THEY hope and believe, that the practice upon which the complaints made to them are grounded, is not common to that part of the Commission which is exercised within your District, but as the conduct of every individual does in some degree effect the honor of the commission itself, and as general reformation can only take place under general resolutions, they have thought it proper, that their sentiments upon this head, should be communicated to the body at large, rather than to those Magistrates only, whose conduct has given occasion to those complaints, not intending at this time to do more than mark their high disapprobation of the practice itself, and recommend a method of proceeding, which appears to them as well calculated to answer the ends of justice,

1. That the whole of the French law should have been maintained to preserve the chain of connexion and avoid dangers.
2. The English laws ought to be particularly enumerated, and published in French at full length. But a few Canadians will make these objections.

As to the 1Vth method, it would wear out the very remembrances of the French Laws, Edicts, Government, &c. and have many advantages beyond the other method. But it would be troublesome to the Ministers, to form the code.

It would be liable to many imperfections, from the inaccurate manner of setting forth the French Laws and Customs, and to the two last objections made to the third method, viz. a part of their French law would give but an imperfect satisfaction, and they would complain of the not setting forth the English law introduced at large.

Conclusion.—That they cannot draw a balance in favor of any one of these methods in preference of the other, nor find a new one preferable to them all, being unequal to the task. We have no other merit than that of giving some information of facts. Your Majesty is best able to decide.

and less liable to those objections to which the other is so manifestly exposed, and the consequences of which have been so severely felt.

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THEY expect, however, an immediate attention to the subject matter of this letter, and that (if possible) before the Court of Quarter Sessions breaks up, you will make and publish, in the most open manner, such regulations as may meet the grievances complained of, which at present prevail to the obstruction, if not perversion of public justice, the oppression of the poor Suitor, and the dishonor of the Commission itself.

THE first thing I have in charge to observe to you upon the subject of those complaints, is the practice of dispersing in the several Parishes, papers signed only with the name of the Justice, and left to be filled up either in the form of a Summons, a Capias, a Judgment or an Execution, as the person to whose hands it is entrusted, and who has not been by all the information that has been yet received, even a ministerial officer of Justice, may think proper to make use of them ; a practice so illegal in itself, so horribly mischievous in its consequences, and so disrespectful to the Magistrate who gives it countenance, that the Governor and Council would not believe its existence if the proofs of it were not of a nature that excluded all possibility of doubt or misreport.

THEY expect, therefore, that all such papers shall be immediately called in, and the practice for the future wholly discontinued.

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BUT besides this most enormous and irregular present method of summoning parties to appear before a Magistrate, many times at a great distance from the place of their residence upon trifling occasions, and for small debts; and it appears to the Governor and Council that the present form of the summons, even those which issue in the most regular and least exceptionable manner, together with the method of conveying them, is inconvenient, if not oppressive in these three instances :

1. As they are very expensive by going through the hands of the Provost Marshal, whose Bailiffs charge their travelling expences at a rate which frequently exceeds in a great proportion the value of the thing in litigation.

2. As the time for the party's appearance under them is so short as many times to subject him to a Judgment by default, without giving him an opportunity to make his defence.

3. As they are compulsory for his appearance, without leaving it in his option, by paying the debt, to avoid the trouble and expense of an attendance before the Magistrate; to the first of these they apprehend an effectual, and perhaps the only remedy will be found in making the person who applies for the summons the bearer of it, (if he chooses to take the charge of it, if not, that it be served by the Bailiff of the Parish, to whom it shall be transmitted at the expense of the party applying, for which the Bailiff shall receive one shilling, only, and no travelling charges allowed,) and by admitting his evidence upon oath, or that of a neighbour whom he may take with him as proof of the service.

AND they conceive that no inconvenience will follow from this, if it is confined to a summons for a small debt, and not extended to process of a criminal nature, or such whereon bail may be demanded, much less to a Judgment or an Execution ; those ought without doubt to be executed by the Provost Marshal, or by persons employed by him, for whose conduct he is answerable, but in cases where the matter in question does not amount to more than forty or fifty or perhaps an hundred livres, it is loading the process with a weight it cannot support, to serve it at such an expense as the bare travelling charges of a Bailiff will of necessity amount to.

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To the second which introduces an obvious mischief, it may be difficult, perhaps, to prescribe any general rule, the time for appearance must necessarily vary in proportion to the distance, roads, and other circumstances, which cannot be reduced to any certainty, but must be left to the discretion of the Magistrate, regulated by those circumstances, it is hardly necessary to observe, that it is a first principle that no man shall be condemned without being heard, and that a summons which cannot be complied with, is no summons at all.

WITH regard to the third inconvenience which arises either from the ignorance of the party, or the imposition of the Bailiff, they recommend to the Justices to make their summons with an optional clause, either to pay the debt or do the thing demanded, or in failure of that, to appear and shew cause why they should not, for though in truth it is not in itself discretionary, and

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no man is or ought to be obliged to appear before a Magistrate, if he is contented to do that, the refusal of which only was the cause of his being summoned, yet the Canadians are very ignorant and do not know that, and it is to be feared, indeed it has been in proof that the Bailiffs to increase the expense, frequently oblige the parties to appear, though they are willing to satisfy the demand, and anticipate all that could be obtained from a hearing before a Magistrate.

THESE are the principal matters which I am directed to lay before the gentlemen in the Commission for the District of Montreal, but I am commanded not to conclude, without recommending it to them in general to facilitate the course of Justice by alleviating the expence of it, and more particularly in that instance, if in truth it prevails, which subjects the suitor to a demand of six livres, or any other sum for the use of the Magistrates room.

THE Committee of Council appointed by the Governor, to take into consideration the state of the administration of Justice, under the Justices of Peace, agreed on the following Report :*

IN obedience to an Order of Council, bearing date the eighteenth day of August last, we have taken into our consideration the several matters therein referred, in consequence of which, we beg leave to represent to your Excellency and the Council, that the several authorities and powers of the Justices of the Peace, in matters of property, as contained in the Ordinance of

* Report of the Committee, dated 29th August and 11th September, 1760.

September one thousand seven hundred and sixty-four, appear to us to have been very injudicious in their original institution, and in the exercise of them more particularly within the District of Montreal, exceedingly grievous and oppressive to the subject; it is well known, that in England, where the Justices of the Peace are, for the most part men of large fortune, who have a considerable interest in common with the people over whom their authority is exercised, no such power is intrusted to them either by the Commission itself, or any of the various Acts of Parliament which relate to their office, and though the ill advised construction of the great Courts established here for the determination of property, in the year one thousand seven hundred and sixty-four, confined originally in their Session to two terms in the year, and only now enlarged to three, might have made it necessary to create smaller Jurisdictions, in order to conform in some measure to the ancient practice of the Colony, and to give a freer and quicker circulation to the course of justice; yet we apprehend that even under these circumstances, the authority given to the Justices, had been both too largely and too confidently entrusted, and requires to be retrenched, if not wholly taken away in almost every instance.

BUT that is not all, what is still more unfortunate, we find even those powers large as they are, to have been in some instances extended, and a Jurisdiction usurped to the great prejudice of the parties whose property has been the subject of it, without any right (as we conceive) to interpose in such matters as derived from the Ordinance, or any other authority that has as yet come to our knowledge, for by the ill penning of that

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Ordinance, and for want of a clause which should have expressly forbid them to intermeddle in those matters, the Justices of Montreal have to our knowledge in one instance, and probably in many others which have passed without notice, assumed to themselves powers of a nature not fit to be exercised by any summary Jurisdiction whatsoever, in consequence of which titles to land had been determined, and possession disturbed in a way unknown to the laws of England, and inconsistent with the solemnity and deliberation which is due to matters of so high and important a nature, and we are not without information that even in cases where personal property only has been in dispute, one Magistrate in particular, under pretence that it was the desire and request of both the contracting parties, has, by himself, exercised a jurisdiction considerably beyond what the Ordinance has allowed even to three Justices in full Court at their Quarter Sessions.

FROM an omission of a similar nature, and for want of ascertaining the manner in which their judgments were to be enforced, we find the Magistrates to have assumed another very high and dangerous authority, in the exercise of which the gaols are constantly filled with numbers of unhappy objects, and whole families reduced to beggary and ruin; it being a common practice, and the usual method of their process, to take lands in execution, and order them to be sold for the payment of ever so small a debt, or in case there are no lands to satisfy the debt, to commit the party to prison, the sad consequences whereof, and the wretched servitude to which a people are reduced whose persons and property are thus exposed, we believe we need not enlarge upon farther than to observe, that the rapid sale of es-

tates under judgments out of the Common Pleas, or even the Supreme Court itself, seems to be within the same mischief, and to require some effectual though perhaps a different remedy.

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If any thing could yet be wanting to complete the misery of such a people, it would be the consideration that these powers, originally calculated for the care of the suitor, and to facilitate the course of Justice, should become the very instruments of his oppression and ruin, and instead of affording a cheap and expeditious remedy for the recovery of small debts, should either direct or connive at such a complicated and expensive mode of process, as (if we may collect for one instance, where the expence of suing for a debt of eleven livres amounted to eighty-four) must either deter the creditor from pursuing a just though small debt, or ruin himself or his adversary, and perhaps both in the pursuit of it, which will probably always be the case, where the office of a Justice of the Peace is considered as a lucrative one, and must infallibly be so where it is his principal if not his only dependence.

In justice, however, to the Magistrates of this district, we ought to declare, that these observations are not designed to extend to them.

For these and many other reasons which we are tender of enlarging upon, we conceive it to be high time to change this unequal, wasteful, and oppressive mode of administering Justice, and to substitute some other in its place, more conformable to the system which formerly prevailed here, and less liable to the objections which

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so manifestly accompany this, both in its institution and practice.

AND for that purpose, we recommend it to your Excellency in the first place, to appoint another Judge for the Court of Common Pleas at Montreal, and as a compensation for the extraordinary duty which will be required, that their salaries may be made two hundred pounds per annum.

AND secondly, that an Ordinance should be immediately prepared, which, after setting forth in a preamble some or all of the grievances here mentioned, and the good disposition in Government to attend to and redress the injuries complained of by the subject, as soon as they are made known to them, should abrogate and annul all that part of the Ordinance of one thousand seven hundred and sixty four which gives authority to the Justices of the Peace to determine matters of civil property in any shape or manner whatsoever, and expressly define their power to be barely such as the Commission itself warrants, and the Ordinances of this Province, (except that of one thousand seven hundred and sixty-four) has entrusted to them.

It should then, after reciting the reasons, namely, to prevent a failure of Justice, and to supply a quick and competent jurisdiction in matters of small value, not at present cognizable in either of the great Courts, give the Court of Common Pleas a jurisdiction which at present it has not, to hold plea in all matters, however trifling the demand may be, and that both Courts should sit in Quebec and Montreal once in every week, (seed

and harvest time, and a fortnight at Easter and Christmas (excepted) throughout the year. But that for all matters under the sum of ten pounds, one Judge only need be present.

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IN the latter case their process should be by summons, and in all executions where the debt and costs do not amount to ten pounds, Halifax currency, no *Capias ad Satisfaciendum* to arrest and detain the body should issue, but a *feri facias* against the goods and chattels only, (with an express exception to beasts of the plough) unless the party consents that his land should be sold, in which case he should sign upon the back of the Process his consent and request for that purpose; it might not be amiss to give the Judge a power to levy the debt where it was under ten pounds, by installments, for it often happens that a debtor is exceedingly distressed to pay, though but a moderate sum, and upon the instant of demand, which yet by his industry, or by some event near taking place, but which he cannot anticipate, he might pay with ease to himself at given times; upon an affidavit of this sort, we think they might be allowed to mark upon the writ *to be levied by installments, twenty shillings on such a day, twenty at such other, and the remainder at such other.*

BUT these times ought to have some limitation, and perhaps ought not to exceed three months for the last payment.

IF the Judge has reason to suspect that the party secretes his effects, or has disposed of them after the com-

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mencement of the suit, in order to avoid their being taken in execution, he should be at liberty to issue process against the lands immediately, and for want of them, to commit to prison till the debt is satisfied : the truth of which should be examined upon affidavit. In all other matters where the debt or demand is above the value of ten pounds, they should proceed as usual, except that where lands are taken in execution they should be made subject to the debt or demand immediately from the day of the date of the writ, and avoid all subsequent sales and mortgages, or any other disposition or incumbrance of them, but not absolutely sold for six months after several publications in the Gazette, and notice affixed to the Church door of the parish in which the lands lie, and other neighbouring parishes, nor should the sale even then be good, till a report was made to one of the Judges of the Court, of the quantity, produce and condition of the said lands, with the amount of the purchase money, and the sale confirmed by him.

It is difficult if not impossible, exactly to ascertain the quantum of expence in recovering these small debts, but we recommend it to the gentlemen who preside in these Courts to reduce it as much as possible, and we have no doubt but they will give a proper attention to a matter so interesting to the honor of the Crown and the convenience and ease of the subject.

THE administration of justice in causes of small consequence, we apprehend will be tolerably well provided for in the Towns of Quebec and Montreal upon this establishment, more especially if there be added (as per-

haps may be necessary, at least convenient) one officer of justice in each, who might decide in all causes to the value of fifty shillings current money, and enforce his decision by distress and sale of the defendant's goods, only.

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THESE officers to be appointed by your Excellency, by special commission independent of the general commission of the Peace, (though it would be adviseable for them to have both) in the nature of the Intendant's sub-delegués; they may, perhaps, be well appointed by virtue of the powers given to your Excellency in your commission, but we rather recommend it to be done by an Ordinance.

AND you should be empowered to appoint more of these officers in different parts of the Province, as the circumstances and situation of things may require, and as in your discretion they may appear to be necessary, whose Jurisdiction might be at least equal to what was given to a single Magistrate under the Ordinance of September, one thousand seven hundred and sixty-four.

THESE are the observations that have occurred to us upon this subject: we believe regulations here proposed, will be found to be salutary, and meet the grievances at present so loudly and so justly complained of, and we accordingly recommend them to be immediately carried into execution.

ONE observation, however, has escaped us, which we beg leave to add with regard to the assize of bread,

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which by an Ordinance of this Province bearing date the third of September, one thousand seven hundred and sixty four, is directed to be regulated by three Justices of the Peace, and though this Jurisdiction will still be preserved to the Justices, yet we are apprehensive that they will be indisposed to exercise it, if they should resent the diminution of their authority, which the regulations we have proposed are designed to make. That authority, therefore, very useful and necessary to the Public, should be transferred in case of their neglect, to the two Judges of the Common Pleas and the Justice who has a commission in small matters in the way that we have recommended.*"

1770. GOVERNOR CARLETON, obtained the Royal Permission to return to England, and was succeeded by Mr. Cramahé as the oldest Councillor; the succeeding year, Cramahé was appointed Lieutenant Governor of the Province. Governor Carleton had often expressed a desire that the Custom of Paris in abstract, as adapted for Canada, should be formed, and at his instance, it was compiled by Cugnet, Juecrau, Pressard and other gentlemen, and supervised by Sir James Marriot, the then Advocate General of England, and by Thurlow and Wedderburne the then Attorney and Solicitor Generals,

1773. IN the month of October, one thousand seven hundred and seventy-three, the British and other Protestant inhabitants of the then Province of Quebec, having waited above ten years for the accomplishment of the King's promise of granting them a House of Assembly

* This letter was signed by Wm. Hey, as Chairman of the Committee.

as soon as the situation and circumstances of the Province should admit, contained in the Royal Proclamation, were of opinion, that the situation and circumstances of the Province did admit the calling an Assembly, and therefore meetings were held at Quebec, to prepare Petitions both to His Majesty's Servants in the Province, and to His Majesty himself, in order to obtain it: and on this occasion they invoked the King's new subjects the Canadian or French inhabitants of the Province to join with them in their consultations on this subject. An invitation was sent by the Committee to several Canadian gentlemen of Quebec to join in the representation, who attended the meeting, and who promised to call a meeting of the new subjects for that purpose. After consultation, however, with the principal Canadian inhabitants, they declined to join in the representation, but to present a petition of their own. After this refusal of the Canadian inhabitants to join with them in their petition for an Assembly, the British and protestant inhabitants resolved to proceed in this business by themselves, and without the concurrence of the others, and to apply to His Majesty for the accomplishment of the Royal Promise, by establishing a House of Assembly in the Province. But as it was thought the Governor, or in his absence the Lieutenant Governor of the Province had, by his Commission, a power to summon an Assembly, they conceived it more regular to make an application for this purpose to the then Lieutenant Governor, and on the third of December of this year, they presented to him their petition.* To it

* That whereas his most excellent majesty, by his royal proclamation, bearing date at St. James's the seventh day of October, one thousand seven hundred and sixty three, (out of his paternal care for the security of the liberty and

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the Lieutenant Governor returned for an answer on the eleventh of the same month, that the subject of it was a matter of too much importance for His Majesty's Council of the Province to advise, or for him to determine upon, at a time, that from the best information he had received, the affairs of the Province were likely to become the object of public regulation in England. Upon the receipt of this answer from the Lieutenant Governor, the petitioners determined to prepare another petition to be presented to His Majesty himself for the same purpose. They accordingly did prepare such a petition, together with a memorial to the Earl of Dartmouth, His Majesty's Secretary of State

' properties of those who then were, or should hereafter become, inhabitants of
' the four several governments therein mentioned) did publish and declare, That
' he had, in the letters patent under the great seal of Great Britain, by which
' the said governments were constituted, been graciously pleased to give express
' power and direction to his governors, that so soon as the state and circumstan-
' ces of those governments would admit thereof, they should with the advice
' and consent of the members of his councils, summon and call general assem-
' blies within the said governments: And that he had been graciously pleased
' to give power to his said governors, with the consent of his said councils, and
' the representatives of the people, to make, constitute, and ordain laws, sta-
' tutes, and ordinances, for the public peace, welfare, and good government
' of those provinces, and of the people and inhabitants thereof. And whereas
' his most excellent majesty, in pursuance of his said royal proclamation, by his
' letters patent to his governors, has been graciously pleased to give and grant
' unto them full power and authority, with the advice and consent of his said
' councils, under the circumstances aforesaid, to call general assemblies of the
' freeholders and planters within their respective governments. And also,
' whereas your petitioners (who have well considered the present state and con-
' dition of the Province) do humbly conceive, that a general assembly of the
' people would very much contribute to its peace, welfare, and good govern-
' ment, as well as to the improvement of its agriculture, and the extension of
' its trade and navigation; they do therefore most humbly pray your honour
' (with the advice and consent of his majesty's council) to summon and call a
' general assembly of the freeholders and planters within your government, in
' such manner as you in your discretion shall judge most proper.'

for America. † This petition and memorial was sent to England, and it was presented to Lord Dartmouth in

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‘ † That whereas your majesty, by your royal proclamation, bearing date at Saint James’s the seventh day of October, one thousand seven hundred and sixty-three, was most graciously pleased to publish and declare, “ that out of your majesty’s paternal care for the security of the liberty and properties of those who then were, or should thereafter become inhabitants of the several governments therein mentioned (of which this your majesty’s Province was denominated one) your majesty had in the letters patent, by which the said governments were constituted, given express power and direction to your governours, that so soon as the state and circumstances of those governments would admit of it, they should, with the advice of your majesty’s councils, 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 your majesty’s immediate government. And also, that your majesty had been graciously pleased to give power to your said governours, with the consent of your majesty’s said councils, and the representatives of the people so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances, for the public peace, welfare and good government of your majesty’s said colonies, and of the people and inhabitants thereof, as near as might be agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies.” ‘ And whereas it has graciously pleased your majesty, in the letters patents of commission to your captain-general, and governour in chief, and in case of his death, or during his absence, in the letters patent of commission to your majesty’s lieutenant-governour of this province, to give and grant unto him full power and authority, with the advice and consent of your majesty’s council, so soon as the situation and circumstances of this province would admit of it, and when and as often as need should require, to summon and call general assemblies of the freeholders and planters, within this government, in such manner as he in his discretion should judge most proper. And whereas your petitioners, whose properties, real and personal, in this province, are become very considerable, having well considered its present state and circumstances, and humbly conceiving them to be such as to admit the summoning and calling a general assembly of the freeholders and planters; did, on the third day of December last past, present their humble petition to the honourable Hector Theophilus Cramahé, Esq; your majesty’s lieutenant-governour, and now commander in chief, stating as above, and humbly praying that he would be pleased, with the advice and consent of your majesty’s council, to summon and call a general assembly of the freeholders and planters within this government, in such manner as he, in his discretion, should judge most proper. And your majesty’s said lieutenant-governour, on the eleventh day of December last past, after having taken the said petition into his consideration,

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the beginning of the month of March, one thousand seven hundred and seventy-four. No answer, however, was given to the memorial, but hints were dropped that His Majesty's Servants were of opinion, that the state of the Province was not then quite ripe for the establishment of an Assembly, and that they rather inclined for the present to supply the want of one, by establishing a Legislative Council, nominated by the King, with sufficient powers to do the necessary business of the Province, till the more natural and constitutional measure of a General Assembly should appear to them more practicable. In the month of June, an Act of Parliament was passed in England for the Government of the Province of Quebec, by which a Legislative Council of a different constitution was established in the Province, and this for an indefinite length of time.

THE plan of a Legislative Council for the government of the Province of Quebec, proposed by the Com-

' was pleased to inform your petitioners, that the subject of the said petition
' was a matter of too much importance for your majesty's council here to advise
' or for him, your said lieutenant-governour, to determine upon, at a time that
' from the best information, the affairs of this province were likely to become
' an object of public regulation; but that he would transmit the said petition,
' by the first opportunity, to your majesty's secretary of state.

' Your majesty's petitioners being fully convinced, from their residence in
' the Province and their experience in the affairs of it, that a general assembly
' would very much contribute to encourage and promote industry, agriculture, and
' commerce, and (as they hope) to create harmony and good understanding be-
' tween your majesty's new and old subjects; most humbly supplicate your ma-
' jesty to take the premises into your royal consideration, and to direct your ma-
' jesty's governour or commander in chief, to call a general assembly, in such man-
' ner, and of such constitution and form, as to your majesty, in your royal wis-
' dom, shall seem best adapted to secure its peace, welfare, and good government

mittee of Quebec, was different from the Act of Parliament. † The Roman Catholic inhabitants of the Pro-

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‡ I. To consist of thirty-one members, all protestants, and thirty years old.

REASONS.—Because if Roman-Catholics are admitted into the council, there is no good pretence for not having an assembly, agreeably to the king's proclamation and commissions to general Murray and general Carleton.

The large number thirty-one, is in order to give weight to the proceedings of the council.

The age of thirty years is settled for the same reason, as nothing would make the council more contemptible than filling it with young fellows of two or three and twenty.

II. To continue for only seven years.

REASON.—This is to keep in view the king's promise of calling an assembly as soon as the circumstances of the province will admit thereof.

III. Not to have the power of imposing taxes.

REASON.—Because this power, though not in itself greater than that of making laws for the province, is thought to be more liable to be abused.

IV. Seventeen members shall be necessary to do business.

REASON.—This is to prevent the governours from passing ordinances in councils composed of their favorites and dependants.

V. The members who vote for any ordinance shall set their names to it in the council-book.

REASON.—This is to make them cautious what ordinances they consent to.

VI. A fortnight's notice to be given in the Quebeck Gazette before every meeting of the council for legislative purposes.

REASON.—This is to prevent the governour from assembling the council suddenly, when only his favourites and dependants are at hand, and likely to attend it.

VII. The members of the council to be paid a sum not exceeding forty shillings each, for every time they attend the council upon legislative business: with a proviso that, if the attendances are more than fifty in a year, no member shall receive above 100l. on that account.

REASON.—This is to induce the members to attend the council in considerable numbers, so that there may be usually twenty-four or twenty five members present at the passage of an ordinance; to the end that the ordinances may have the greater weight with the people, and be the more readily obeyed. Without some such provision, it is to be feared that the council would not be well attended.

VIII. Absence from the province for three years, even with the governour's leave, or repeated leaves, for the whole time, shall make the person so absenting himself, cease to be a counsellor.

X. Every member of the council shall have a right to bring a bill into the council, as well as to assent to one brought in by the Governour.

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vince of Quebec had presented their petition to the King, and transmitted it to Lord Dartmouth, which laid the foundation of the Quebec Act. § The English inhab-

REASON.—Because without this power the proceedings of the council would be too much under the direction of the governour.

XI. But the governour shall have a negative to a bill proposed by the council.

XII. The counsellors to be appointed by the king, and removed by him at his pleasure by his order in his privy council, but not by his signet and sign manual; and not to be removeable, or suspendible, at all by the governour.

REASON.—The counsellors are made thus independant of the governour, to the end that they may act freely according to their judgements in the exercise of their legislative authority, without implicitly obeying the directions of the governour through the fear of being displaced; and also to the end that the people may believe that they act with this freedom and independence, and respect them and the ordinances they pass, on that account. Confident that counsellors that may be removed or suspended by the governour will never be supposed by the generality of the people to act freely and independently, (whatsoever, from their particular dispositions of mind, they may really do,) and consequently will never be respected by them, nor their ordinances chearfully obeyed. The dependance on the king's pleasure, to be exercised in his privy council, is quite another thing.

XIII. Where the council is assembled as a council of state only, and not as a legislative council, it shall be sufficient to summon only twelve of the counsellors (such twelve as the governour shall think fit,) one day before the meeting of the council; and seven counsellors shall be a sufficient number to do business.

REASON.—It might be very inconvenient and the cause of much delay, to restrain the governour from doing those executive duties of his office, to which the concurrence of the council is made necessary by his commission, without assembling the whole council in the manner above prescribed.

This is the plan of a legislative council proposed two years ago by Mr. Masseres and approved by Messrs. Walker and Paterson. It might perhaps be a proper addition to it, to provide that the Governour and four fifths of the council might, if they thought it necessary, suspend a member of the council till his Majesty's pleasure about removing him was known.

§ SIR—Your most obedient and faithful new subjects in the Province of Canada take the liberty to prostrate themselves at the foot of your throne, in order to lay before you the sentiments of respect, affection, and obedience towards your august person, with which their hearts overflow, and to return to your majesty their most humble thanks for your paternal care of their welfare. Our gratitude obliges us to acknowledge, that the faithful appearances of conquest by your majesty's victorious arms did not long continue to excite our lamentations and tears. They grew every day less and less, as we gradually

itants, dissatisfied with the Quebec Act, and the London CHAP.
merchants trading to Canada, in particular, drew up their I.

' became more acquainted with the happiness of living under the wise regula-
' tions of the British Empire. And even in the very moment of the conquest,
' we were far from feeling the melancholy effects of restraint and captivity. For
' the wise and virtuous general who conquered us being a worthy representative
' of the glorious sovereign who entrusted him with the command of his armies,
' left us in possession of our laws and customs: the free exercise of our religion
' was preserved to us, and afterwards was confirmed by the treaty of peace;
' and our own former countrymen were appointed judges of our disputes con-
' cerning civil matters. This excess of kindness towards us we shall never forget.
' These generous proofs of the clemency of our benign conqueror will be care-
' fully preserved in the annals of our history; and we shall transmit them from
' generation to generation to our remotest posterity. These, Sir, are the plea-
' sing ties by which, in the beginning of our subjection to your majesty's go-
' vernment, our hearts were so strongly bound to your majesty; ties which can
' never be dissolved, but which time will only strengthen and draw closer.

' In the year one thousand seven hundred and sixty-four, your majesty thought
' fit to put an end to the military government of this Province, and to establish
' a civil government in its stead. And from the instant of this change we began
' to feel the inconveniencies which resulted from the introduction of the laws
' of England, which till then we had been wholly unacquainted with. Our
' former countrymen, who till that time had been permitted to settle our civil
' disputes without any expence to us, were thanked for their services, and dis-
' missed; and the militia of the province, which had till then been proud of
' bearing that honourable name under your majesty's command, was laid aside.
' It is true indeed we were admitted to serve on juries: but at the same time
' we were given to understand, that there were certain obstacles that prevented
' our holding places under your majesty's government. We were also told that
' the laws of England were to take place in the province, which, though we
' presume them to be wisely suited to the regulation of the mother-country for
' which they were made, could not be blended and applied to our customs with-
' out totally overturning our fortunes and destroying our possessions. Such
' have been ever since the æra of that change in the government, and such are
' still at this time, our just causes of uneasiness and apprehension; which how-
' ever we acknowledge to be rendered less alarming to us by the mildness with
' which your majesty's government has been administered.

' Vouchsafe, most illustrious and generous sovereign, to dissipate these fears
' and this uneasiness, by restoring to us our ancient laws, privileges, and cus-
' toms, and to extend our province to its former boundaries. Vouchsafe to
' bestow your favours equally upon all your subjects in the province, without any

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case in the month of May, one thousand seven hundred and seventy-four, to give weight to their petition against the Bill, which had been presented to the House of Commons, on behalf of themselves and the British inhabitants of the Province. On the receipt of the Act of Parliament, the English inhabitants held fresh meetings together, in order to consult about petitions for the repeal or amendment of it. Petitions to the King and to two Houses of Parliament were prepared and they were transmitted to Lord Dartmouth,* with another to his

‘ distinction ! Preserve the glorious title of sovereign of a free people : a title
‘ which surely would suffer some diminution, if more than an hundred thousand
‘ new subjects of your majesty in this province, who had submitted to your go-
‘ vernment, were to be excluded from your service, and deprived of the ines-
‘ timable advantages which are enjoyed by your majesty’s ancient subjects.
‘ May heaven, propitious to our wishes and our prayers, bestow upon your
‘ majesty a long and happy reign ! May the august family of Hanover, to
‘ which we have taken the most solemn oath of fidelity, continue to reign over
‘ us to the end of time !

‘ We conclude by intreating your majesty to grant us, in common with your
‘ other subjects, the rights and privileges of citizens of England. Then our
‘ fears will be removed, and we shall pass our lives in tranquillity and happi-
‘ ness, and shall be always ready to sacrifice them for the glory of our prince
‘ and the good of our country.’

‘ • That your lordship’s memorialists, encouraged by the capitulation of Ca-
‘ nada, confirmed by the definitive treaty of peace, and his majesty’s royal pro-
‘ clamation of the seventh of October, one thousand seven hundred and sixty-
‘ three, did purchase lands, plant, settle and carry on trade and commerce in
‘ this province to a very considerable amount, and to the manifest advantage of
‘ Great Britain, in confident expectation of the early accomplishment of his ma-
‘ jesty’s said proclamation, giving express power and direction to his governour
‘ with the advice and consent of his council, to summon and call general assem-
‘ blies, to make, constitute, and ordain laws, statutes, and ordinances, for the
‘ publick peace, welfare, and good government of the said province, as near as
‘ might be agreeable to the laws of England. For which reasons your memo-
‘ rialists have drawn up and transmitted herewith, their most humble petition
‘ to the king, praying his majesty will, out of his royal and paternal care of all
‘ his dutiful and loyal subjects of this province, be graciously pleased to relieve
‘ them from the apprehensions they are under of their property being endanger-

Lordship, expressive of their disapprobation of the Quebec Act, and of the miseries about to be entailed on the Province by that Act, but no repeal was effected, and the act remained as it was passed.

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SEVERAL Acadians who had left Canada on the its reduction by the British Arms and had gone to France, returned to the number of eighty-one to Chaleur Bay, and offered to take the Oath of Allegiance, to which they were admitted on the thirtieth of May of this year.

THE Quebec Act that restored the municipal Laws of France as to civil rights in Canada, established also the best of all criminal juris prudence, the criminal Laws of England. The Canadians had reason to rejoice that the Criminal Laws of France had been abolished, and

ed, and losing the fruits of their labour, exposed to ordinances of a governour and council, repugnant to the laws of England, which take place before his majesty's pleasure is known, and are not only contrary to his majesty's commission and private instructions to his said governour, but, we presume, equally grievous to his majesty's new and ancient subjects.

Your lordship's memorialists further see, with regret, the great danger the children born of protestant parents are in, of being utterly neglected, for want of a sufficient number of protestant pastors, and thereby exposed to the usual and known assiduity of the Roman Catholick clergy of different orders, who are very numerous in this country, and who, from their own immense funds, have lately established a seminary for the education of youth in this province, which is the more alarming, as it excludes all protestant teachers of any science whatever.

Wherefore, your lordships memorialists humbly pray, that you will be pleased to present their said petition to his majesty, and also pray your lordship's intercession and good offices in that behalf.

Canada exported to Spain and Portugal,

	Bushels of Wheat,	Barrels of Wheat,
1772	- 164,807	- 720
1773	- 264,916	- 7,091
1774	- 46,0818	- 6,991
1775	- 175,059	- 7,115
1778	- 14,173	- 20,521

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that the horrid system established by them was put an end to. During the time that Canada was a colony of France, a person suspected, with or without foundation, was siezed, thrown into Prison, interrogated, without knowing the charge against him, and without being confronted with his accuser; and he was deprived of the assistance, either of his relations, friends or Counsel. Hewas sworn to tell the truth, or rather to accuse himself, without any value being attached to his testimony. Questions were then put more difficult for innocence to unravel, than vice to deny. The prisoner was never confronted with the person who had deposed against him, except at the moment before judgment was pronounced, or when the Torture was applied, or at his execution; and judgment in capital cases was unvariably followed by confiscation of property. To the honor of England, the trial by Rack is utterly unknown to the English Laws, though it had been used as an engine of state; but when on the assassination of Villiers Duke of Buckingham, by Felton, it was proposed in the Privy Council to put the assassin to the Rack; in order to discover his accomplices; the Judges being consulted, declared unanimously to their own honor and the honor of the English Law, that no such proceeding was allowable by the Laws of England.* The reason of administering Torture by the civil law, and its subsequent adoption by the French and other nations, is said to arise from the principle that the laws cannot endure that any man should die upon the evidence of a false or even single witness, and therefore contrived this method, that innocence should manifest itself by a strong denial, or guilt by a plain confession, rating a man's virtue by the

* Rushworth.

hardiness of his constitution, and his guilt by the sensibility of his nerves.† Nothing can be so absurd as this inhuman species of mercy, and a celebrated writer in an exquisite piece of raillery has proposed this problem with a gravity and precision truly mathematical. "The force of the muscles and the sensibility of the nerves of an innocent person being given, it is required to find the degree of pain, necessary to make him confess himself guilty of a given crime."‡ How thankful ought Canada to be, that Great Britain in her liberality and mercy has freed its inhabitants from the most inhuman of all Criminal Laws, and given her own equitable system of Criminal Jurisprudence.

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ON the return of Governor Carleton a Council was held, when the two Quebec Statutes were read on the eleventh of October, abolishing the Proclamation of one thousand seven hundred and sixty-three.

THE American Congress, to gain over the Canadians, ordered an Address to be prepared to the inhabitants of Canada. They stated the right they had, upon becoming British Subjects, to the inestimable benefits of the English Constitution, and that it was further confirmed by the Royal Proclamation, in one thousand seven hundred and sixty-three. They undertook to explain to them some of the most important branches of that form of government from which they were debarred, and, in so doing, they quoted passages from their countryman whom they artfully adopted as a Judge, and irrefragable authority upon this occasion. They then proceeded to specify and explain, under several

† Blackstone.

‡ Beccario.

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distinct heads, the principal rights to which the people were entitled by the English Constitution, and these rights they truly said, defend the poor from the rich, the weak from the powerful, the industrious from the rapacious, the peaceable from the violent, the tenants from the lords, and all from their superiors. They at length introduced Montesquieu, as if addressing them, thus : " Seize the opportunity presented to you by Providence itself, you are a small people, compared with those, who with open arms invite you into a fellowship; a moment's reflection should convince you, which shall be most for your interest and happiness, to have all the rest of North America your unalterable friends or your inveterate enemies. Your Province is the only link wanting to complete the bright and strong chain of union. Nature has joined your country to theirs. Do you join your political interests : The value and extent of the advantages tendered to you, are immense: Heaven grant you may not discover them to be blessings after they have bid you an eternal adieu." They conclude by informing them, that Congress had resolved to consider the violation of their rights, by the Act for altering the Government of the Province, as a violation of their own, and that they then be invited to accede to their confederation.

1775. THE Canadians very early this spring, declared, that the noblesse had no manner of authority over them, and that even their Seigniors had no right to command their military services. They acknowledged that they owed them respect as their Seignors; but they insisted, that when they had paid them their quit-rent, and their other seigniorial dues, together with cer-

tain compliments which were customary at different seasons, they owed them nothing further, and were not bound to submit to any power they might presume to exercise over them.

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A Bust of His Majesty King George the Third, which had been erected several years in the City of Montreal, was on the first of May daubed over, by some ill disposed persons, with black, and a cross was suspended from it, indecently ornamented with a mitre and a string of beads ; under it were written these opprobrious words : "*Voici le Pape du Canada, et le — des Amérindiens,*" that is, This is the Pope of Canada and the — of England. This act was seditious and deserving of punishment, and though a reward of one hundred guineas had been offered, yet, the perpetrators of this wicked act, were never discovered.

THE main scope of the Quebec Act was to extend the boundary of the Province, beyond what had been settled by the King's Proclamation in one thousand seven hundred and sixty-three ; to appoint a Council for the Provincial affairs without the power of taxation and removable at pleasure, into which the Canadian Roman Catholics were equally entitled to a place. To establish the French laws ; to take away the Trial by Jury in civil cases ; to establish the Criminal Laws of England, and to secure to the Catholic Clergy, their estates and tythes. The Act had no sooner passed than it was sent to the Governor of the Province to be put into execution, who appointed the Council, in which many Roman Catholic Gentlemen were admitted, and in

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the other offices of Government, and made such other regulations and arrangements as he thought necessary. General Carleton had taken up the prevailing opinion, that the Seigniors of the Province, by their *Fealty and Homage*, owed military service to the King, and that their vassals were equally liable to the same service as their Lords, and bound by their personal service to take arms in defence of the Government, and that as the Provincials were meditating an incursion and attack of the Province, they would forfeit their lands in case of their non-obedience. Many of the Seigniors held the same doctrine, and shewed great alacrity on the occasion, assembling their Tenants to explain to them the situation of the Province, the service expected from them, and the absolute necessity of preparing for war. The Tenants of these gentlemen, who had been addressed on this occasion, generally declared their determination not to obey their Seigniors, and this spirit being diffused by their conduct among the rest of the peasantry, they evinced also on their part, how averse they were to act against the Provincials, then meditating an attack on the Colony, by the route of Lake Champlain.

THE Congress of America, apprized of the resolution of Great Britain to maintain her authority over the Colonies in all cases whatever, which America on her part was determined to resist, concerted measures of defence, and resolved on attacking Canada as the most vulnerable part of the Colonies. The American Colonel Allen, with two hundred and thirty Provincials, meditated an attack on the garrison of Ticonderoga, on Lake Champlain, and on the ninth of May, being join-

ed by Colonel Arnold, they crossed Lake Champlain in the night with eighty men, and disembarked near the garrison. Early in the morning of the succeeding day, dispositions were made for the attack, when driving in the centinel at the gate, the Provincials gained the parade without difficulty, and the fort surrendered. The prisoners were, Captain Delaplace, a Lieutenant, and forty-seven men. But what was of most consequence, the Provincials gained an immense acquisition of not less than one hundred pieces of cannon, of which they were then in the greatest want. The reduction of Crown Point, which had but a serjeant's guard, became a matter of course, and this was followed by the loss of the only vessel the English had on Lake Champlain, into the hands of the Provincials.

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CERTAIN intelligence being received of these offensive operations, induced General Carleton, to exert every nerve to repossess himself of these two posts and to regain the command of the Lake; unfortunately, however, for his views, the whole military force then in Canada did not exceed two regiments, the Seventh and Twenty-sixth regiments containing only eight hundred men, those were unfortunately too much dispersed, that unaided by the Canadians he conceived it absolutely necessary to establish Martial Law, which he did by a Proclamation of the ninth of June, in which he stated that as a Rebellion existed in many of His Majesty's Colonies in America, and that an armed force had of late made incursions into this Province, attacking and carrying away a party of His Majesty's troops, together with a parcel of stores

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and a vessel and was still invading this Province, to the great terror of His Majesty's subjects, and in open defiance of his laws and government, falsely and maliciously giving out that their motives for their conduct were to prevent the inhabitants of this Province from being taxed and oppressed by government, tending at the same time to inflame the minds of the people and alienate them from His Majesty, he had thought proper in order to prevent so treasonable an intrusion, and that such traitors and their abettors might be brought to justice, and the public tranquility and peace again be restored, to execute Martial Law and to embody the militia of the Province, to repress their hostile aggressions.

THIS Proclamation so far from compelling the Canadians to take up arms, only produced the greatest aversion and repugnance to his orders. The Governor finding all his efforts ineffectual in raising the militia, applied to the Catholic Bishop for his spiritual aid and influence, who sent a mandate to the subordinate clergy of the several Parishes, to be read by them after divine service to their Parishioners, exhorting them to take up arms in defence of their Country : no persuasion could, however, induce them to stand forth in the hour of danger, and this supineness opened a door to the inroads then beginning to be made by the American Army, under the command of Generals Montgomery and Schuyler. This army composed of about two thousand men, having crossed Lake Champlain, arrived on the fifth of September at the Isle aux Noix, on Lake Champlain, where they drew up a declaration to the Canadians, stating that their army was only designed against the English, and not against their lives, liberties, pro-

perty or religion. The army embarked next day for St. John's, and being near it, received advice, that the Fort was not only in good repair, but well furnished with Cannon, and then they retreated back to the Isle aux Noix. General Schuyler's health not permitting him to move on with the army, he returned to Albany, and the chief command devolved on Montgomery, who receiving reinforcements of men, and supplies of ammunition, proceeded again on the seventeenth of September to the attack of St. John's. The Americans, soon after their landing, took possession of the ground on the north side of St. John's, and erected a mortar and other batteries. They kept up a constant firing on the garrison, which was returned with equal vivacity. By this time, the Americans had nearly expended their ammunition, when accounts arrived, that Majors Brown and Livingston had taken the Fort of Chambly with a large supply of powder and ammunition. Montgomery had on his first landing detached two hundred men, against Chambly, with two six pounders, which so much intimidated the commanding officer of that Post, Major Stopford of the seventh regiment, that though there was no breach in the walls or regular battery constructed by them, he surrendered on the third of November, on condition of marching out with the honors of war. The Americans immediately on the surrender, transported six tons of gun powder to general Montgomery, who being possessed of a full supply, completed his battery within two hundred and sixty yards of the Fort, and mounted four guns and six mortars. The siege was still carried on with great spirit on the part of the besiegers, who suffered greatly from the incessant fire of the garrison. General Carleton dispatched an order to Colonel

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M'Lean, then at Quebec, to procure as many men as he could, and to proceed to Sorel, where the General proposed joining him. M'Lean collected about three hundred and fifty Canadians, where he waited until he received orders to proceed to the relief of St. John's. The place where General Carleton proposed to cross the St. Lawrence, was Longueil, where a party of Americans, had posted themselves to prevent his landing. The boats with the troops on board were allowed to approach within pistol shot of the shore, they were then vigorously attacked, both by the fire of musketry and from two guns that had been so advantageously posted, that General Carleton was compelled to return back to Montreal.

As soon as General Montgomery was apprized of General Carleton's defeat, he sent a flag to Major Preston, accompanied by a prisoner, to give him a detail of the action, advising him at the same time to surrender the Fort. Major Preston still wishing to gain time, and in hopes of relief, proposed to General Montgomery to wait four days, in which time, if he received no assistance, he would propose a surrender. This General Montgomery not consenting to, the attack was again renewed. At length, however, the garrison being short both of provisions and ammunition, the Major was compelled to surrender on the thirty-first of November. It was agreed that the garrison should march out with the honors of war, the men grounding their arms: the officers were allowed their side arms. Those Canadian gentlemen, whose conduct during the siege was highly meritorious, were included as a part of the garrison. Immediately after the surrender of St. John's, General

Montgomery pushed on to Montreal, and entered that city the moment that General Carleton had left it. A large supply of clothing and other articles much wanted by his troops was easily procured, and his general conduct to the inhabitants, was highly decent and proper. To prevent the troops that had left Montreal, under the command of General Richard Prescott, from passing Sorel, the American Colonel Easton was detached with a strong party to that place, where posting some cannon in a judicious situation, he compelled the General, several officers, and one hundred and twenty soldiers to surrender on the seventeenth of November. General Carleton, well aware that Quebec was the only place left in the Province capable of defence, hastened to gain the Capital, which he happily effected on the Sunday following, the nineteenth of November. Arnold, who had penetrated through the woods by the River Kennebec and Chaudière, had arrived at Satigan on the fourth of November, and after refreshing his troops, marched on the eighth to within two leagues and a half of Pointe Levi. He had been there twenty four hours before it was known at Quebec, and had not the small craft and boats been fortunately removed before his approach, he would, most probably, have made himself master of the city. The next night Arnold crossed over six hundred men at Wolfe's Cove, and after ascending the heights, took possession of General Murray's house, the General Hospital, and several other houses, where he quartered his men. He then posted guards on the different roads, to cut off the communication between the city and the country. On the news of the capture of Montreal, Arnold marched to Pointe au Tremble, when learning that General Montgomery was on his

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CHAP. way to Quebec, he returned to his former quarters,
 I. and was there joined on the first December by General
 ~~~~~ Montgomery and his army.

ON the first irruption of the American troops into Canada, Montgomery had detached Colonel Allen, with one hundred and fifty men to the attack of the city of Montreal. On the twenty-fourth of September he crossed over the St. Lawrence, three miles below Montreal, in the night, where he was no sooner landed than his approach was announced to General Carleton, then at that city, who immediately collected thirty men of the twenty-sixth regiment, and about two hundred and fifty-six militia of the town, and put this detachment under the command of Major Carden. Early next day, Carden marched to Long Point, where the Americans had taken post, possessing themselves of several houses and barns, and defended by the natural breast work formed by the little river, Truteau. An action immediately commenced, which only, however, continued half an hour; a party of the British Militia having pushed forward to surround the Americans, Allen and his men gave way, and the whole of them were taken prisoners. The English lost in this skirmish Major Carden, a brave officer. Mr. Alexander Paterson, an eminent merchant of Montreal, and two privates. The Americans had five killed and ten wounded. Allen, with the captives were put on board the *Gaspée* armed schooner, and sent to Quebec, and in November sailed for England in the *Adamant*, where they arrived, and Allen and his men safely lodged in Pendennis Castle.

THE  
HISTORY  
OF  
CANADA.

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CHAPTER II.

*From the commencement of the Siege of Quebec in 1775, to  
the Convention at Saratoga, in 1777.*

AS General Carleton had been apprized that several of the inhabitants of the city of Quebec were ill disposed towards Government, no object appeared more wise and necessary than the turning the disaffected out of the city.\*

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1775.

\* JOURNAL of the most remarkable occurrences in QUEBEC, from the 14th of November, 1775, to the 7th of May, 1776. By an Officer of the Garrison.

AFTER the rebels had surprised and taken Ticonderoga and Crown Point, they made no secret of their intention to penetrate as far into Canada, that season, as possible. They openly declared it in Albany in the month of May. Timorous people, among those who knew with what facility they traverse woods in their hunting parties, began to entertain fears that they might attempt to send a force against Quebec, by the way of Kennebek and Chaudiere Rivers, and by Connecticut and St. Francis, whilst General Carleton with the troops were employed towards Montreal. They recollected that suspected persons had been sent in the winter from Casco Bay by Kennebek to this place, and it was reported early in summer that armed men from

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By a Proclamation, dated the twenty-second of November, he stated, That though he had issued his orders for embodying the Militia of the city, to co-operate and assist the King's troops, yet that there were several persons

New England, or Nova Scotia, had patroled in the parishes below Point Levy for some days, and had suddenly disappeared: these matters greatly alarmed some people, though the greatest part of the town looked on an expedition of that nature as chimerical, yet a guard was posted at Satigan to give notice of the approach of an enemy, in case that the rebel woodsmen might meditate a surprise.

The success of the rebels under Mr. Montgomery induced many people in Quebec to shew their sentiments, and, indeed, to act as if no opposition might be made against the rebel forces; a thousand different intimidating reports were industriously spread abroad concerning their numbers—our enemies within the walls caught every favourable opportunity to work on the minds of such English and Frenchmen as were not confirmed in their principles.—They spoke to their fears.—“Our force, said they, is nothing, theirs is great, and grows daily—Be wise and remain neuter, that you may secure good treatment from those who will undoubtedly take the town sooner or later.—Why suffer our property to be destroyed! if we attempt to hold out, our ruin is unavoidable; let's think of terms of capitulation, and banish all Quixote schemes of defence.

The Republican method of calling town-meetings was adopted: in these noisy assemblies the mask was thrown off; there one could perceive who were, and who were not, the friends of government; if report speaks truth, some of the town's folks had articles of capitulation ready to lay before the people at one of those meetings, after it was known that Arnold was on his march from Cambridge, by way of Kennebek, with fifteen hundred chosen men, to attack Quebec: this was about the end of October; then our Lieutenant Governor was indefatigable in putting the town in a proper posture of defence. The English and French militia mounted guard regularly, and seemed willing to do the duty of soldiers so far.

On the 3d of November we learned that a strong body of the rebels were not far from Quebec, and that the Canadians living on the Chaudiere did not in the least oppose their march. The Lieutenant

still residing in the town, who refused to enroll their names in the Militia lists, and that there were others industriously endeavouring to draw away and alienate the affections of His Majesty's good and faithful subjects of

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Governor ordered all canoes, boats, &c. to be brought off from the opposite shore and from the Island of Orleans. On the 8th of November a boat from the sloop of war Hunter was fired on, and the Captain's brother (Mr. M'Kenzie, a midshipman) was taken prisoner in attempting to swim off to her, as she lay near Colonel Caldwell's mill, at Point Levy; next day the Hunter battered the mill; where a great body of rebels was lodged. Colonel Maclean arrived on the 12th from Sorel. On the 13th, in the night, Arnold crossed the river St. Lawrence, and landed at Wolfe's Cove with the greatest part of his force. On the 14th a body of men appeared on the plains of Abraham, within 800 yards of the walls, and huzza'd thrice; we answered them with three cheers, and fired some grape shot among them; they did not wait for a second salute.

On the 19th, to the unspeakable joy of the garrison, General Carleton arrived from Montreal, in the *Fell* armed ship, in company with an armed schooner; at this time the rebels had retired to Pointe aux Trembles, seven leagues above Quebec; we saw our safety in his presence. On the 22d a most acceptable proclamation was issued by General Carleton, which commanded all persons not willing to defend the town to the last to depart in four days.

We had rank rebels in our militia at that time; this proclamation, so agreeable to the friends of government and good order, gave them much strength; from that moment good things were augured.

When the rebels appeared before the town, the strength of the garrison was as follows:

Colonel M'Lean with his Royal Emigrants, and Capt.

|                                       |   |   |   |     |
|---------------------------------------|---|---|---|-----|
| Owen's fuzileers                      | — | — | — | 200 |
| British Militia                       | — | — | — | 500 |
| Canadian Militia                      | — | — | — | 480 |
| Seamen on shore with Captain M'Kenzie | — | — | — | 24  |
| Recruits, Emigrants from Newfoundland | — | — | — | 90  |
| Artificers from Newfoundland          | — | — | — | 32  |

Number in garrison 14th November

1126

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the city from his person and government ; for these reasons, to rid the town of all such disloyal and treacherous persons, he ordered, that every person liable to Militia duty, and residing at Quebec, who should refuse to

Many people about this time recollected with regret, the inflammatory language they had used, at the public meetings called to consult about measures to procure a repeal of the Quebec Act. After having drawn the most hideous pictures of the distresses that would be entailed on the Canadians and their posterity, could they wonder that these people would not oppose their New-England friends, who had come with an avowed intention to give them freedom, by forcing a repeal of that Act which was to render them the most miserable abject slaves.

The agents for the Congress saw with joy the dispositions of the Canadians ; they saw that no opposition would be made by the natives of Canada to any measures the Congress should think fit to adopt to get possession of the country. The King's enemies here represented Canada as an easy conquest, and gave it as their opinion, that a handful of brave men, fighting for liberty, would be sufficient. They made uncommon efforts in the most severe season. The attachment of the besieged to the King and his Government makes us strong within the walls ; such men, under such a General, will do much.

*State of the Garrison of Quebec on the first of December.*

70 Royal Fusileers,  
230 Royal Emigrants,  
22 Of the Artillery, Fireworkers, &c.  
330 British Militia,  
543 Canadians,  
400 Seamen,  
50 Masters and Mates of Vessels,  
55 Marines,  
120 Artificers.

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1800 Men bearing arms.

The number of souls within the walls computed at five thousand.



take up arms in defence of the city, should quit the town in four days, and withdraw themselves out of the limits of the district of Quebec before the month of December, on pain of being treated as rebels and spies ;

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There is plenty of provisions for eight months. Fire wood, hay and oats are scarce.

*December 1, 1775.* The country is covered with snow a foot deep. Wind S. W. raw weather, with showers of snow. The Hunter sloop and the *Fell* armed vessel came down from Richelieu, and were laid up. Reported that 50 of the rebels are lodged at Mount's (a tavern; a mile west of the town ;) fired some well directed shot, and dislodged them. Clear weather this evening.

*2d.* Cloudy ; wind at S. W. much floating ice in the river.

Yesterday a habitant of Lorette was drummed out of town, for having industriously made disheartning reports concerning the strength of the rebels, and for advancing ridiculous untruths, to instil fear into the minds of the lower class.

Arnold's party, which traversed the woods, were clad in canvas frocks ; it was said in the country that they *vetu en toile* ;—the word *toile* was changed into *tole*, and the peasants trembled at the approach of men cased in sheet-iron.

The rebels are cantoned from La Pointe aux Trembles to Old Lorette, and parties of them scour the roads to town to prevent provisions getting in. The *habitants*, as we call the peasants, seem to be a dastardly set ; if it is not cowardice that prevents them from insisting on going to market, it is a worse motive.—Would they but frown on the rebels, they would return from whence they came ; but it is said that they receive them with open arms, and call them *nos pauvres freres* ; they will see their folly when too late to repair the mischief their *pauvres freres* will have done to them.

The rebels have prevented a good many supplies from coming up by water from below ; and the people of La Pointe à la Caille have unloaded some craft destined for Quebec. This shews the disposition of the lower parishes.

*3d.* Rainy sleeting morning, Wind N. E. Afternoon, S. W. clear air, freezing. Many people heard guns at a distance. Some peasants say, " that there is 4500 rebels at Pointe aux Trembles—some came by water, and some by land, and that they have many cannon.—They say that Mr. Montgomery heads them."



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and that whatever provisions those who meant to leave the place had purchased, he ordered should be paid for by the Commissary. This measure brought to light the dastardy dispositions of several of the citizens,

4th. Wind at W. to-day—it froze hard in the night—the rebels are lodged in every house near the walls. Jeremiah Duggan, formerly a hair-dresser in this place, has the command of 500 Canadians, under the title of Major.

5th. Last night Jeremiah Duggan entered the suburbs of St. Roc with a strong party ; many Canadians enrolled in the militia were disarmed by him.

Duggan, to serve his own purposes, has reported that we are not on our guard ; and that we may easily be surprised ; for that he had laid his ear to Palace-gate, and walked from thence to the Canoterie without having been challenged.—It is impossible, for our sentries are very vigilant.—Cold to-day. A soldier of the British militia was tried by a Regimental Court-martial, charged by a Serjeant for refusing to do his duty.—Acquitted.

Fired several shot at a house about 1200 yards from the walls, behind which (it was said) the enemy were erecting a battery.

We get much false intelligence : our situation admits not of sending out parties of observation.

6th. Wind S. W. cold and cloudy. In the afternoon came to Palace Gate from St. Roc, a woman who gave information that many of the rebels were drunk at her house : she was told to inform such as chose to come in, that they should be well treated ; four of them came in towards night. Small parties of riflemen came near our walls, concealing themselves behind old walls and houses in St. Roc, firing at our sentries ; we popped at one another all day without hurt on either side.

7th. Wind easterly—cloudy weather. The deserters report, that “ Mr. Montgomery heads 2000 rebels, 500 of whom are Canadians.—Head-quarters Holland-house, two miles from town.—Detachments spread all around, to prevent any person from getting to us. They are to cannonade and bombard us ; and after harrassing in this way for some days, they are to make a general assault, and take us.” One of the deserters served formerly in the Royal Ame-

who meanly preferring their individual safety to their honor, quitted the town in the hour of danger, and after the siege was raised, returned to it again, but not without the odium so justly due to such infamous and disloyal conduct.

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ricans : he was heard to say, that he knew the strength of Quebec, and that it would not be an easy matter to scale our walls. His officer, after a volley of injurious words for endeavouring to dishearten the men, used him otherwise ill : this determined him to hasten his desertion, which he had before premeditated. He says he is no Yankee, but a native of good old Ireland.

8th. There fell above six inches of snow last night ; to-day the wind is S. W. the weather clear and cold—Riflemen firing as usual on our sentries.—Mr. Montgomery visited Menut's to-day ; a few minutes after he got out of the cariole, a cannon ball from the walls killed his horse.

9th. Wind at west ; pleasant, sunshine, mild. Various are the reports of the enemy's strength ; we gather, however, that there may be about 1500 men ; we do not count the Canadian rebels ; every Englishman in town looks on them as cyphers ; they are only to be dreaded in case they get the upper hand ; if they do, it will be from no exertion of bravery on their side. It is said the small pox is among them—a fatal disorder in an American constitution ; it has long raged in town.

10th. Wind N. E. cloudy and very cold. About two o'clock this morning we were bombarded from St. Roc ; twenty-eight small shells were thrown into town, without doing further damage than hurting the roofs of some houses. Three-fourths of the town had great dread of shells until now, even the women laugh at them. At day-light we discovered a fascine battery on an eminence, about 800 yards to the S. W. of St. John's gate ; we fired many shot through it. As some of the roofs of the houses in the suburbs of St. John's intercepted our view of the enemy's works, we set fire to these houses.

11th. Wind strong at S. W. with rain ; in the night 43 shells were thrown into town without hurting a soul. By the appearance of their battery this morning, they have been hard at work last night ; their riflemen kept a constant firing on our centries.

About mid-day the wind chopped about to S. W. it blew a hur-

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THE Governor adopted every measure for the defence of the city, and on collecting the strength of his garrison, he found that it was composed of seventeen hundred and sixty men, all equally animated with the

ricane ; in half an hour the streets and ramparts were one continued sheet of ice.

12th. Wind at W. freezing very hard. Forty shells from the rebels last night. The riflemen were very busy in the suburbs of St. John and St. Roc, firing on every one who showed his head on the walls—we had one man shot through the heart. We returned their fire briskly, when we could discover any thing to fire at.

13th. Wind at W. soft fine weather.—Three shells thrown into town last night, damaged two roofs. It is reported that the rebels intend to build a battery at Point Levy, to play on the town from that quarter, and that a body of men is lodged in a house on the opposite beach. We fired a nine-pounder from the King's wharf ; the ball went through the house ; a number of men ran out, and made the best of their way up the hill ; they discharged a volley from their musquets ; the distance is near 1200 yards.

Skulking riflemen in St. Roc watching behind walls to kill our sentries—Soldiers, indeed !—Some of them fired from the cupola of the Intendant's Palace ; we brought a nine-pounder to answer them.

We think four of the rebels have been killed to-day, and some wounded : we saw them carry off bodies in sleighs.

Our shells and 32lb. shot annoyed those who were at work on their batteries.

14th. No shells thrown into town last night—some snow fell—mild low'ring weather—wind at W. We sent many shots through their battery to-day. At mid-day it was opened with five cannon, six, nine, and twelve-pounders : their shot made no impression on our walls, and no manner of hurt was done in town.

15th. Mild weather with easterly wind. Every thing remained very quiet last night ; they gave us a shot now and then from their battery. About nine o'clock two men in blanket coats, with a drummer before them, approached the walls ; they carried a bit of white linen on the end of a stick : we allowed them to come near ; they told our sentry that they wanted admittance into town, having letters

same zeal, and determined to give General Montgomery a warm reception, whenever he should begin the attack of the city.

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As soon as General Montgomery had taken the command of their army, he sent a flag to demand the sur-

for the Governor. A message was sent to the General; his Excellency answered, that they could not be admitted, neither would he receive any letter from them; that he would have no kind of *parlé* or communication with rebels. They went off saying, "Then let him be answerable for all the consequences that may arrive in future."

Towards evening they began to fire again from their battery—there was no firing in the night, nor did they throw any shells. We kept up a very hot fire on their battery to-day; we can perceive that the fascines are cut to atoms.

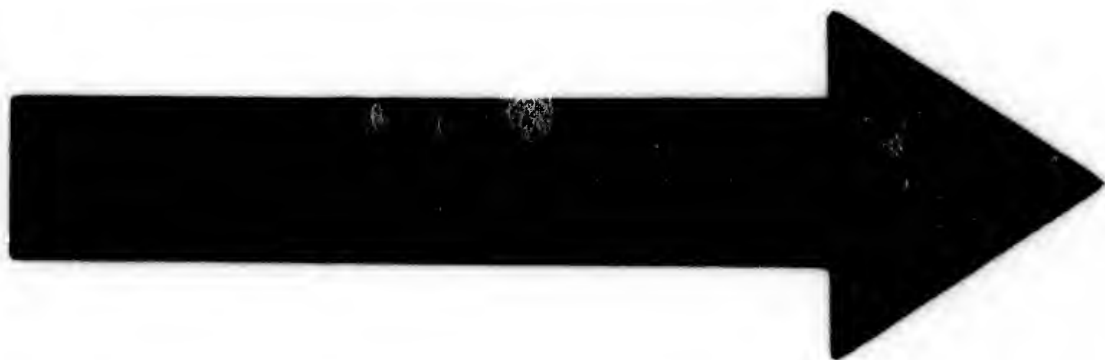
16th. A fine mild day with a S. W. wind. They have not fired from their battery this morning; we imagine we may have disabled some of their guns.

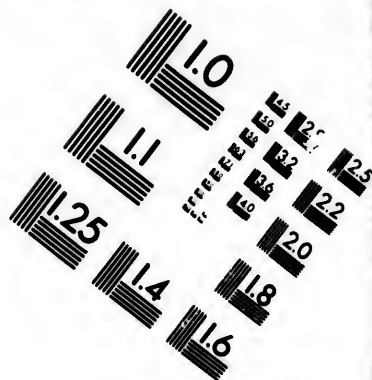
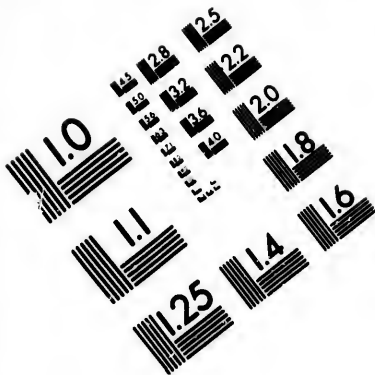
*Afternoon.* They opened on us again with three guns; they threw some small shells into town; we had three men wounded to-day from a garret window in St. Roc; we threw some shells into St. Roc.

17th. It blew hard and snowed in the night, with an easterly wind, dark and cold. About four o'clock this morning, a sentry behind the artillery barracks alarmed the guard at Palace gate; he averred that he had seen above six hundred men in the streets of St. Roc—the drums were ordered to beat to arms; every man made haste to his alarm-post, and there remained until day-light, but no enemy appeared to attack us—They must be alert indeed if they take us by surprise; the voluntary picquets in the upper and in the lower towns are very strong. No firing from the enemy's battery to-day.

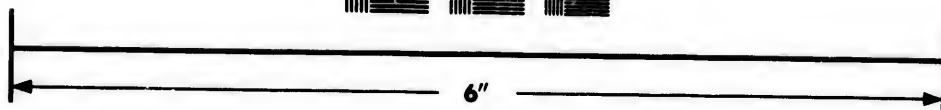
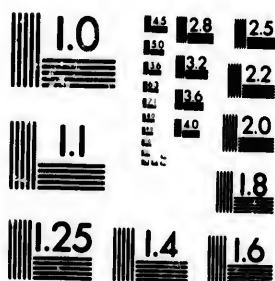
18th. Wind at S. with snow, and a mild air. Some shells were thrown in to-day, and we threw some into St. Roc's: very few of the enemy seen any where to day. A man was shot through the head from St. Roc; would it were destroyed; it serves as a secure cover to the rebels.

19th. Last night our shells set fire to St. Roc, and burnt four





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render of the city, which was treated with contempt. Montgomery upon this, wrote a most extraordinary letter to General Carleton, which was sent into the town

houses—mild weather, wind at S. with snow. We fired on some men skulking among the houses in St. John's suburbs at dark ; they fire at random wherever they hear a noise on the ramparts.

*Afternoon.* Wind S. W.—cold weather.

*20th.* Wind very cold at west : nothing remarkable happened to-day. In such weather one's sinews are stiff with cold, every sense is benumbed : it is impossible to accomplish any design where activity is requisite.

The people in town put a threat in Mr. Montgomery's mouth ; it is said that he told his men, that he will dine in Quebec, or in Hell, on Christmas-day. We are determined, says every body, he shall not dine here, unless he is a prisoner among us.

A Quebecker, a prisoner with the rebels, found means to convey a letter into town :—he writes, “ that the Canadian rebels leave Mr. Montgomery very fast, and that his own people are quite tired of the expedition.” Not so in town, there's a very conspicuous martial spirit among us ; if they attack us, we will make a brave defence ; so we think the quantity of ice and snow lying in the way leading to what we reckoned the weakest places, renders them at present exceeding strong.

*21st.* Wind W. N. W. excessively cold. Nothing has happened worth noting.

*22d.* Wind W. S. W. intensely cold. Colonel Caldwell's Clerk, who has been a prisoner with the rebels for some days, escaped from them, and brought a deserter along with him.

*23d.* Cold in the morning ; at noon very mild, with a S. W. wind. Col. Caldwell's clerk reports, “ that the rebels are to storm the town this night. He has hitherto found it difficult to instil a certain soldier-like bravery into his raw troops, although they are larded with Europeans—although he has promised them plunder to the amount of 800 dollars each man. The people from the old countries say the Americans should lead ; the Americans cede that honour to the Europeans. They have 500 scaling ladders prepared ; they are made in a very clumsy manner.”

How can they think to pass the ditch, weighed down with such



by an old woman, and a copy of it was shot into town upon an arrow a few days after. He stated, That notwithstanding the personal illtreatment he had received at his hands, and notwithstanding his cruelty to the un-

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burthens, and wading in snow in the face of our fire ! They report the enemy to be about 2000 sickly ;—the small pox is among them. A man of our's killed from St. Roc to-day.

24th. Cloudy weather, wind N. E. Above a thousand men were under arms, expecting an attack in consequence of the clerk's report, but every thing remained quiet. A deserter (formerly of the 28th regiment) came towards St. John's gate, fired his musquet in the air, clubbed it, and begged to be let in—ropes were let down, and he was pulled up. He says the intended attack is deferred on account of Mr. Wolf, the clerk's escape, and that they will attempt to storm us to-night, if his escape does not prevent them.

25th. Mild day, wind at S. W....Last night every thing was remarkable quiet. Many signals by fire were seen all over the country—We suppose from guard to guard. Two thirds of the garrison lay on their arms, expecting, and ardently wishing for the long threatened attack ; but day-light came, and no attack was made. It is said, that the rebels offer paper money to the peasants, who decline taking it before Quebec is in their hands. General Carleton, and such gentlemen in the upper town as are not on duty, sleep at the Recollets in their clothes. In the lower town also they have a like voluntary picquet.

26th. Last night was clear and inconceivably cold ; the wind is N. W. to-day, freezing beyond expression. No man can handle his arms in this weather, nor is it possible to scale walls.

27th. Hazy cloudy night the last, the wind at W. N. W. this morning with snow.

28th. The weather was clear and mild in the night. The wind is soft at S. W. to-day.

29th. Last night the weather was clear,—no alarm : this morning is serene, with sunshine—we get no intelligence from the country. We perceive the rebels crossing the far end of the street, west in St. Roc, three and four at a time ; many of them have the uniform of the 8th and 26th regiments.

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 II. induced him to have recourse to this expedient to save  
 him from the destruction that hung over him. To assure him that he was well acquainted with his situation,

30th. Wind westerly, very mild. In the night a deserter came in from the rebels; he reports, that "the army under Mr. Montgomery amounts to between two and three thousand men, including Canadians; that they have been newly clothed, and are most plentifully supplied by the country people, who are paid in hard money. They have got shells lately from Montreal. The small-pox rages among them. The whole army was assembled at head-quarters, by the General's orders lately:—it was given out that they were to attack the town that night. Mr. Montgomery made a speech to them; he thanked them for the noble spirit they had hitherto shewn, and the zeal they had discovered in the glorious cause of liberty. He informed them that some circumstances had made it necessary to put off the attack for that night, but that he would soon ask them to follow him to an easy conquest. The Americans expressed an ardent desire to proceed immediately." The deserter's own opinion is, that they will flinch whenever they come within reach of our guns. He says, "all the old country people wish to be at home; they are not at all fond of attacking the town; they wish not to be aiding in distressing their countrymen; they did imagine they were to attack a parcel of Canadian slaves, professed enemies to the colonists."

They threw thirty shells into town, one third of them did not burst, the rest did no damage. He warns us to be on our guard, for that we shall be attacked the first dark night.

31st. About four o'clock this morning, Captain Malcolm Frazer, of Colonel Maclean's regiment, in going his rounds, perceived signals not far from St. John's gate; and finding the weather such as the enemy wished for, by the last deserter's report, he alarmed the guards and picquets, who stood to their arms; all the sentries between Cape Diamond and Palace gate saw many and repeated flashes like lightning; on the heights of Abraham lights like lanterns were placed on poles at regular distances. Two rockets were thrown up from the foot of Cape Diamond, and immediately a hot fire was kept up on those who lined the walls at that place, and a body of men were seen in St. John's suburbs; from the flashes of the enemy's fir-

that a great extent of works, incapable of defence, manned with a motley crew of sailors, the greatest part his friends, of Citizens who wished to see the (Americans) within their walls, and a few of the worst troops that

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ing we perceived they were hid behind a bank of snow ; however we returned their fire, directed by their flashes : during this sharp musquetry, the drums were beating to arms, the bells rang the alarm, and in less than ten minutes, every man in the garrison was under arms at his alarm post ; even old men upwards of 70 were seen forward to oppose the rebels. Colonel Maclean detached a party of the British militia, under Colonel Caldwell, to reinforce Cape Diamond ; there he was to make the disposition of the men, and return to the parade.

Mr. Montgomery, with 900 of the the best men attacked at Près de Ville,\* and Arnold, with 700 chosen fellows, attacked at \* Sault au Matelot. The attack at Cape Diamond, the parade of men (Canadians it is said) near St. John's gate, with a bombardment from St. Roc's, were intended to draw off our attention from the Lower Town, where the rebels were to make the real attacks.

Our guard at Près de Ville had seen the flashes, every man was posted before the alarm was given ; the gunners with lighted matches, waited for the word of command. Captain Barnsfair, who commanded the battery, coolly waited the near approach of the enemy ; he saw a group advancing ; they stopped within fifty yards of our guns ; there they seemed in consultation ; at last they rushed forward to their destruction, for our grape shot mowed them down ; groans and cries were heard, but not a soul was to be seen ; however, we kept sweeping the road with our guns and musquetry for some time. At the other end of the the town Mr. Arnold was wounded in the leg, in passing the piquets behind the Hotel Dieu, from whence a shower of balls was poured on his party in their way to the Sault au Matelot ; he was sent disabled to the General Hospital ; the officers under him forced our guard, and made us retreat to a barrier about two hundred yards nearer the centre of the Lower Town ; there we made a stand, returning a brisk fire, which the enemy under cover of houses, poured upon us.

- \* A strong post at the southern extremity of the Lower Town.
- \* A battery and guard house at the northern extremity of the Lower Town.

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General Carleton, experienced in military affairs, saw the advantage the rebels gave us over them ; he improved it, and sent Captain Laws out at Palace gate, with a detachment of the troops to take the enemy in rear ; and Colonel Maclean ordered Captain Macdougall to support him with a party, and to keep possession of the post we had abandoned.

Major Nairne of the Royal Emigrants, and Monsieur Dembourges of the same corps, by their gallant behaviour attracted the notice of every body. The General ordered them, with a strong detachment to the support of those already engaged in the Lower Town. These two gentlemen mounted by ladders, and took possession of a house with fixed bayonets, which the rebels had already entered, and thus secured a post which overlooked a strong battery on Lyburner's wharf, and commanded a principal street.

The regular troops, the militia, the seamen, in short, every person bearing arms marched cheerfully, led on by their officers. They placed the greatest confidence in the General's knowledge, and they advanced secure of victory. Colonel Maclean, the second in command, with that coolness which distinguishes the good soldier, had his eye every where, to prevent the progress of the attackers ; his indefatigability since he arrived in Quebec merits much praise ; no man could do more for the good of the service ; every power of his was exerted, especially on this day. Colonel Caldwell took infinite pains with the British militia ; by his good example he made that corps emulous to appear where danger made their presence most necessary.

The seamen were under the strictest discipline ; Colonel Hamilton and Major M'Kenzie headed the brave fellows, who behaved as they do on all occasions, like British tars. The handful of Royal Fusiliers, commanded by Captain Owen, distinguished themselves, and the Royal Emigrants behaved like veterans. The French militia shewed no backwardness ; a handful of them stood the last at Sault au Matelot ; overcame by numbers, they were obliged to retreat to the barrier.

As the General had foreseen the *sortée*, made the victory ours,

tance: That he was at the head of troops accustomed to success, confident of the righteousness of the cause they were engaged in, inured to danger and fatigue, and so highly incensed at his inhumanity, illiberal abuse, and

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we hemmed the rebels in on all sides: they called for quarter, and we made prisoners,

|                                    |                |
|------------------------------------|----------------|
| 1 Lieutenant-colonel,              | } Not wounded. |
| 2 Majors,                          |                |
| 8 Captains,                        |                |
| 15 Lieutenants,                    |                |
| 1 Adjutant,                        |                |
| 1 Quarter-master,                  |                |
| 4 Volunteers,                      |                |
| 350 Rank and file,                 |                |
| 44 Officers and soldiers, wounded. |                |

426 Taken.

The flower of the rebel army fell into our hands; we have reason to think that a great number were killed and wounded.

The prisoners say, that if Mr. Montgomery had attacked with the expected resolution we should have lost the Lower Town. Little know they of the situation of Pres de Ville; after the Lower Town is taken, it remains commanded by the Upper Town.

*Liberty or Death*, was wrote on slips of paper, and pinned to their caps.

We lost Captain Anderson, formerly a Lieutenant in the navy; 5 privates killed, and two privates wounded.

We took at St. Roc's two brass three-pounders, two royals, three howitzers, and some small shells.

*January 1st, 1776.* A very great snow fell last night; the whole garrison lay on their arms, but every thing remained quiet. The bodies that lay outside of Pres de Ville were brought in, thirteen in number. Two deserters from the enemy to-day, report that Mr. Montgomery is missing; the dead bodies have been examined, and his, M<sup>r</sup>Pherson's (his Aid-de-Camp) and Captain Cheeseman's, are found amongst them. Monsieur Lanaudiere was ordered to accompany Mr. Meigs, one of the prisoners called Major, to the head quarters of the enemy, to demand the cloaths, &c. of these unfortunate men; but by hints given to him by some Canadians at the end of St. Roc, he thought it prudent to return to town. The whole

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the ungenerous means employed to prejudice them in the minds of the Canadians, that with difficulty he restrained them till his batteries were ready, from insulting the works, which would afford them the fair opportu-

force of the rebels was collected between their advanced guard-house and Menut's. Many Canadians had joined them in hopes of plunder. A genteel coffin is ordered by the Lieutenant-governor for the body of Mr. Montgomery.

2d. All the last night an incessant fire was kept up from our walls on the rebels at the end of St. Roc.

The people of Beauport and the adjacent parishes actually believed that the Lower Town was in possession of the rebels. A volunteer comes from thence over the ice to Sault au Matelot ; he was amazed to find himself made a prisoner. Mr. Meigs went out to-day on his parole to fetch in the prisoners baggage, &c.

3d. Soft cloudy weather. Shot and shells thrown into St. Roc's. Many of the prisoners, officers and men, have been inoculated.

4th. There was no disturbance in the night.—Soft drizzly weather to-day, wind at S. W. Captain Anderson buried with all the honours of war. Mr. Montgomery interred privately.

5th. Wind S. W. with a great thaw. Making additions to the works at Sault au Matelot. Firing heard towards St. Foix. Mr. Meigs returned with the baggage in part.

6th. Wind N. W. It began to freeze early this morning—as the sun rose the cold encreased.

7th. Wind at W. very cold. We found some of the St. Roc people skulking there to-day ; they are confined on suspicion of having been aiding and assisting the rebels.

It is reported in town, that the country people were told, the day after the attack, that the Royalists were beaten out of the Lower Town, 600 of us had been killed, and that they had lost but 15 men, and that General Montgomery was gone through the woods to Boston for a reinforcement.

Ninety-four of the prisoners, all Europeans, have petitioned to be enlisted in Colonel Maclean's corps of Royal Emigrants.

8th. Wind at N. E. cloudy, raw, blowing weather. The ninety-four men who petitioned to be enlisted into his Majesty's service, say that their engagements with the rebel party ended on the 31st of

nity of an ample vengeance and just retaliation, that firing on a flag of truce hitherto unprecedented even among savages, prevented his taking the ordinary mode of communicating his sentiments, that should he per-

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December. Before they were suffered to take the oath, they were told, that if they had determined to enlist only to procure liberty, they were wrong, and if they now repented of their intention, they should nevertheless be well treated: they all said they would serve the King until the first of June, and they took the oaths accordingly. Some people think that they will all run away.

9th. Wind N. E. soft snowy weather. There fell a very great quantity of snow before the morning.

10th. Wind W. N. W. very cold. Last night a great many flashes were seen; the guards, on that account, were doubly watchful, as an attack was apprehended. They chose to attack us the first time, in like weather; the snow drifted much; many people walked in the streets this morning on snow shoes, and some folks dug themselves out of their houses, the snow having filled up their doors.

11th. Wind W. by N. very cold and very clear. It drifted in the afternoon, encreasing so as to fill the streets. Last night rockets were thrown at the General Hospital, St. Foix, Beauport, and round to St. Roc. Some stragglers fired from the houses in St. Roc on our sentries. A great gun which bore that way sent them off.

Two Recollets conducted to Point Levy some Canadians who had found means to get into town after the 31st December. They were let loose to tell their own story concerning our strength, and the good condition of our works.

12th. Wind S. W. fine morning; afternoon dirty; nothing remarkable.

13th. Bad weather last night. Palace-gate was opened, and a party went out to cover the people who went in quest of fire-wood; a great quantity was brought in to-day. About nine o'clock at night, false fires were seen at the end of St. Roc.

14th. Nothing extraordinary happened the last night. The wind is at W. to-day; the cold excessive. Some people think they have discovered a fascine battery at the end of the General Hospital.

15th. It froze very hard last night; wind S. W. to-day, blowing,

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sist in his unwarrantable defence, the consequences would be on his own head, and that if he destroyed any more stores, either public or private, as he had done at Montreal, no mercy would be shown.\*

drifting, cold weather. A report (which cannot be traced) prevails in town. The people of Montreal refused to comply with some oppressive order which their new masters had issued ; and that the Canadians had refused to march with Mr. Wooster to Quebec, after they had heard of Mr. Montgomery's death, and the defeat of the rebels.

16th. It froze hard in the night ; a noise of hatchets heard in St. Roc. A fine mild day. The archives brought in from the vaults in the Intendant's Palace to-day.

17th. Wind N. E. mild and snowy. A French girl of the town, who had been confined by the rebels, on suspicion that she conveyed intelligence to Quebec, found means to make her escape from them : she says, that " two hundred of them have deserted since their defeat, and that they talk of making a second attack with 4000 men."

We imagine that they cannot have above 800 remaining, considering how many we have taken, the number killed, and the numbers that have left them. If they depend on the habitants they trust to a rotten support—we in the town count the peasants as nought on the side of the rebels. The girl informs us, that the Canadians whom the Recollets landed at Point Levy had got to the rebels camp.

18th. Wind S. W. but cold.

In honour of her Majesty, our gracious Queen, a royal salute was fired round the ramparts.

Palace-gate was opened, and much wood was got in from St. Roc.

A mill wrought by horses was set a going to-day. It makes excellent flour, and grinds three bushel per hour.

19th. Cold clear westerly wind.

Mr. Motte, a Captain in the rebel army, escorted five baggage fleighs to Palace-gate ; he had in his hand what they call a flag of truce, a handkerchief, or any thing white, tied to a short stick, held up to prevent firing : he brought some money to the prisoners.

About nine o'clock at night we perceived a house in St. Roc on fire ; burnt to the ground ; we know not if it took by accident, or was set on fire by the rebels.

\* Dated at Holland House, 6th December.



A battery of five cannon and one howitzer was erected on the heights about seven hundred yards from the walls, and another of five mortars at St. Roc's. Owing to their cannon being very light which could not effect

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20th. Wind S. W. with showers of soft snow. The enemy's advanced guard-house, at the end of St. Roc, is situated at the foot of a high steep bank ; it is covered by many houses ; we threw shells and fired many shot at it to-day ; we saw a number of them take place, six houses were burnt in St. Roc last night ; they were set on fire at ten at night ; there is now no doubt but the rebels burn them.

21st. Wind S. W. mild with snow. Three of the late engaged men deserted last night. If their report to the rebels shall be just, they will have but little desire to attack us a second time.

About ten o'clock at night, a small sloop that lay within 300 yards of Palace-gate, was seen in a blaze ; many small craft lay near her, but no further damage was done. There is at least six centuries who have that spot in view, but it is impossible to discover a single person crawling along on hands and feet ; this is their method ; they fire a slow match placed among combustibles, and crawl away again.

We got in a great deal of wood to-day.

22d. Wind N. E. drifty, cloudy, not cold. About two this morning some houses in St. Roc were set on fire.

A quantity of rum and molasses has lain in Mr. Drummond's distillery until now ; part of it was got in to-day—the fire may spread that way.

23d. S.W. wind, mild weather. The covering party had a brass field piece out to-day ; much fire-wood was brought in ; 14 houses were consumed by fire in St. Roc ; the great blaze gave light in every street and narrow alley in town—the reflection of the fire on the clouds loaded with snow, communicated an orange colour to the snow on the tops of the houses. The stillness of the night, and the crackling of the fire, made the scene pleasingly awful. To look into the country, there hung a majestic gloom over all the adjacent villages.

The rebels are doing what we should have long since done ; but the General was averse to hurt individuals ; he endeavoured to save the property of the poor people of St. Roc. They think if the houses are burnt, we must surrender for want of wood ; but i

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any breach, and seeing no prospect of the Governor's hearkening to terms, General Montgomery formed the design of attacking the city by storm, and with that view, he called a council of war on the sixteenth of De-

consider how many wooden buildings are in town, they would see how vain that hope is.

24<sup>th</sup>. Mild fine weather, wind S W. Firing at the guard-house in St. Roc. Rum and molasses brought into town.

A guard of 18 men, posted in a house in St. Roc, near Palace gate; this guard is to be continued every night, to prevent these burning parties from passing towards the Canotrie. Houses burnt at the west end of St. Roc.

25<sup>th</sup>. Wind S. W. clear and mild weather. A strong covering party, with a brass field-piece, a six pounder, protected the wood cutters.

General Carleton reconnoitered at the end of St. Roc; he advanced with Colonel Maclean attending him, within a musquet shot of the enemy's guard-house; we know not his intention, but we imagine, that if the wheels of the field-piece had not sunk in the snow, a good account had been given of their guard-house—the rebels kept close—we saw three small parties, from ten to fourteen in each, advancing from Menut's and the General Hospital; they joined their guard, and there shut themselves up. Our shot and shells from town disturbed them not a little.

To-day, and for many days past, we have seen numbers of sleighs pass on the ice from Orleans towards the Canardiere, loaded. We suppose they carry provisions to the magazines. There was a vessel driven on shore on Orleans last fall, loaded with rum and molasses; perhaps they are carrying her cargo off.

26<sup>th</sup>. Easterly wind, with a little snow, mild air, heavy sky. A report prevails to-day, that Mr. Dumont, who left the town to be safe in the country, was plundered at Charlebourg; it is not said whether by Canadian or New England rebels—and it is added that one Lârche, who forsook his house in St. Roc, was killed defending his property from the like attempts at Beauport.

27<sup>th</sup>. Wind S. W. very cold. The party covering the wood-cutters have a brass field-piece, fixed on runners.

28<sup>th</sup>. Wind S. W. excessively cold; nothing remarkable.

cember, the majority of them approved of his plan of storming the town. Every arrangement was made for the prosecution of the design, but no opportunity offered for carrying it into effect until the thirty-first of De-

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29th. Wind west, clear and intensely cold. It froze exceedingly hard last night ; if this weather continues but a few days, it is to be feared that the river will freeze up, an event that would double our duty, as soldiers, as strong guards, in that case, must be placed in many parts of the Lower Town.

30th. Easterly and cold morning. High wind, with snow in the evening, weather milder. Some houses west end of St. Roc burnt.

31st. East wind, dark and soft.—Getting wood in to-day—four men on snow shoes fired on our party at a great distance ; as soon as they saw the flash of a gun from our walls, they tumbled down in the snow, got up and made off in great haste.—Houses west end of St. Roc on fire at nine at night.

*February 1st.* Cold, blowing, with drift. A few men, from their guard-house fired on our wood party ; we returned their fire ; we were at too great a distance to hurt each other.

An English woman had leave to join her husband in the country ; the rebels stopped her, and made her return ; she saw no one at their guard-house who spoke English.

2d. Clear and cold, with a west wind. Wood got in to-day ; in the night, a house quite at the N W. end St. Roc was burnt.

3d. Wind W. excessively cold. A covered wood party out. Some of the rebels covered by fences, &c. firing on our men ; a shell sent towards their guard-house made them retire precipitately. In the night, a small party of the enemy were discovered stealing cautiously along, close to the walls of the houses in St. Roc, in the design, no doubt, to pass our out-guard, and fire the houses beyond them. The eagerness of the out-picquet to surround them made them appear too soon, and the rebels scampered away.

4th. Wind W. clear and cold. By the appearance of the river, it is probable that it is frozen over at the Chaudiere, six miles above.

5th. Wind W. milder than yesterday, with squalls, a circumstance against the freezing over of the river.

6th. Wind high at W. with drift. Three of Colonel Maclean's new recruits deserted last night. They dropped themselves over the

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cember, when the men were ordered to parade at two o'clock in the morning with hemlock sprigs in their hats to distinguish them from the Garrison. The troops employed, amounted to sixteen hundred men, and were

wall behind the artillery barracks, there is a bank of soft snow facing a declivity of 30 feet to the street below—they slid down the face of that steep into St. Roc. If the sentry had done his duty, who was posted not thirty feet from the place they dropped from, they could not have escaped; three of the same people are confined for hinting their intention to follow them.

7th. Wind S. W. clear and cold. Last night we discovered fire at the west end of St. John's suburbs, three houses were there consumed. There is a great quantity of cord wood that we may easily get from thence. The enemy's old battery commands these suburbs; some people say they saw light in it last night, and armed men at the end of St. John's; our guns command that street.

8th. The night was quiet. The morning is soft and clear. Little or no wood to be found now in St. Roc's; the snow covers the picquets. Three men were seen on the ice bending their course toward, a party from Beauport, on snow shoes, intercepted them, and carried them along with them.

Major Nairne, with thirty men, guarded St. John's suburbs last night.

9th. A heavy wind at N. E. with much snow; the storm hourly increased until evening, it blew a mere hurricane—nobody could hold his face against it a minute. A sailor is missing; if he attempted to desert, he must be lost in the snow; in spring he may be found under the snow in the street; in some places it has drifted 20 feet high.

10th. Wind still at N. E. and very little moderated; the streets are absolutely impassable in many places without snow shoes. The first stories of many houses are under the snow; the windows of the second level with the street, and serve as doors. About eight at night the wind fell suddenly and it ceased snowing.

11th. Cold westerly wind. A man [the new recruits called him Captain Felton] carrying a white napkin on a stick, was allowed to come close under the angle at the two gun battery; being asked what he wanted, he said "he had letters from Mr. Abbot and Mr. Schaulk of the Royal Artillery for General Carleton;" the sentry told him,

divided in four detachments; the first division under the command of General Montgomery, was to march by the way of Wolfe's Cove and along by the Ance des Mères; Colonel Arnold's division was to make an at-

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that the Governor should be informed of his message. Colonel Maclean was sent to tell him to return as he came; for that no letters nor message could be received through that channel, and he was ordered never to attempt a *parlé* of this nature for the future.

12th. Wind S. W. a fine moderate day; great working parties employed in clearing the ditch and ramparts of snow; one could walk through the embrasures into the ditch on snow shoes, although the foot of the wall is in these places 30 feet below the guns, which lay entirely buried.

13th. A fine moderate day. All the officers and men off duty are on fatigue to day. Above a hundred of the prisoners are sent sick to the hospital.

14th. Wind at S. W. with fine weather. Eighty loaded sleighs passing towards Menut's. Two field-pieces placed at the door—people passing and repassing between that house and the General Hospital. Some of our shot went through Menut's house; we fired a long time at that object, at last we perceived a man coming towards the town in a cariole carrying the old signal; he passed their guard-house, and waved with his handkerchief; we took no notice of him, but fired away at Menut's; he turned about and went back. These people have been repeatedly told not to presume to approach on any pretence whatsoever. Perhaps they find Menut's too hot for them, and wished to remove somebody or something from thence, and, in hopes of amusing us, sent this man with his flag.

Three of the Royal emigrants are missing to-day; two of them are of the first raised, the other is a new recruit.

There has been a great stir among the rebels within these four and twenty hours; three huzzas were distinctly heard last night from about the General Hospital. This afternoon near a hundred people were seen at a house a little more than a mile from St. John's-gate; some have been seen in their old battery to-day. It is imagined that they intend to set fire St. John's suburbs.

It is supposed by some that they have been reinforced from Mon-

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tack by St. Rock's, and advance by the Sault au Matelot ; Colonel James Livingston at the head of his Canadians, was to make a feint at St. John's Gate, while Major Brown, should cause a diversion, by making an

treal. May be they have had accounts of a strong reinforcement by way of the Lakes, and the news has been received with three cheers ; but if they wait for reinforcement by way of the Lakes, they will remain too long near Quebec for their safety ; but we shall see.

15th. A dark lowering morning, with a cold wind at N. E. The sentries on the walls discovered light on both sides of the street, in St. John's Suburbs ; a little while after, the flames burst out at the windows, and six houses were consumed ; we fired some random shot among the houses ; not a soul was to be seen.

16th. Wind westerly, a fine day and mild ; a very numerous party clearing away the snow from the foot of the wall near Cape Diamond ; even after this day's labour, ladders of 14 feet would reach from the top of the bank of snow to the embrasures in some places. About ten o'clock last night the rebels set fire to two vessels lying on the beach at St. Roc, and also to a house in St. John's Suburbs, but neither burnt. In the evening a twelve pound shot from the rebels fell in St. Lewis Street, some say from the old battery, others think from a guard house west of St John's Suburbs.

Six of the rebel prisoners, who were at their earnest request incorporated with Colonel Maclean's Corps, deserted last night ; the remaining 84 were put under close confinement. We took them rebels, and their inclination is to join their party ; it is hard on those who wish well to our cause, but as we cannot see their hearts, self preservation dictates to confine them.

Some people have been seen on the old battery to-day ; a man in green (supposed to be a deserter from us) was observed pointing towards the walls at Cape Diamond.

A volunteer picquet is established at the Recollets.

17th. Westerly wind, a little cold, with fine clear weather ; some well directed shot fired at Menut's.

The extra picquet is ordered to assemble at Mr. Collins's and Mr. Drummond's, being much nearer the ramparts than the Recollets. A smok seen in the chimney of Dr. Mabane's country-house, a mile

attack at Cape Diamond. The two latter were ordered to make signals, that the several divisions might commence an attack at one and the same time. The Rockets had been no sooner thrown up, at five o'clock in

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and half from the walls. No signs of people have been seen there since December last. We fired some thirty two pound shot, which went over all.

18th. Exceeding cold westerly wind. Nothing remarkable happened last night. A few random shot fired into St. John's Suburbs.

About ten o'clock this night the suburbs was set on fire by the rebels, and seven houses were consumed; some musquets were fired at our sentries; they saw no body.

Menut's is a great rendezvous, probably it is head-quarters, there is a white flag flying on the house.

19th. Fine moderate weather, wind S. W. All the guns in the garrison were scaled to-day; there is 112 pieces on the walls, with mortars, royals, and howitzers.

The suburbs of St. John's still on fire.

20th. Westerly wind, clear and cold.

At ten at night the house nearest to St. John's gate but one was set on fire—nobody was seen, though the distance is not above 50 paces from our sentries on the walls. A great many houses were fired; the whole suburbs is now nearly consumed.

21st. A cloudy lowering mild morning, with westerly wind. About seven o'clock a party of 100 men, under Major Nairne, took post in St. John's suburbs, to prevent the remaining houses from being destroyed. In the forenoon twelve shot were fired from the enemy's guard-house west of St. John's suburbs; between that and the town, the ground rises to cover the houses, so that their guns must be highly elevated to throw shot over the walls.

Their old battery commands St. John's Suburbs; we saw two men on it to-day. If they had guns there, they would certainly fire on our parties.

Fired at their guard-house, and at Menut's; threw also some 10 and 13 inch shells well directed. Two men came from the Canardiere towards Sault au matelot, they stood at some distance, seemingly afraid to advance; an officer was sent to conduct them in, but by



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the morning of the thirty-first, when they were perceived by Capt. Malcolm Fraser of the Emigrants, who beat to arms, when the whole Garrison, repaired to their several posts with the greatest alacrity. General

some mistake our sentries fired on him, and these two men ran away. In the evening 110 men, under Colonel Caldwell, relieved Major Nairne, in St. John's Suburbs.

22d. The weather was mild last night and very clear; the northern lights were equal to a moon; all was quiet; in the morning the wind got to the N. E. and brought cold. A great quantity of fire-wood was got in at St. John's Gate to-day.

23d. West wind, lowering cold weather. About four this morning we heard the enemy's drums at Menut's, St. Foix, &c. Sentries saw rockets in the night. The picquet marched out at St. John's-gate before day light, and took post to cover a wooding party for the day.

24th. Wind S. W. fine moderate weather. Last night a deserter from the rebels was drawn up by ropes at Port Louis. He reports that "General Clinton commands, and that he has had a reinforcement of 400 men from Montreal; very few are left at that place. A reinforcement of 3000, under General Lee, had been on their march to this place, but a second order obliged him to march to Long-Island to attack Governor Tryon, who was there entrenching himself with three or four thousand men, including Negroes; he says some transports had arrived at New-York with foreign troops.

"General Schuyler had also received orders to march to Canada; he also had been countermanded, and ordered to attack Sir John Johnstön, who was at the head of 500 men, with some Mohawk Indians, at Johnstown. Some small bodies of 20, 30, and 40, had arrived at Montreal, and that the Lakes were more passable on the ice than they had been at the same season for twenty years past."

He has also told us, "That it is reported in their camp, that it is the orders of the Congress to break the first officer who shall propose to storm Quebec? nevertheless 800 ladders are ordered to be made, they will be ready before the reinforcement arrives.

"A great many women and children (Soldiers wives) perished in the snow, on their way over the Lakes. All the Gentlemen who took arms under Governor Carleton, are ordered to deliver up their commissions; on refusal, they are to be sent prisoners to Hartford;



Montgomery with his division consisting of seven hundred and fifty, advanced with spirit to the attack of the Pot Ash, fortified by a barrier across the road, at which was placed seven three pounders, and defended by a Cap-

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he says this is contrary to their capitulation. The friends of Government back of Pennsylvania had been beat by the rebels.

" Governor Dunmore's *hell hounds* had been let loose, and burned Norfolk and Williamsburg.

" Two thousand men in South Carolina in arms for Government.

" The rebels have got down 16 pieces of cannon, the heaviest 12 pounders

" Duggan, the barber, imagining that his services have not been rewarded, has gone for Philadelphia to lay his merits open to the Congress."

25th. Wind at N. E. warm and pleasant. The rebels threw six shot, 12 pounders, into town, from their guard-house west of St. John's Suburbs. A great quantity of firewood got in to-day.

Forty-nine men, with musquets and knapsacks, seen marching up on the Point Levy side, followed by many sleighs ; all the Country around seems in motion.

26th. Wind N. dark sleety moderate weather. The whole garrison lay on their arms last night expecting an attack ; every thing in town remained quiet. By the continual and general barking of the dogs in the Country, there certainly was some movement among the rebels. A man sent to Orleans, to return in three days.

27th. Wind S. E. close and sultry. About five o'clock this morning signals seen in all the parishes round about. Two men came so near the walls at Cape Diamond, as to be heard distinctly call, *Good morrow, Gentlemen*. Drums were heard, and a regular platoon firing, towards St. Foix.

Voices in the tone of hoisting great weight were heard from behind the rebel's battery.

29th. S. E. wind with soft snow—a thorough thaw. Every thing remained very quiet last night. A Canadian came in at Sault au matelot ; he says he is but 13 days from Chambly. Colonel Maclean knew him there, and rewarded him for some services.

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tain of Canadian Militia with thirty of his men, Captain Barnsfare and nine seamen, and a corporal and eight of the British Militia. As soon as the Americans were advanced within twenty-five yards of the Guard House,

He is a well-wisher to Government ; and willing to be of all the service in his power, he ventured to town to inform General Carleton, " that he had learnt that General Amherst was at New-York, with 10,000 men, from England.

" A person had been sent after Mr. Montgomery's death to take the command of the rebel army ; he remained at Montreal only two days ; he went off, declaring he would have nothing to do with men who had not kept faith with the Montrealists.

" Near 200 sleighs were sent over the Lakes early in January, to bring over the baggage of the expected reinforcement ; after waiting near a month the sleighs returned with 160 men.

" The affair of the 31st of December lessened the number of the rebels 750 ; those who remain are afraid to remove, since the Canadians have threatened that they will cut them off in their retreat if they do not make a second attempt on the Town.

" It was industriously reported in the Country, immediately after the attack, that we had taken 60 Canadians prisoners, hanged them over the walls, and then threw their bodies into the ditch.

" They little knew the Canadians, if they imagined this treatment would spur them on to revenge.

" The Canadians patrol in all the roads leading to town, to prevent any person from getting in.

" General Amherst has summoned the Congress to deliver themselves up.

" Orders from the rebel General to the inhabitants round Quebec to provide quarters for 7000 men."

29th. High wind at S. W. with hard frost ; every thing quiet last night. Armed men, with knapsacks, walking from Beauport to the General Hospital.

March 1. Cold N. W. wind. The voluntary picquet very strong last night. Some people seen on the other side St. Charles's river, opposite to Mr. Drummond's distillery ; we fired the 24 pounder behind the Hotel Dieu at them. About seven o'Clock in the evening, a house under that gun was perceived to be on fire in the roof ; it burnt in a

the order was given to fire on them, which was done with so much spirit, that in less than ten minutes, the Americans were compelled to retire, with the loss of their General,\* his two Aides de Camp, Captains Cheese-

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\* General Richard Montgomery, was of a respectable family in Ireland, and nearly connected with Lord Viscount Ranelagh of that Kingdom. He had been an officer in the service of England, and successfully fought her battles with the immortal Wolfe at Quebec, where he fell in arms against her, and was universally lamented by the Americans: He married in America, Miss Janet Livingston, daughter of the late Mr. Justice Livingston, of manor of Livingston, in the Province of New-York, a gentleman of distinguished virtues, great literary endowments and of large possessions: Montgomery resided at his estate when the unnatural war commenced.

short time to the ground; some think that the wadding fell on the roof, and that the wind blew it into a flame; others imagine the rebels may have set it on fire, in hopes that the flames would spread to the distillery, from thence to the picquets above, and so to Montcalm's house, from thence the conflagration would become general.

2d. Towards the evening six or seven musquets were fired on our out sentries at St. Roc.

The man sent out the 26th has not yet returned; it is believed that he has been intercepted by the Canadian patrol.

3d. West wind, clear and excessively cold. The volunteer picquet will not consist of many while the moon lights us all the night. Between seven and eight in the evening, three of the Royal emigrants deserted; a party was sent to trace them in the snow; they were too late.

4th. Last night we made signals at the Cape Diamond by rockets.

It thaws very much to-day; the wind is easterly.

A rocket at Point Levy was answered by a gun at St. Foi.

A fatigue party cutting a deep ditch in the snow, facing the curtain at Cape Diamond. In the evening we threw some fire-balls from a mortar; they gave a great light; a combustible composition was hung over the angle at Cape Diamond; it burned well, and threw great light around; when it was almost consumed, petards and hand-grenades, fixed at the bottom of the ball, scattered balls and fragments of iron all around.

5th. Strong wind at N. E. with a heavy sky and cold rain.

This morning we discovered a red flag flying at Lynd's Mill, and another at St. Roc's guard-house; we suppose that it is in commo-

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man and M'Pherson, † and several of his men. Colonel Campbell, who succeeded to the command on the death of the General, perceiving the confusion, relinquished the attack and retreated with the utmost precipitation.

† Macpherson was a very promising young man, whose father resided at Philadelphia, and had made a considerable fortune by Privateering ; this gentleman had a brother in the 16th Regiment in the English service, at the time of Montgomery's expedition into Canada, and who was as violent in favour of the English Government, as the General's Aide de Camp was enthusiastic in the cause of America ; the latter had accompanied his General a day or two previous to the attack in which they both lost their lives, to view and meditate on the spot where Wolfe had fallen : on his return he found a letter from his brother, the English officer, full of the bitterest reproaches against him for having entered into the American service, and containing a pretty direct wish, that if he would not abandon it, he might meet with the deserved fate of a rebel. The Aide de Camp immediately returned him an answer in defence of his conduct, by no means attempting to shake the opposite principles of his brother, but full of expressions of kindness and affection ; this letter he dated,—“ From the spot where Wolfe lost his life in fighting the cause of England, in *Friendship with America*.” This letter had scarcely reached the officer at New-York, before it was followed by the news of his brother's death ; the effect was instantaneous, he quitted the English service, and entered into that of America.

moration of the day on which a Boston mob committed many outrages ; the magistrates were forced to call in the military to protect the civil power, and assist the peace officers to disperse the rioters. In the height of the scuffle, some people, perhaps the innocent, were unfortunately shot in the streets ; that transaction is called the *Bloody Massacre*, and said to have been planned by a bloody Ministry.

It is the interest of a few of their demagogues to keep the minds of the people constantly inflamed ; and, for this purpose, studied orations, addressed to the passions, are yearly pronounced in all that gloomy solemnity which pleases and feeds the melancholy of a true New England Saint. Their pastors paint on the heated imagination of their canting flocks, the most dreadful pictures of ministerial tyranny. Children are taught that the only road to freedom in this world, and happiness in the next, is to oppose every power that shall pretend to controul them : God gave the wilderness, by their blood they maintained their right, against the accursed of Heaven, the Indians, who pretended the land was theirs from the Creation of the world. God

ARNOLD's division consisting of about six hundred men attacked the city by the Sault au Matelot, and surprised the guard that was posted to defend the barrier, the Captain of which being drunk, surrendered without

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fought for them then ; God fights for them now, and will overthrow the dominion of a wicked people, who would fain enslave them." This is their language to their children

It is proposed to raise a company of invalids in town. The ailments of some people incapacitate them to mount guards ; others, in perfect health, make complaints of indisposition, and sleep soundly in their beds while their friends watch.

Such as are able to bear arms, whose laziness (or whatever motive more reprehensible) induces them to sneak meanly from their duty, will be drawn forth to public view, and ranked with the invalids ; such people will serve as sentries where there is no danger, since no manly feelings can stimulate them to do the duty of good soldiers, in conjunction with their fellow-citizens. But neither their attachment to his Majesty, nor the least sense of honour, can move such beings.

At night it hailed and rained. One of the prisoners in the Recollets was put under close confinement to-day for abusing the sentry over him, and for uttering many imprudent threats. " In a few days," said he, " it will be my turn to stand sentry over you, and then I know how I will use you."

6th. It rained in the night. The wind is S. W. and it rains still ; there is no walking in the street, the risings are covered with ice, and in every hollow there is a pond of water.

7th. Wind S. W. variable weather. Every day that the weather permits the people to work, strong parties are employed cutting trenches in the snow, outside of the walls.

About 30 men have been seen about l'Ance des mers carrying off boards and timber ; a party of 20 went out to-day to reconnoitre ; they saw a few at work, who ran away.

They saw a man was killed on the heights to-day by a ball from one of our wall pieces. They saunter, three, four, or five at a time, within 4 or 500 yards of our walls. A discharge of grape-shot generally makes them scamper.

A sentry-box, fixed on a mast 30 feet high, was this day set up on the highest part of the ramparts at Cape Diamond ; from thence we

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making any opposition. At this moment, Arnold received a wound in the heel, which obliged him to relinquish the command, and he was carried off to the General Hospital. The division, however, pushed on

can see every thing that passes on the St. Foix road, and all round us.

They hung out their red flag again to-day, near the St. Roc wind mill; it is a squat blanket, bordered with black tape, and some people frightened out of their senses, say, *Mon Dieu, c'est le Pavillon sanglant !*

8th Wind at S. W. a mild morning. The small red flag, with the black border, is up to-day. About four o'clock this afternoon, a foolish fellow, one Robitaille, came in from Lorette: he knows nothing. It snows this evening

At night, two men, Lamotte and Papinot, Canadians, crossed on the ice from the Island of Orleans. It was with much difficulty they passed the habitant patroles; they are anxiously careful to let nothing get to town. At every quarter of an hour they pass each other in bands, between the Point of Orleans and Beauport.

Lamotte is 11 days from Montreal, and only 30 days from New-York. He has lately been in New-England; the news he brings is very cheering to the King's faithful subjects.

He reports that "the rebels had made a desperate attempt to storm Boston, in which they lost four thousand men, the greatest part of which fell through the ice. The Colonists seem dispirited, recruits are raised with difficulty; he saw many of them on their way to Cambridge, sickly, and ill clad. The want of woollens is already severely felt all over the Continent. The reinforcements for Canada assembled very slowly; between 400 and 500 have arrived at Montreal; few, or rather no more, are expected soon. A hundred, better appointed than the rest, marched to garrison Quebec: when they arrived at Montreal, and found that we were likely to continue masters of that strong hold, 60 of them went off, and 40 laid down their arms, declaring that they were willing to perform the service they engaged for, but that they would not serve in any other capacity than guards for the City of Quebec.

"In a quarrel among the rebels, at Montreal, five were killed in the streets, and seven or eight sent wounded to the hospital.

"The rebels are to storm the town on the 15th of this month.

to another barrier, where they were so warmly received that they were compelled to retreat, with which General Carleton, being made acquainted, he instantly ordered Captain Laws with a detachment to make a sor-

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Money is very scarce among them; the Canadians do not like their paper.

"Moses Hazen (formerly a Captain of Rangers, preferred by General Wolfe for his bravery to command on scouting parties of any consequence) accepted a Colonel's commission in the rebel army, though then a half-pay Lieutenant in the British army; he has raised 150 Canadian recruits. Edward Anril, who practised ten or twelve years as a lawyer in this province, is his Lieutenant-colonel. John Wells, a merchant of Quebec, is Deputy Commissary-general, acts for Price, the Commissary; who with Walker, the noted Justice, is gone to Philadelphia, to give evidence against Brigadier-general Prescott, accused before the Congress of burning Walker's house, and for confining him in irons. The gentlemen of the militia, who refused to give up their commissions, have been sent prisoners to Chambly, among whom are, Monsieur D—, and Monsieur D—, and Mr. G—, Deputy Post-master.

He heard nothing of the troops which Chabôt reported to have been landed at New-York.

Our sentries on Cape Diamond hear working parties in the night about Wolfe's-cove, or nearer; some people think they are building floating batteries and batteaux, to pass *Près de Ville*, and set fire to the shipping in *Cul de Sac*, and in the confusion which a coup of that kind might occasion, come on the back of *Près de Ville* and *Sault au Matelot*; or perhaps they are preparing platforms for the 16 guns they have got from above.

For some days past we have seen many small parties marching and countermarching between *Beauport* and the *General Hospital*.

The men who have shrunk from duty this winter, were to-day paraded, 180 in number, 100 of whom were found very fit for service in case of an attack; they were enrolled, and armed, and put under the command of Captain Francis Joseph Cugnet. This morning before day-light, we saw many flashes, and heard reports of muskets on the ice, about half way between *Beauport* and the town:



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tie by Palace Gate, when finding themselves hemmed in both ways, were compelled to surrender, to amount of thirty-two officers and five hundred privates. The garrison in their several attacks had in all ten men killed

it is probable that some people endeavouring to get to town, have been discovered by the habitants patrolle, pursued and carried back.

9th. Wind to the northward of west, cold and clear. About two inches of light snow fell last night; the river is not very full of floating ice; the outermost vessels in Cul de Sac have their sterns free.

People have been seen at the rebels battery to-day; a working party throwing up an ice bank to obstruct the enemy's approach to Lymburner's battery, in the Lower Town.

114 pieces of cannon on the wall to-day; none under six-pounders are counted; there are a number of small guns, grasshoppers, swivels, mortars, howitzers, and cohorns.

10th. Wind westerly, clear and cold. Picquets ordered to assemble as retreat beating.

The drums beat to arms, and the bells rang the alarm about ten at night; the picquets were instantaneously sent to reinforce Cape Diamond. In a few minutes the parade was full of armed men, who impatiently waited for the word to march; but in less than a quarter of an hour they were ordered home again. The alarm was given by our out-sentries at Cape Diamond; they saw a body of about 200 men advancing slowly up the hollow, from l'Ance de Mer towards the heights; on hearing a noise of voices on the ramparts, they halted a minute, and filed off.

Some people suspected that the prisoners would be very troublesome on an alarm; both officers and men behaved very properly, they put out their lights and went to bed.

11th. Wind W. cold and clear. The General reviewed the British militia on the parade; their arms were found in excellent order.

A deep and wide trench was begun in the ice, from the corner of Lymburner's wharf towards the river where open; and a trench was begun facing the curtain, near Port Louis.

Fire-balls were hung out at the angles, two were lighted, they made a great blaze, and shewed every thing in the ditch, and made the faces of the bastions very perceptible. A sailor attempted to desert



and thirteen wounded; among the former was Lieutenant Anderson of the Navy, who acted as an officer on shore. The Americans lost about one hundred men. After this disaster they were at a loss whether they should

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from the Sault au Matelot guard at night. Our out sentries near Palace gate stopped him.

12th. Last night there fell near a foot of snow, with a N. E. wind; it blew hard at N. W. in the afternoon, and cleared up. Some of the rebels have been seen sauntering about the heights to-day; these stragglers fired at a distance on our working parties without, but did not reach them.

13th. Fine clear day, sharp air, wind N. W. It is whispered abroad to-day, that the Upper Country Indians have an intention to march down in a large body to the relief of this place. This rumour may have originally sprung from their own declaration, though we cannot trace it. Colonel Maclean sent Captain Littlejohn, with 17 seamen, to reconnoitre towards l'Ance des mers; they got near a sentry, who rolled himself down the hill, and alarmed about 100 men below, who all ran away; we fired on them, and some of them halted to fire on us; no body was hurt on either side, though some of our people pretend that three of theirs dropped. We talk of fitting out two batteaux, with brass six-pounders in their bows, to discover what the rebels are about in Wolf's cove. When the wind is from the west, the river is quite clear of ice on the Quebec side.

The men engaged with Colonel Maclean, suspected of an intention to desert, have been removed from the Recollets, to a stronger place in the artillery barracks, and those who have been prisoners since the 31st of December, are confined in the Dauphin barracks.

14th. Easterly wind, heavy snow. About five o'clock this evening, an officer in blue, with buff facings, with a drum beating before him, advanced from their guard-house at the end of St. Koc; he held a stick with linen flying at the end of it; we suffered him to advance under the angle at the two gun battery; he said he had letters for the Governor. The General was informed of the man's message; he sent his major of brigade to tell him, he could not be heard but in imploring the King's

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return back to the Colonies, or continue the blockade. It was at length determined to continue the siege, and they regained their former ground to cut off all communication between the country and the city. During

mercy. Then, says he, what am I to do? Return from whence you came, said the Major; he went off accordingly.

15th. Much thaw—a fine day—fitting out two batteaux. A canoe was sent with Capt. Laforce on the look out; he kept pretty much to the other side of the river; two habitants hailed her; they asked if they might with safety go over to town; being answered in the affirmative, they said they would be over the next day.

Two Canadians arrived in the night from Beaumont in a canoe; they represent “that the Canadians below Point Levy are ready to take arms to drive the Bostonians out of the country; they say the rebels have no money, and that they hang their heads; they have long beat up for recruits, and they have got together about a hundred of the dregs of Canada; they have erected a battery at Point Levy, opposite to the Cul de sac, where they have a howitzer and one gun mounted. Provisions for 1000 men have been lodged in different places to supply that number daily expected from Montreal.”

16th. Wind N. E. There fell about two inches of snow last night; nothing remarkable to-day except the very heavy rain.

17th. It rained all the night. This morning the wind shifted to S. W. and it rains still. The Beaumont men say, that the rebels by way of deterring the country people from attempting to go to town, say, “that the plague raged within the walls, and the garrison died in great numbers daily.” The voluntary picquets in the Upper Town are very strong every night; every man not on guard sleeps there in his clothes with his musquet lying by him, ready at a moment’s warning. Captain Harrison and Captain Lester’s companies do duty in the Lower Town. Every man in the garrison wishes ardently the approach of the enemy, confident that we shall beat them from the walls with great loss to them.

Some of the Canadian Royalists at Point Levy (few there are, it is feared) told the rebels, in answer to their questions concerning the elevated sentry-box, or look-out at Cape Diamond—“It is a wooden horse, with a bundle of hay before him; General Carleton has said, that he will not give up the town before that horse shall have

the winter, reinforcements of troops under the command of General Thomas, arrived from Montreal, and in the month of March, they erected several batteries made of ice, and mounted cannon, which did little or no exe-

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te up all the hay." Six of the Canadian militia refused to do duty on Drummond's wharf ; some said it was too dangerous a post, others were afraid of ghosts : they were sent prisoners to the main-guard, and to-day they were exposed to the view of the rest of that corps and reprimanded.

The Beaumont Canadians returned in the night, and carried some of our lately printed Gazettes ; they will endeavour to be back to town soon.

From the look-out we saw about 500 men drawn up before Holland-house, and about 200 at Menut's.

18th. Wind S. W. thawing mild weather, in the evening, the wind changed to N. E. raw and dark. The Batteaux are ready for launching. Too much ice in the river this evening. Many men seen about Holland-house, and all along the St. Foix road.

19th. Wind N. E. with snow and rain ; in the evening it cleared up at W. Two batteaux and two cutters were sent up as far as Sillerie to reconnoitre. Major Nairne and Captain Owen went as far as the hill above l'Ance de Mer, but saw nobody. The Bateaux discovered nothing.

A batteau crossed over from Sillerie to day, a heavy body was hoisted out of it by a gin—probably a cannon for the Point Levy battery. A body of men seen near the old battery to-day. There is a line of sentries closely posted quite across the plains of Abraham, from the Coteau at St. Roc's to the River's side, to prevent any person from getting near the walls, and to hinder desertion into town.

20th. A gentle easterly wind, rather cloudy. A number of men were discovered about four o'clock this morning, by our out-sentries, near the end of St. John's suburbs ; they did not approach ; our picquets were drawn out to be ready to oppose the first onset. Twelve horses seen drawing some heavy load towards Point Levy battery. We heard a gun scaled about St. Foix. Three canoes crossed over to Sillerie ; there is a market kept there. The place where we suppose they are erecting their battery on the Point Levy side is about 600

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cution. On the twenty-fifth of that month Monsieur Beaujeu, assembled a party of Canadians, with a view of compelling the Americans to raise the siege; the party, however, was too inconsiderable to effect their de-

yards from high water mark, and thence to the high water mark on this side 1100. Very variable weather to-day

21<sup>st</sup>. Wind N. W. It froze last night very hard, and it still continues. Seven canoes, nine men in each, seen crossing to Sillerie.

22<sup>d</sup>. Wind easterly, cold and cloudy; we plainly perceive people at work on the other side; we see earth thrown up by men not in view, and we can plainly see some driving stakes. We are busy laying platforms, and mounting some great guns on the Grand battery; we have cleared away the snow from some thirteen-inch mortars; we fired some shot, and threw some shells towards the enemy. From the situation of their battery, we suppose they intend to hurt the shipping, and to batter Pres de Ville and Sault au Matelot, if they have heavy metal, which we doubt. At any rate our fire must be infinitely superior to theirs.

23<sup>d</sup>. Last night was very dark; we looked for an attack; the wind is still easterly. The wood yard is empty. Nothing remarkable. It snowed to-day.

24<sup>th</sup>. It was very dark last night; to-day it is cold, with a gloomy hard sky, though the wind is N. W.

25<sup>th</sup>. Wind N. W. excessively cold, clearing up. Chabot, who came to town lately, gave us room to look for an attack between the 15<sup>th</sup> and 25<sup>th</sup>; we have always been ready to receive the rebels.

We communicated orders by signals; at two in the morning, blazes on the look out, were answered by rockets from the Artillery barracks at three.

26<sup>th</sup>. It was exceedingly cold last night. About two in the morning the rebels lighted a fire-ball at their guard-house, west of St. John, and fired a musquet.

We threw some shells, and fired some heavy shot, at a large pile of fascines, which we suppose to be part of the Point Levy battery.

We perceived a party from Beauport to intercept two men walking from the Point of Orleans towards the town.

Laying platforms for some thirty-two pounders to flank the enemy's works. A great body of men seen at St. Foix; heard three cheers.

sign, and the Americans receiving information of his object, attacked Beaujeu and routed his party.

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On the third of May, finding the river clear of ice, The Americans prepared a fire-ship, in hopes of burn-

27th. S. W. wind, and mild. All was quiet last night. At three this morning, signals by rockets from Cape Diamond, answered from the two gun battery. The large farm-house at the Canardiere, which served as a guard-house to the rebels, burned this morning to the ground. Many armed men on the Point Levy side. Canoes and boats frequently crossing the river above the town.

Ninety-six men walked armed in Indian file from the ferry-house, St. Charles's river, towards Beauport.

A batteau was sent up the river at night; saw nothing.

28th and 29th Nothing remarkable

30th Every thing was very quiet last night. The wind cold and clear at N. in the morning; in the forenoon it changed to S. W. and thawed; a gin was set up at the Point Levy battery; our shot and shells disconcerted them, not a little.

Seven men appeared at the St. Roc's guard-house; fired a cannon at them, one of them fell; five ran off when we fired a gun at them as they stood between Port Louis and Cape Diamond; one of these men was in blue, faced with white. A quantity of wood got in at St. John's gate; men skulking behind their old battery fired on our working party; a shot from a 36 pounder dislodged them. Three parties, from 30 to 50 in each, marching on the ice from Montgomery's late quarters towards the river St. Charles.

Our sentries on the walls perceived a man wandering among the ruins of St. Roc; he seemed desirous of hiding himself; we sent out a file of men and brought him in; he was very drunk; he said he had lost his way; he arrived from Point aux Trembles this morning, with the fifth company of the first battalion of Pennsylvanians; that three other companies are expected with the second battalion. He is, or pretends to be very ignorant. All he says is, that we are soon to be escalated and taken, that there are but few Canadians with the rebels, and that Mr. Hazen gets no recruits. In the night a body of the rebels advanced as far as the burying ground in St. John's Suburbs; the sentries could not say the number.

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ing the Shipping in the harbour, and should it succeed; it was at the same time proposed, to have made an attack on the works. The vessel sailed up from the island of Orleans, at nine o'clock at night, and the men on

31st. Wind S. W. with snow; thawing. About two this morning flashes were seen, and the report of musquets heard by the sentries at Cape Diamond, at Pres de ville as they imagined. Messengers dispatched to enquire; there they learned the firing had been at Point Levy. The prisoner taken yesterday, though now sober, adds nothing to what he said before. The prisoners confined in the Dauphin Barracks, had in the night forced two hinges from a door in the vault, which communicates with the street; it hung by a third, which they did not perceive, as they must have wrought in the dark. They were questioned, but they all declared themselves ignorant of the matter. Among these men, there was one Englishman; he discovered the plot.

One of the prisoners; some days before, made his escape out of prison, and found means to get over the walls also; he was to inform the rebels that they were ready on the first dark and stormy night, to seize on the guard set over them, and to proceed about 150 yards farther to St. John's Gate, and disarm the guard there; this being accomplished, they were to turn some cannon on the town, to defend themselves until they forced St. John's Gate open, to let in the rebel army, which was to keep itself in readiness every night, and march directly to St. John's Gate whenever they should discover the town on fire in different parts. All their officers were chosen, and the dispositions made. If they should find it impracticable to let their friends in, they were to secure their retreat by ladders, which they were to take from the roof of the prison and the adjacent houses; they were in that case to throw over all the ammunition, rammers, sponges, &c. There were two of the prisoners, beside the Englishman, who would not join in the plot, but they promised secrecy, and at this moment they stiffly deny that they know any thing of it. The officers, prisoners in the Seminary, knew nothing of the affair. A great many of these men were put in irons immediately.

The General, in hope of drawing on the rebels to an attack, ordered that the signal agreed on by the prisoners should be given in the night, and that every thing should be carried on as if they had made

board, having set fire to her too soon, and quitting her  
at the same time, she passed before the town, and fell  
back again with the ebb tide, without effecting the ob-  
ject intended. The American General Thomas at length,

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their escape, following exactly their plan. Preparations were made accordingly ; piles of wood were prepared in different parts near the walls. The whole garrison was ordered to be on the ramparts, under arms, at two o'clock in the morning. Although the weather did not promise to be dark or stormy, yet the General thought it would be best to lose no time, for fear some deserter might inform the rebels that the plot of the prisoners had been discovered.

At four o'clock this evening a deserter came in ; he is of the first battalion of the Pennsylvanians ; he says, " the companies should be 65 men each, but they desert daily. The second battalion is expected, with three companies of the first."

*April 1st.* Wind soft at S. W. much thaw. At two o'clock this morning the garrison was under arms—every company was posted at their alarm posts—unluckily the moon shone exceedingly bright. The bonfires were lighted ; a hot fire of musquetry continued for ten minutes ; hubbub and confused mixture of cries were heard ; then three cheers were immediately followed, by a close fire from two brass six pounders turned towards the town—the musquetry still kept up—now and then huzzas. This was carried on for a considerable time, but nobody appeared without the walls, nor did we see a single signal. At day-light we were dismissed.

This feint will have a happy effect ; it will shew the rebels that we wish their approach, and the considerate among them will dread to face us.

We plainly discover four embrasures on their Point Levy battery—a large bank of snow to the right perhaps masks more.

The deserter who came in yesterday says " that in crossing the Lakes he met many small parties, of threes, fours, and fives, leaving Canada ; that a Lieutenant had deserted ; they brought him back, but he got away at last ; he can encircle the largest gun they have with his arms ; some time ago two of our shells fell without bursting ; the powder they contained was sold at a dollar a pound ; the rebels have but 13 rounds."



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aware of the impracticability of reducing Quebec, called a Council of War on the fifth of May, at which it was determined, that it was most expedient to return back to their own Country as speedily as possible, from

This afternoon another deserter came in, he says, "they have but fifteen men on guard near St. John's suburbs.

"The manœuvre of this morning alarmed the rebels; they stood under arms until day-light—many want to get into town. An old man, with an enormous perriwig, called General Wooster, came down from Montreal, with an escort of 40 men. There are great numbers of the rebels sick in hospital."

Firing shot and throwing shells at their battery, at Point Levy.

The general voluntary picquet ceases until dark moon.

2d. Wind S. W. warm clear sunshine; three men seen near the runs at Mount Pleasant; one had a large wig, supposed to be the Sieur David Wooster; another was dressed in scarlet, said to be Arnold; the third (say the people) was the engineer, Colonel Edward Antil. They were pointing out the weakest part of the walls to the old man, perhaps planning an attack. If they *feel bold*, they may chance to have their bones broke even at the weakest places. They are all wearing masks; every soul among them hide their fears: they dare not attack, but they are ashamed to say so to each other, after so much rhodomontade; be this as it may, we fear them not.

A party of 60 or 70 were under review near the General Hospital; a single shot broke their ranks, and away they ran.

Some people seen near the old battery at work; several small parties marched to their guard-houses; some people have seen, or imagined they saw, from the look-out, heaps of ladders piled up on the plains.

A cutter was sent in the evening to look into Wolfe's-cove; she got inclosed in the ice, and was carried along with the tide; the rebels discovered her, and fired six-pound shot at her; they were endeavouring to get boats afloat to send after her, but the men made a way through the ice with the butt ends of their musquets, and got clear.

3d. Wind easterly, soft and cloudy. About eight o'clock this morning, the rebels opened their battery at Point Levy with five guns, 24 pounders, 12 pounders, and 9 pounders, some shot fell short of



an apprehension, that reinforcements from England might speedily arrive. The retreat had been no sooner resolved on, than on the morning of the sixth of May, the Isis of fifty guns, Surprise frigate, and Merlin sloop ar-

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the Lower Town, and some fell in Palace Street, spent. Their aim seems to be at the shipping. They have hit the Lizard frigate; a ball has damaged her foremast.

About mid-day we plainly heard the report of five guns, at between two and three leagues distance down the river; from the report they may be large, yet as the atmosphere is heavy, a small gun may be taken for a large one at a distance.

Mr. Chabot left his little armed schooner on the Island of Orleans last fall; perhaps the rebels are fitting her out, and have been scaling her three-pounders; it is by three or four weeks too early to look for any thing from Europe.

The enemy threw three shells of nine inches from Point Levy; they did no damage. We made many most excellent shots to-day; in short, as soon as our flankers at the citadel played on them, their fire ceased. Very heavy rain this afternoon.

4 $\frac{1}{2}$ . It rained all night. The wind is about to S. W. We fire without intermission on the enemy; they fire dropping shots at us, many fall short. There are but few people to be seen. Ten rockets played off at the ferry-house. St. Charles's River—answered by a gun from Point Levy.

5 $\frac{1}{2}$ . Wind this morning N. W. cold raw thawing weather. An eight-inch shell burst above the shipping in Cul de Sac; a piece of it cut a sailor on the head. They fired five guns and two shells early, drew in their guns, and ran from the battery. We threw shells into their works, and cut their fascines to pieces. The rebels burnt a small shallop, and some boards at l'Ance de Mer. Fatigue parties clearing the snow from the ramparts. The rebels watch an opportunity, and seize it, to steal a shot or two; they are afraid to stand to their guns.

A hundred and one men marching in a string from Beauport, towards the ferry-house; fired at it, and went through it; carried the timber for a block-house to the place where it is to be erected, be-

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rived, with two companies of the twenty-ninth regiment, consisting of one hundred and seventy men, and a party of marines, who were landed before noon, and at twelve o'clock, they, with most of the garrison off du-

tween Port St. Louis and Cape Diamond. One Loiseaux, an honest Canadian, came in at Sault au Matelot, at ten o'clock at night.

6th. Wind easterly, with a heavy sky; it thaws much. A deserter came in this morning; he reports, "that General Lee is on his way to this place, with a body of 4000 men; he halted, ill of the gout, and many of his men have deserted."

"At South River, below Point Levy, sixty Canadians, with Mr. Bailly, a priest, at their head, took arms, with an intention to surprise the guard at Point Levy, and to join the King's friends in Quebec. A villain informed the rebels of their plan, on which a strong party marched from Point Levy to take them; an engagement ensued, in which five loyal Canadians fell, and six rebels were killed. The Priest is dangerously wounded in the belly, two balls entered his body; 34 Canadians were carried prisoners to head-quarters. If the Canadians had been well armed, the rebels would have had a severe beating."

He further says, "that they have ordered all the priests in Orleans, who refuse to give absolution to the rebellious Canadians, to be carried prisoners to the camp. They have appointed a Priest, called Lotbiniere, to absolve the people; they give him a salary of 1500l. and promise him a bishoprick.

"They have granted the houses in the town to the deluded habitants who have taken arms in their favour: these poor devils stave a house at a game of berlan. From what the rebels tell them, they are assured that we cannot long hold out, as they are to cannonade us from the heights of Abraham and Point Levy, and to bombard us from the ferry-house at St. Charles's River; yet the greatest part of the habitants dread that we may stand out. There is great sickness among the rebels, many of them are under inoculation. The New-Yorkers engaged to remain in the service of the Congress until the 15th of this month; they have declared that they will lay down their arms, and return home after that day. Two gentlemen from New-York, with letters for General Carleton, were taken by the rebels;

ty, amounting to one thousand men, marched out to the Plains, with two field-pieces and two grass-hoppers. The American army, near three thousand men, did not wait their approach, but fled with the utmost precipita-

they had time to destroy their dispatches. We killed three, wounded two, and dismounted two of their guns.

“ Our feint of the first, in the morning, kept them under arms until seven o'clock, when they were dismissed, quite dissatisfied, saying they had been made April fools.

7th. Every thing quiet in the night. Rain, hail, sleet, and N. E. wind. A good many shot from the rebels ; no harm done.

8th. Southerly wind and soft weather. As day dawns, it is a rule with the rebels to fire four guns and a howitzer, then immediately draw them behind the merlons and retreat ; they venture, from time to time, through the day, to pop a shot or two at us.

In the evening a ricochet shot entered at a window in the Upper Town, where the family sat round the tea-table ; the eldest boy, of ten years, was struck on the back part of his head, and expired in the arms of the father and mother in an instant. Some of their balls have a little damaged some roofs.

9th. Easterly wind, with soft drizzly weather. Much fire from us ; from them very little. A decent looking man, one Chaucer, came in from the rebels ; he talks a great deal ; he says that “ General Lee was on his march hither ; he was called afterwards to take the command at New-York. The rebels without are 1800 strong, if 700 of that number sick can be called strength. They are to storm the town at Pres de Ville, Sault au Matelot, and Cape Diamond, between this and the 15th, on which day the time of many of the men will finish. The New-Yorkers look upon themselves as beings far superior to what they call the *Yankies*, meaning the people at Connecticut, Massachusetts, Rhode-Island, and New-Hampshire, who effect a disgusting pre-eminence, and take the lead in every thing. They are to batter us from a battery 500 yards from Port Louis, to mount five guns, nines and twelve-pounders. They are to bombard us with five mortars from a bomb battery behind the ferry-house, on St. Charles's River. They have two gondolas out in the river ; they are preparing a fire-vessel to burn the shipping in Cul de Sac. The Canadians are very much discontented, as they are paid in Congress

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tion, leaving all their cannon, stores, and ammunition behind them. The men even threw away their arms, that they might run the faster. The Americans made the best of their way to Sorel, where they were met by

bills, a handful of which they will willingly give for a dollar; they have whipped a Canadian for speaking his mind too freely; they have maltreated a gentleman at Montreal, for beating an insolent fellow, a rebel officer.

"Arnold is to leave the camp to-morrow, and hasten to Montreal to send down all possible reinforcements.

"The rebels are without shoes."

Thus far Mr. Chaucer has informed us; he is suspected as a spy, and he will be taken care of accordingly.

From his story they cannot intend to attack us before the 15th. Arnold cannot get up at this season in less than three or four days, and it will be impossible for a number of men to get down in less than eight or ten days more. Come when they will, they will find us ready to receive them. Boats row guard every night. We have guns on all the wharfs, and in some of the ships in Cul de Sac; with strong guards and picquets in different parts of the Lower Town.

10th. Wind westerly; a very soft fine day, but the streets almost impassable, from the great runs of water; the remaining snow is porous and rotten; if one steps aside from the sleigh track, he sinks above the knees; how can these people propose to themselves to march loaded with ladders to attack us behind walls; we would cut them off every soul before they got half way through the ditch; our cannister shot would mow them down.

A young man, named Pepper, came in this morning from Cape Rouge; he confirms what Chaucer has said about the discontent of the New-Yorkers, and uneasiness of the Canadian peasants. "The rebels, despairing of success, have in some measure thrown off that shew of justice which they paraded before the habitants, and now enforce some pretty unreasonable commands. This young man's father was offered the command of a gondola. They are to attempt to burn the shipping by running the fire vessel full sail into Cul de Sac."

11th. Heavy rain, with a strong wind at N. E. Their battery is silent to-day; they say it must be full of water, being situated in a swampy hollow. Rocket signals were made at Cape Diamond, St.

two battalions of their countrymen, sent to assist in carrying on the siege. On the death of General Thomas at Sorel, who had taken the small-pox, the command devolved on General Sullivan. The small-pox

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John's, and Palace-gate, at midnight. The rebels threw one at ten at night, at the ferry at Menut's, and at Holland-house.

12th. Thawing, sleety, easterly weather. The faces of the bastions and the ditch were lighted by fire-balls hung over the angles. The rebels fired a good many shot at Cul de Sac to-day; they did very little damage.

13th. Lowering morning, wind W. cold and freezing. Fire-balls lighted, rockets played off at the guards as yesterday morning.

The Hunter sloop of war received a shot through her cabin.

It was discovered that the prisoners in the Dauphin barracks had filed off the rivets of their hand-cuffs, and had placed leaden ones in their stead.

People seen at work where Chaucer said they were to erect a battery on the heights; the ground is well chosen, but the Cavalier battery will destroy them; we fired some shot from Port Louis without much effect. Freezes hard this evening.

14th. No alarm last night. Wind at west to-day, clear and warm. Their shot from Point Levy is all directed to Cul de Sac; they put one into the Lizard's stern, and hurt the main-mast of a transport. Above 1800 men will be under arms to-night, in expectation of an attack; the block-house, about 100 yards outside of Port Louis was finished to-day, and a guard of twenty men posted there in the evening. The country is much in motion to-day, especially towards head-quarters; bodies of men seen.

15th. Clear frosty weather last night. We were ready to receive the rebels, but there was no disturbance. Fire-balls were lighted, and rockets thrown, as customary. In the afternoon we heard the voices of many men on the heights, singing out as is customary in moving heavy bodies.

In the evening a great body were assembled at Menut's, and three cheers were heard very distinctly. It is supposed by many that the New-Yorkers may have re-entered into the rebel service; others think that David Wooster may have been making a fine speech to them about liberty, and promising mighty and speedy reinforcements, and paint-

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had during the winter, made great ravages among the Americans, and several of them had already died of this disease. Vast numbers of their sick had been left at their camp, on their retiring from before Quebec, and

ing out the glory and profit that will attend those who shall enter Quebec in triumph. At the word profit they gave three long cheers,

At nine at night guns were fired at the Point of Orleans; and signals were made there. A drifting shallop, we suppose, gave the alarm; one passed the town about dusk.

16th. Last night was mild and clear; the fire-balls were not necessary. Rockets were sent up at the usual places at one o'clock. Out-picquets at both block-houses. Wind strong at E. The rebels did not fire a shot in return for many sent to them at both batteries. We have geometrically measured the distance to the last, and find it to be 716 yards 2 feet. Rainy evening.

17th. Wind N. E. there fell two inches of snow in the night. Fire-balls lighted at one o'clock, and rockets thrown as usual. The enemy working on the heights. Canoes and batteaux passing and re-passing opposite Sillerie, full of men. The rebels fired none to-day.

Captain Laforce went in a canoe to reconnoitre; he was hailed from the Point Levy side. The Canadians, on his asking why they did not come to town, answered, that they had no canoes, and were closely guarded; they pressed Laforce to go on shore; but, aware of Point Levy treachery, he paddled away with a "*bon soir*."

18th. Wind S. W. showers of snow. Fire-balls lighted, and rockets thrown as usual. Some shot from Point Levy early in the morning; canoes crossing from that side full of men. Wood brought in to-day. In the afternoon came two deserters from the rebels. They report that "the New-Yorkers, 300 in number, were assembled on the 15th; every argument was used to persuade them to renew their engagements, which ended that day; but before they were called together, they had determined among themselves to withstand the most pressing solicitations of their former Commanders; they represented that the Congress had deceived them; that their pay was still due, and that they had been in a manner forced to enter the service after their first engagement had ended, therefore they would serve the Congress no longer; they had seen their error, and would return to their duty; they were determined never to fire a shot against the

these, apprehensive of being made prisoners, had concealed themselves. General Carleton, with the humanity that always distinguished him, issued a proclamation, commanding the Officers of Militia of the Province, to

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King's friends. Their speaker ended with a *God save the King*, which was echoed by one and all of them, with three cheers. Immediately these men were surrounded; they were very ill used, and confined; the dastardly Canadian vagabonds in their service were the most forward in this work. They say the rebels are 1200 well, and 600 sick; the Canadians are not included; they amuse the habitants with hopes of reinforcement, and they promise plunder to those who shall assist them in taking the town.

There is not a man at this hour within the walls who does not wish that the rebels may attack us; we know the reception they will meet with, and we know that they dread it, although they tell their men that they will be led to an easy conquest; but the 31st of December is not yet forgotten. If any thing will tempt the habitants forward, it will be the prospect of rich plunder.

"It has been whispered in their camp, that two ships have been seen in the river, to the great dismay of the rebels"

The ice of Lake St. Peter passed the town to-day.

19th. It froze hard, and was clear last night; all was quiet. Fire-balls, and rockets as signals *à l'ordinaire*. Wind S. W. cloudy and cold to-day. Wood got in to-day. Firing from Point Levy on the shipping. The Canadians are afraid that the town will be burnt, and they shall get no plunder.

20th. Two men who left Quebec last fall, came down from Cape Rouge in a canoe; they say "that the rebels have made a fire vessel of the brig Gaspey, which they took last fall; they have offered 20,000 pounds to any person who will steer her into Cul de Sac, and there set fire to the train. No Yankey, no Yorker, nor ever a Canadian, has yet been found to offer his service. An Acadian has said that he will do it for 30,000 pounds, *en bon argent sonnante*."

"Colonel Caldwell, with the eighth regiment, is on his way down from Niagara, with a number of Indians, and that Arnold posted away to Montreal the moment this news arrived."

The rebels fired a few shot at us to-day. We have almost finished

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search for these unhappy people, that proper care might be taken of them, with a promise, that as soon as they were recovered, they should be permitted to return to their homes. Such honorable and humane conduct

a battery of five twenty-four pounders behind the Hotel Dieu, from whence we have battered the ferry-house.

They say "that some of the people who left us last fall, have been very industrious in preaching to the Canadians, advising them to enter heartily into the Boston affair, else they will be irretrievably lost, and made slaves for ever" These men add, "that Chaucer was sent in, hoping that he might find means to get out again. He promised to return in three days, if alive; he got a commission in the rebel army but a few days before he came into town. They also say, that one of the prisoners, an officer, sent out a plan of signals, by which the friends within the walls could be instructed how and when the attack was to be conducted, and by what number, that they might, if possible, co-operate with those without.

21st. A clear serene night, no disturbance. The rebels beat to arms at three o'clock this morning. Their battery on the heights does not seem to advance. They fired from Point Levy to-day at the hour of going to Mass; it is a diabolical spirit! They can but hope to kill a few harmless women and children. They see that they cannot hurt the town. Hitherto they have killed a boy, wounded a sailor, and broke the leg of a turkey.

Fine weather, wind S. W. swallows seen to day. We keep a constant fire on the battery behind the ferry-house, from the walls between the Artillery barracks and St. John's gate, from the two-gun battery, and from behind the Hotel Dieu.

At dusk Laforce's armed schooner, with 30 fine fellows, was hauled out into the stream; the rebels fired at her from Point Levy, and beat to arms; the schooner drove up with the ice; they were carried as far as Wolfe's-cove before the Lizard's boat could reach her with a cable and anchor. The schooner was fired on by a party; she gave them guns for musquets

22d. At day-break snow with N. E. wind. Between nine and ten this morning the rebels opened the battery behind the ferry-house with two twelve-pounders. They have cut embrasures through a very thick breast-work which the French threw up in 1759. They



could not fail to make the most lasting impressions, and many of them, on their return to their own country, declared, that they would never fight against a man that had already conquered them by his humanity. Every

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fired between 30 and 40 shot at us ; they only pierced a few roofs ; they are obliged to elevate their guns very much. The red flag which has hung out since the 5th of March was taken down last night ; some people say that their friends within the walls well know what that means—there is no apparent joy in the countenances of the suspected, perhaps no more reinforcements are to be expected.

23d. There fell three inches of soft sloppy snow since yesterday morning ; it was dark and low'ring all night ; we thought the night was favourable, and we had a general picquet. Captain Laforce made a canoe come on board which was attempting to pass ; she proved to be from Montreal, with six men on board. Mr. Rousseau, one of the six, left New-York the 27th of March. There prevailed a report there at that time, " that 27 sail of large ships had been seen off Rhode-Island, and that the troops had evacuated Boston, intending for New-York ; that Lord Sterling was to oppose their landing with a great force ; that they have sent us a reinforcement by water from Boston ; that he passed Mr. Thomas, lately an apothecary, now a general, with 1200 men, a reinforcement to the rebels in Canada, on the 3d of April he passed their advanced party at Stillwater, 27 miles on this side of Albany. There were 80 batteaux waiting then at Ticonderoga. Lake George was not passable. Six iron 24 pounders detain them much.

" It has been reported at Albany with fear, and talked of confidently at Montreal, that Colonel Caldwell with the eighth regiment, and a number of Indians, are on their way down from the Upper Countries.

" If there had been batteaux to be had, between six and seven hundred Canadians would have come along with them. General Lee is gone to Virginia."

The rebels fired a good deal from Point Levy and from the ferry-house ; we made a great number of good shots at both ; they have damaged a few chimnies.

They opened their new battery on the heights, by throwing six

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small shells directed for the block-houses; they all fell short, and some did not burst; we returned some of 13 and of 10 inches. We made our usual signals from guard to guard by rockets.

24th. Last night was clear and cold. The wind shifted to N. W. where it continues. The rebels fired red hot balls into town; they destroyed a few chimnies. Their fire is much slackened; ours increases; we have most certainly very near destroyed their works; they fire but from one gun at the ferry; we saw them carry off some people in the heat of our fire; we have eleven guns bearing on the ferry battery. They still fire from Point Levy on the shipping.

25th. It did not freeze last night. St. Charles's River clear of ice—this will force the rebels to cross farther up than their battery, or they will cross in reach of our guns. Mounted a 24 pounder against their new battery on the heights; they hurt some roofs and chimnies as usual; they cannot sweep our streets from their batteries. Reports were heard at a distance, like 12 or 14 great guns. Some people please themselves with the hopes that they were fired on board a ship of war coming to our relief; others think the reports may have been from Chabot's schooner, or a brig of Arnold's which lies below.

26th. The last night was the worst we have had for many months; the wind was violent at N. E. with a very heavy rain; it cleared up in the afternoon; firing on all sides.

Captain Laforce chased a parcel of canoes, the people got on shore at Point Levy—he upbraided them for not coming to town; they answered that it was not from want of inclination, but the moment they were missing, their houses would be burnt, and their stock carried off by the rebels. He ended his conversation by telling them that now was the time to retrieve their character, a few days would deprive them of it.

27th. The last night was very foggy; it was impossible to see half way across the ditch from the ramparts; we were very much on our guard. This morning is clear. At one in the morning, just after we had fired our signal rockets, five shot were thrown into town from the ferry-battery. We begin to look towards Point Levy for

troops, than Militia. The conduct of the Governor exceeded all commendation ; and his Sovereign, as a mark of his Royal Approbation, conferred on him the honorable distinction of Knight of the Bath. His subsequent

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ships from England. A Captain in the rebel army, one of our prisoners, was sent on board the armed schooner for an attempt to escape from the seminary.

Between ten and eleven at night, the cathedral great bell rang the alarm, the drum beat to arms, and all the garrison was posted in a few minutes ; it was a false alarm. A house on the beach, or a boat with brush-wood was on fire ; the sentries called out, " A fire-ship ! a fire-ship ! " As it was known what the matter was, every man was ordered home.

The rebels did no hurt, though they fired a good deal to-day ; we gave them ten shot for one, and some shells.

28th. It froze last night. Wind at west this morning, with fine weather. There has not been much firing on either side to-day. The balls fired by the rebels were hot.

29th. Wind S. W. serene mild weather. Four musquets fired on the heights in the night.

30th. A small breeze at E. with soft rain in the morning ; fog with heavy rain in the afternoon.

On examining two soldiers of the Royal fusileers, who were possessed of a great deal more money than is common for a private to have, they confessed that they had been bribed by some of the rebel officers to assist them in making their escape the first time they should be on guard over them ; they were to kill any sentries or other persons who should attempt to stop them ; they were to have got over the wall of the Seminary garden to the grand battery, and walk down to the Sally-port, facing the Canoterie, there leap the wall, and pass through St. Roc to the first guard-house. On this charge, two of the prisoners, after proof being had, were sent on board Captain Laforce's vessel as a place of greater security.

The fogginess of the night made a general picquet necessary ; every man slept in his clothes ; his arms and accoutrements lay by his side. The guards and patrols were very vigilant.

May 1st. There is not many in the garrison who would not have been exceedingly happy to have had a certainty in November last, that

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conduct to the southward, during the American war, insured him the additional honor of a Peerage of the Realm. Major Henry Caldwell was sent to England with the General's dispatches, and was gratified with the

on this welcome day we should see all our friends around us, and in health. All of us that were shut up together still remain in high spirits to congratulate each other on the near approach of relief from Britain.

Those who never saw a siege had many fears, well founded in their opinion. General Carleton wore still the same countenance; his looks were watched, and they gave courage to many; there was no despondency in his features; he had once said, that he should never grace the triumph of the rebels. He will find a numerous band to follow him in every danger; and what will not true bravery perform, led on by a man of spirit, conduct, and experience. He is known, and that knowledge gave courage and strength to his garrison. Since the attack of the 31st of December, it is a prevailing opinion, that six thousand American soldiers would be beat from our walls, were they to make a second attempt to storm us. Colonel Maclean has been the most indefatigable officer that ever had the safety of a garrison at heart; he was here, there, and every where in a moment, and seen at all hours of the night and of the day. Captain Mackenzie of his Majesty's sloop of war the Hunter, was beyond expression active. The rebels batteries bear testimony of his abilities in pointing guns; he has much merit for having his sailors under the strictest discipline; he ranked as Major, and in that station his fatigue, as field-officer, every third day, was counted nought by him; he was happy when the service required him to be on duty.

Major Cox's experience in military affairs, and his engaging method of shewing the militia their duty, made those who happened to be on picquet with him happy: his care and assiduity in the service deserves the greatest praise.

Major Ecuyer, who has long been in the army, had, with the other field-officers, his turn of duty every third day; nothing in his power was wanting to forward the service both by example and precept to the militia, English and French.

In short, every officer shewed to those under him the duty of a

usual presents. To dislodge a party of Americans, of  
 three hundred and ninety men, who had taken post at  
 the Cedars, above Montreal, Captain Foster, of the  
 eighth regiment, with two subalterns and one hundred

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good soldier, and the soldiers improved by their example. If ever emulation was conspicuous, it was in the garrison of Quebec.

At four o'clock this morning it began to snow, and by eight there lay three inches in depth on the ground—the wind is northerly and cold—it began to clear up in the afternoon. The rebels fired hot balls from the ferry, and from Point Levy—a shot entered the cabin window of the *Fell* armed ship, shattered a boy's leg, wounded a man dangerously, and two slightly.

A Canadian fellow came over from Point Levy to-day, as he pretends, on what Captain Laforce said to the pack he chased on shore the other day. He says the rebels are 11,000; he pretends to be ignorant, but he is known for a *vaut rien*; as he is looked on as a spy, he is confined. We took up a very large batteau which floated down St. Charles's River.

2d. The last night was very clear and very cold—standing water froze a third of an inch—it freezes still, with W. N. W. wind. The rebels fired many hot shot to-day from the ferry battery; some chimnies were damaged, and some roofs hurt. We made a sortie at Port Louis for wood: behind fences, three or four hundred yards from the walls, we found piles of scaling ladders, rather better made than those used the 31st of December, but yet heavy, and by far too short; we did not touch them, in hopes that they will serve as traps for the rebels. At twelve o'clock at night, rockets and a fire-wheel, played off on the grand battery, were answered by rockets from the Hotel Dieu battery.

3d. Last night was delightfully clear and serene; this morning the air is easterly, with hot sunshine. A fatigue party making a frize of them on the glacis.

About 200 men in three divisions were seen marching towards Wolfe's cove, the first had red colours, the second blue, and the third white; a number of batteaux attended them along shore; we imagine it is a part of Mr. Thomas's reinforcement, which Mr. Rousseau passed at Stillwater. Rebels firing red hot balls from the ferry battery. We

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and twenty-six men, and one hundred and twenty Indians, were detached on the seventh of May, from Oswegatchie to the attack of that post. Proceeding on his march, he learnt on the seventeenth, that the Americans

carried down some cohorns to the north corner of St. Roc, to throw small shells from thence into their battery ; they were covered by a party. Between nine and ten at night, on the top of the tide, a vessel was descried coming up before the wind ; the people were wishing one another joy, not at all doubting but it was the first of the fleet. The General was informed of it ; he told the messenger to order the artillery men to their guns. She was hailed three times ; no answer was made ; the fourth hail was accompanied with a threat to sink her in case she did not answer ; she immediately sheered in shore ; then the batteries played on her, and in a minute she appeared all in a blaze at 200 yards from Cul de Sac, but very near the beach ; shells, grenades, petards, pots-a-feu, burst very regularly ; she seemed well prepared, and might have done much mischief had she been steered into Cul de Sac. A boat was seen to row very quickly away from her, the moment she sheered in towards the shore. It is thought that this was a brigantine of Arnold's which lay below ; some say that it was the Gaspey, that had passed the town in a dark night, but most people think that it cannot be. The whole town was under arms in an instant after the drums beat and the bells rang ; no confusion appeared, every body was cool, and wishing the rebels would attack. The night was most remarkable fine and clear. It is surprising that they chose such clear weather for this enterprize ; they must surely know that there are King's ships in the river, and for that reason they sent her up, as the wind was fair. Her hull floated down with the tide, in a fine bright blaze ; every man was ordered to his picquet, to be ready at the beat of drum.

4th. Wind still easterly, the sky heavy—it rained in the morning—at mid-day it cleared up at N. W. A few shot from Point Levy to-day.

5th. It froze very hard last night ; the wind is still N. W. and cold.

6th. Last night it froze a little. There is a gentle breeze at N. E. this morning ; at four o'clock guns were heard down the river, every two or three minutes. A woman came early to Palace-gate and called to the sentry " that Mr. Thomas, with his reinforcement

were ignorant of his approach, and that if speedily attacked, the whole party might be surprized. The next day he landed at Point au Diable, six miles from the Church of the Cedars, and proceeded under the cover

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was come ; that David Wooster was gone off, and that there is a great bustle among them, loading carts with arms, baggage, &c."

About six a vessel appeared turning round Point Levy, to the inconceivable joy of all the garrison ; every soul left their beds to run to the grand battery to feast their eyes, when they heard the joyful tidings. On our firing a gun she brought to, and fired their guns to leeward. She proved to be the Surprise frigate, commanded by Captain Lindsay. Part of the 29th regiment on board, the first of the reinforcement ; they, with the marines, were immediately sent on shore. The drums beat to arms, and all the different corps appeared on the parade. It was ordered that all volunteers in the English and French militia should join the troops and sailors, to march out and attack the rebels ; every man almost in both corps was forward to offer his service.

General Carleton, at the head of about 800 men, marched out at twelve o'clock. Colonel Maclean was second in command Colonel Caldwell marched at the head of his British Militia. The little army extended itself quite across the plains, making a noble appearance. We looked formidable to the rebels. A few of them were hid among the bushes, and fired on our advanced party, without hurting a man ; the rest fled most precipitately as soon as our field-pieces began to play on their guard-houses ; they left cannon, musquets, ammunition, and even clothes ; we found the road strewed with musquets as we pursued them ; clothes, bread, pork, all lay in heaps in the highway. We took howitzers, field-pieces, &c. &c. So great was their panic, that they left behind them many letters and papers of consequence to those who wrote them, and to the persons to whom they were written ; they also left their orderly books ; look which way soever, one could see men flying, and loaded carts diving away with all possible speed.

We took possession of the General Hospital, and of a guard-house two miles farther, Holland-house, Mr. Dupre's, &c. where we found pork, flour, ammunition, and artillery stores. At Sillerie we found flour.

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of a thick wood ; when within a mile of the Fort, he halted the detachment, to make the necessary dispositions for attack. One division was ordered to take possession of the wood, and to penetrate as nearly as possible to the enemy, when another party of Indians were placed at the Falls, at the entrance of the Cascade, to cut off the communication with the Island of Montreal. This party fell in with a detachment of the garrison returning from the Cascades with provisions, who fled to the Fort, and carried the first intelligence of Captain

In the afternoon two frigates were sent up the river to take and destroy their craft.

We mounted a Captain's guard at the General Hospital this evening.

7th Every thing was very quiet in the night. This morning many priests have come to town from the adjacent parishes, with chearful countenances, to pay their respects to the Governor, and make their obeisance to the Bishop. Their distinguished loyalty will ever redound to their honour ; a great number of people are flocking into town, many with guilty faces.

The peasants, with their eyes on the ground, come sneaking in, with a few eggs, milk, butter, &c. meanly cringing and submissive, conscious that their base conduct merits chastisement. Ask one the price of his butter—*Ah mon cher, Monsieur, repond il, c'est à vous a faire le prix, ce que vous plaira, me contentera.*—Parties are sent into the parishes near the town. The frigate took an armed schooner at Sillerie ; she took the Gaspé at Cape Rouge ; they had been at work on her as a fire-ship ; she took some other vessels ; she fired at some batteaux full of men ; they rowed close in shore, and, unfortunately, the turning of the tide obliged the frigate to come to an anchor ; the batteaux got off ; a number of people were killed, and some taken.

The rebels were in such hurry to get safe off, that they put their sick on shore, leaving many of them to perish on the beach. God be praised that we are now at liberty to breathe the air of the country. The rebels stole in upon us through the woods ; a dreadful panic seized them, and they left us precipitately.



Forster's approach. Captain Forster sent a flag, demanding the surrender of the fort, to which, Major Butterfield requested four hours to consider of it. Captain Forster conceiving that the object was to gain time, and having learnt that an Officer of the Americans had been sent to Montreal for a reinforcement, Captain Forster sent a second flag, stating to him, that the Indians were at present under his command, but that if the Fort did not surrender, and any of them were killed by his further resistance, he could not answer for the consequences. The Commandant, in answer to this demand, agreed to surrender the Fort, on condition, however, that the garrison should retire to Montreal, which Captain Forster not consenting to, a redoubt was thrown up on the edge of the wood, at five hundred yards distance from it. On the morning of the nineteenth of May, he advanced within one hundred and twenty yards of it, and commenced a heavy fire of musketry, until twelve o'clock, when the American Commandant surrendered, on condition of sparing their lives, and preserving their baggage from plunder, as Captain Forster was informed the next day, that Major Sherborne, with one hundred men, was advancing from Montreal, he therefore ordered one hundred Indians to take possession of the woods on both sides of the road, and to attack the detachment as it advanced. An action ensued, which only continued about ten minutes, when the Americans surrendered, and were brought by the Indians to the fort, who had resolved on putting every one of them to death. Captain Forster remonstrated with them on this inhuman conduct, and at length by his persuasions, and by presents, effected their release. Captain Forster

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then left the Cedars, on his way down the river, and on his arrival at Vaudreuil, he was informed that Colonel Arnold, with a strong party, had advanced as far as La Chine from Montreal, and had with him six hundred men, treble the number of Forster's party. Forster, upon hearing this, did not push on, and Arnold apprized of the weakness of Forster's party, marched to meet him. On their approach, Forster formed his men in three divisions on three several points of land that stretched out into the river. They had no sooner taken post, than they were attacked on all sides, but they defended themselves so well, that the Americans were defeated, and retired to St. Anne's, on the Island of Montreal. Captain Forster, encumbered with his prisoners, proposed a Cartel, which Arnold readily assenting to, on the twenty seventh of May, an exchange was effected for two Majors, nine Captains, twenty Subalterns and four hundred and forty-three Soldiers. Four American Captains were sent to Quebec as hostages, and they remained until the prisoners were duly exchanged. The Cartel however was broken by Congress, under the pretence, that Captain Forster had conducted himself towards the prisoners in a cruel and inhuman manner. In justice to Captain Forster, there was not the smallest foundation for such a charge.

A large body of troops having arrived from England at Quebec, the latter end of May, General Carleton ordered them to rendezvous at Three Rivers. General Fraser who had the command of these troops, landed the first division of them at that place, while another division was on board transports off the town, and the remainder on their way up the river. The Amc-

ricans still remained at Sorel, with a large body of troops, and Sullivan, who commanded, thought the opportunity too favorable not to attack the few troops already in the town. With this view, Sullivan detached General Thompson with eighteen hundred men, with orders to proceed to the River Nicolet, and to cross over to Pointe du Lac, and then to advance to Three Rivers. On the night of the eighth of June, they effected their disembarkation without being discovered, and had not a Canadian peasant, who was one of their guides, made off and carried information to General Fraser of their approach, the town would have been taken. General Fraser upon this information, landed the troops from on board the vessels, with several field pieces, and ordered General Nesbit to post his detachment in the rear of the Americans, while Major Grant took possession of the bridge to prevent their escape over the River du Loup. The Americans had no sooner landed, than they marched on to the attack of the town, where being met by General Fraser and his troops, an action ensued, which terminated very soon, in favor of the British. Their Commander, General Thompson, Colonel Irwin the second in command, with two hundred men, were made prisoners. The main body of them retreated in great confusion, to a wood full of swamps, where they remained in great distress until the next day, when Major Grant, relinquishing the possession of the Bridge, by General Carleton's order, they effected their escape to Sorel, to which place they were pursued on the fourteenth June, by the King's troops, with an order from General Carleton to General Burgoyne, the second in command, not to hazard an action with them, until another column of troops should be

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sent forward to co-operate with him. Availing themselves of this delay, the Americans pushed on to St. John's, from whence, crossing Lake Champlain, they took post at Crown Point, at the other end of the Lake.

TOWARDS the latter end of July, a most base and villainous action was committed by one Lieutenant Whitcomb of the American Army, who, being out with a scouting party, shot General Gordon of the Royal Army, as he was riding unarmed from St. John's towards Chamblly. The General died of his wounds a few days after. The reason assigned for this infamous conduct, was, that the Lieutenant wanted a sword and a watch, and therefore conceived this the most expeditious (though infamous) way to provide himself with both; and to the disgrace of the American Government, no punishment was inflicted on him.

THE misconduct of the American Soldiery lost them the friendship of the Canadians. When General Montgomery first penetrated the Country, a part of the Canadians were friendly to the American cause, but from their arbitrary conduct, the peasantry became dissatisfied and disgusted. The certificates they offered for articles furnished, were not legible, and in many instances without a signature, one half of which were rejected by the Quarter Master General of the American army. They made promises of payment, without having any intention to pay, and the most arbitrary and tyrannical government was exercised over the country. The houses of the Priests were plundered, and when the inhabitants asked to be paid for the provisions they had furnished, they were run through with their bayonets. This

conduct embittered the Canadians against the Americans, and the Congress of the States, upon this information, ordered that justice should be done to the Canadians, and directed that exemplary punishment should be inflicted on all those that should hereafter violate the military regulations they had established.

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SIR GUY CARLETON, though he had driven the Americans out of the Country, yet saw that it was of the first importance to regain the command of Lake Champlain. With this view, he collected at St. John's a number of small vessels and batteaux, and forwarded on to that place several reconstructions of ships that had been framed in England, and had been sent out for the service of the Lakes. His fleet, the beginning of October, consisted of the Inflexible (a reconstructed vessel) of eighteen twelve pounders, the Maria Schooner of fourteen six pounders, the Carleton of twelve six pounders, a flat bottomed Radeau, carrying six twenty-four pounders, and six twelve pounders, besides two howitzers, and a Gondola carrying six nine pounders. Besides these vessels, there were twenty gun boats, each carrying one brass piece, from nine to twenty four pounders, and four long boats, each with a gun, serving as armed tenders. There were also attendant on this little fleet a number of other boats, carrying troops, baggage, provisions, warlike stores and other necessities for the army. The ships of war were manned by four hundred seamen from the fleet, and two hundred more from the transports, and the guns were worked by detachments of the Royal Artillery. Captain, since Admiral Pringle, conducted the fleet, and Sir Guy Carleton commanded the naval armament. The Americans

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had determined to retain the command of the Lake, and learning early in the Summer, that a contest for the superiority was to be expected, they exerted themselves in preparing their armed vessels, and by the middle of August, they had prepared at Crown Point, one sloop, three schooners, and five Gondolas, carrying altogether fifty-five guns, twelve, nine, six, and four pounders, besides seventy swivels, and manned with three hundred and ninety-five soldiers. To these, by their great exertions, they added before the action, one cutter, three Gallies and three Gondolas carrying fours, and others, eighteen pounders. The whole of the fleet was under the immediate command of General Arnold. Sir Guy's vessels being ready, by the beginning of October, he proceeded up the Lake as far as Valcour Island, where he found Arnold had drawn up his fleet in order to dispute the passage between that Island and the Main: an action soon commenced (eleventh of October) which was well maintained on both sides, and particularly by the British; the Inflexible and several vessels could not be brought into action owing to the wind being strong against them. The brunt of the action falling on the Carleton and Gun Boats, and no possibility of bringing the other vessels to their assistance, Captain Pringle advised Sir Guy to order those vessels that were engaged to sheer off and discontinue the action, which advice was immediately followed. In the attack, the Americans lost one of their largest ships, which was forced on shore, and they had one of their Gondolas sunk. In the night they retired to Cumberland Bay, and Captain Pringle formed the British fleet in a line near the entrance of it, to prevent their retreat.

ARNOLD, however, sensible of his inferiority, availed

himself of the darkness of the night, and effected his escape, with so much ability that he was out of sight early the next morning. The British fleet followed him and the wind being favorable, on the thirteenth of October he was overtaken a few leagues from Crown Point: A warm engagement ensued at noon, and the action was well supported for two hours: Several of Arnold's fleet then left him, but notwithstanding their desertion, he was determined to resist the British with his usual courage. Victory soon after decided against him, and his second Galley commanded by Brigadier General Wal-terbury struck her colours. The Congress Galley which Arnold commanded and five other Gondolas were run on shore by his orders, and as soon as the men were landed were burnt to the water's edge. He kept his flag flying while she was in flames, in order that it might not be struck by the English.

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THE loss of the English in the action did not exceed fifty men killed and wounded. That of the Americans must have been more considerable, as they had two Gondolas sunk and one blown up, with one hundred men on board. On the fifteenth of September the English fleet anchored off Crown Point, which was evacuated by the Americans who had retired to Ticonderoga. Sir Guy Carleton landed his Army at Crown Point, and remained there until the third of November, when they were re-embarked and returned to St. John's, where they went into winter cantonments.

AT the close of the first Campaign, the Commander of the Forces made the necessary arrangements for the Troops, by placing them into winter quarters. The in-



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habitants received the soldiers as lodgers, and evinced every favorable disposition towards those who had shewn such a desire to defend them. The Twentieth Regiment was quartered at the Isle aux Noix, Lake Champlain, with Artillery, and formed the advanced post. The Twenty-first Regiment under Brigadier General Hamilton, occupied St. John's, and at this place were arranged all the vessels and batteaux for the navigation of the Lake. The Fifty-third Regiment garrisoned Chamblé Fort, commanded by Brigadier General Powell, and the Thirty-first Regiment was cantoned along down the Sorel River, to the village of that name, since called, William Henry. Longueil, La Prairie, and all down to Sorel, on the south side of the St. Lawrence, was occupied by the grenadiers, light infantry and twenty-fourth regiment, under the command of Brigadier General Fraser. Montreal, had as garrison, the Artillery and twenty-ninth regiment, and there Major General Phillips took up his head quarters. The Island of Montreal was occupied by the ninth and forty seventh regiments. Colonel Maclean and Sir John Johnson's Corps, were stationed from Repentigni (the end of the Island) to Cape Santé, about thirteen leagues from Quebec, on the north ; and from Sorel down on the south of the River Saint Lawrence, the Germans were posted. They had Three Rivers as their head quarters, commanded by Major General Reidesel. General Carleton remained at Quebec, with the thirty-fourth regiment, as garrison, and the sixty-second regiment occupied Point Levi, opposite to Quebec.

THE Ministry of England, intent on carrying on the war with energy on the side of Canada, in hopes of for-



ming a junction with Sir William Howe at New York, and by that means to cut off the southern from the eastern States, as the surest means of effecting the reduction of the discontented rebellious Colonies, had sent out the year before a large body of veteran troops, well provided with every necessary for carrying on the war. These troops had for their Commander, General Burgoyne, whose character at that time stood high in the annals of Military fame, and he was furnished with able and enterprising officers. Major General Phillips, Brigadier Generals Fraser, Powell, and Hamilton, and two German Generals, Reidesel and Specht, were among the most eminent of them. To this body of veteran troops the inhabitants of Canada were commanded to furnish men, to occupy the woods on the Frontier, to prevent desertion, to procure intelligence, and to interrupt the communication between the enemy and the malecontents in the Province. In addition to these requisitions, they were to furnish a number of horses and carts for the use of the army. The marine corps which had destroyed the American Fleet the preceding year, was put under the command of Commodore Lutwyche.

It was determined that while General Burgoyne and the main Army should advance by Lake Champlain, a detachment should be sent by the way of Oswego and the Mohawk river, to make a diversion in favor of the Army on its march towards Albany. This detachment which amounted to seven or eight hundred men, was composed of two hundred and twenty men of the eighth and thirty-fourth regiments, Sir John Johnson's corps of

CHAP. New Yorkers, several Hanau Chasseurs and a company  
 II. of Canadians, under the command of Colonel St. Leger.

THE main army under General Burgoyne having proceeded up the Lake, landed and encamped on the twentieth of June near Crown Point. At that place General Burgoyne gave the Indians a war feast, the next day he made a speech well calculated to excite their ardour in the Royal Cause, but to repress their wonted barbarity: He forbid them to shed blood, but when opposed in arms, and commanded that aged men, women and children should be spared, though in the heat of action: and that in no case should they scalp the wounded or dying. On the twenty-ninth of June he issued a proclamation, or manifesto, with threats of punishing with the utmost severity, those who refused to attach themselves to the British cause, magnifying at the same time the ferocity of the savages, intent on butchering all those opposed to the mother country. Protection and security were offered to those that remained peaceable at home, but all the calamities of war were denounced against those that were found in arms.

THE American Army composed of three thousand men under the command of General St. Clair, was still at Ticonderoga, in possession of the old French lines, strengthened with additional works. Opposite to Ticonderoga, a high circular hill called, Mount Independence, had been strongly fortified by them, and these two Posts were joined by a floating bridge supported by twenty-four sunken piers at equal distances: on the Lake Champlain side of the bridge, a boom composed of very large timber was erected, fastened together by rivetted bolts and chains of Iron an inch and a half square.

A number of block houses were also built on both sides of the Lake for the defence of these Posts. To the southward, however, of Ticonderoga and Mount Independence, there was, Sugar Hill, which commanded the works at both places, and which the Americans had neglected to fortify from the want of men.

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ON the approach of the right wing of General Burgoyne's army on the second of July, the Americans relinquished and set fire to their works on the side of Lake George. General Phillips at the same time securing an important place called, Mount Hope, which commanded the American lines, cut off all communication with Lake George. On the fifth of July, the Royal army had constructed works for the investment of the place, and had made a road to the top of Sugar Hill, for the construction of a battery there. General St. Clair was no sooner apprized of this circumstance than he evacuated Ticonderoga and Mount Independence, marching through Castleton in Vermont, on his way to Skenesborough, where he had ordered that the baggage and other stores of the army should meet him by water. As soon as it was known that St. Clair and his army had moved off, Brigadier General Fraser, at the head of the light troops, pressed hard on the rear guard of the Americans, and overtook them at five o'clock in the morning of the seventh of July at Hubbarton. Colonel Francis, who commanded their division, consisting of fifteen hundred men, finding that it was impossible to avoid an action, posted his men on strong ground, with a breast work of logs and felled trees. General Fraser, though unequal to him in point of numbers, commenced the attack, under the persua-

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sion that he would be joined by General Reidesel and his party. The Americans defended themselves with great bravery, until the reinforcement arrived, when they were thrown in great confusion, and the British charging at this moment, they fled on all sides. They lost their Commander, several officers and four hundred men, killed and wounded. Many were supposed to have died of their wounds in the woods. The loss of the Royal troops did not exceed twenty officers, none, except Major Grant, of any rank, and about one hundred and twenty men killed and wounded.

THE success that attended the British arms on the land side, induced General Burgoyne, to send a considerable body of troops by water to secure Skenesboro'. On their passage up to that place, the Inflexible and the other armed vessels fell in with the American galleys, when after a short conflict, the whole number of them, besides two hundred batteaux were either taken, burnt or destroyed. On the landing of the troops, the Americans retired, pursued by Lieutenant Colonel Hill, with the ninth British regiment, near to Fort Anne. General Schuyler had posted a considerable body of Americans at the Fort, who learning of Colonel Hill's approach, resolved on attacking him the next day. At half past ten o'clock in the morning of the eighth of July, he was attacked in front by a superiority of numbers, with a heavy fire, which was rendered less effectual by the judicious manner in which he had posted himself. A disposition was then made to surround the British, which Colonel Hill prevented by a masterly change of position. The action still continued for three hours, when

finding their fire ineffectual, they retired to Fort Edward, having first however, set fire to Fort Anne.

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THE destruction of the gallies and batteaux, and the defeat of Francis' detachment, obliged General St. Clair to turn off from Castleton to the left, and after seven days march, he joined Schuyler at Fort Edward. Their combined force amounted to four thousand four hundred men, which on the approach of General Burgoyne, retired to Stillwater. While the Royal army lay at Skenesbro' the troops were busily employed in opening a road, and clearing Wood Creek, to open a passage for the conveyance of their stores. Major General Phillips with a part of the Royal army was equally industrious in transporting the artillery, provisions and baggage over Lake George for the use of the army, in the intended descent on Albany.

LIEUTENANT COLONEL ST. LEGER, after having encountered many difficulties on his march from Oswego, at length arrived on the third of August, and began the investiture of Fort Schuyler, situated on the Mohawk River. To save this fort, the American General pushed on eight hundred militia, under the command of General Herkimer, whose approach being made known by some Loyalists to Colonel St. Leger, he detached Sir John Johnson, with a party of troops and Indians, to intercept them. Sir John, who had taken every measure to ensure success, lay in ambush until the sixth of August, when Herkimer unapprised of his danger, was fallen upon by Sir John's troops, totally defeated, himself killed, with one hundred and sixty men, and twice that number wounded; Sir John's loss was very inconsiderable.

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able, a few Indians were slain. St. Leger on the success that attended Sir John's detachment, sent a flag on the eighth of August, to the Commandant of the garrison, representing his late victory, informing him of General Burgoyne's approach near Albany and advising him to surrender, least by resistance he should sacrifice his whole garrison to the savage fury of the Indians, determined to put every man to the sword. An answer however, was returned that he was determined to defend the Fort to the last extremity. On the news of the defeat of General Herkimer, and that the Fort was still invested, General Schuyler detached Arnold, with a considerable force to the relief of the place. As soon as the Indians were informed of the march of these troops, they very generally deserted St. Leger, who being thus abandoned, left his encampment on the twenty-second of August, and with it all his artillery and stores, and returned again to Canada, by the former route of Oswego.

GENERAL BURGOYNE at length determined to recommence his march, and to approach Albany as speedily as possible, where he had been persuaded to expect many friends ready openly to declare themselves, and to join the Royal Standard. Colonel Skene who had resided for many years at Skenesbro' and who pretended to be well acquainted with the general sentiments and temper of the people of the surrounding country, assured the General that the friends of government only wanted a protecting power to espouse the common cause; and as there was a considerable deposit of flour and stores of all kinds at Bennington, the General was induced to send Lieutenant Colonel

Baum, with five hundred Germans, one hundred Indians, and two field pieces on that expedition. The measure of sending German troops on this enterprize, perfectly unacquainted with the language or people of the country, and requiring a celerity of motion, which Reidesel's Dragoons, whose hats and swords alone nearly out weighed the whole equipment of a British soldier, was unequal to such exertion, became the subject of just censure among the officers of Burgoyne's army. The necessary arrangements having been made for the march, Colonel Baum and his detachment accompanied by a Loyalist as a guide, proceeded towards Bennington. On the same day that they left the Camp, they surprised a party of Americans, which Colonel Skene the next day liberated, under an idea that they might be detached by this mode of conduct from the American cause. In this, however, he was much mistaken, as these people were among their enemies, in the action at Bennington. On his march to Cambridge the day after, he received the first information, that a large body of Militia was assembling in New Hampshire, on the confines of Connecticut, for the defence of Bennington. Baum, had not advanced seven miles further, when he was informed, that as soon as the Americans received a reinforcement, they had resolved to attack him. Baum, without loss of time, was induced to place his detachment in the most advantageous manner possible. He then sent an express to General Burgoyne, acquainting him with these circumstances, and Colonel Breyman, with five hundred Germans more, was sent to his assistance. Breyman, however, from the badness of the roads, and from their halting ten times in an hour to dress their ranks, in a country full of embarrassments, and where they were liable

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to be broken every twenty minutes, made so little progress, that they took thirty-two hours to march twenty-four miles. General Starke, who commanded the American Militia, having made his dispositions, began an attack on Baum, before the junction between the two detachments could be effected. Baum, resolved on making a vigorous defence, endured for an hour, a terrible discharge of musquetry, and during that time drove them from the high grounds on which they were stationed. Baum, having lost his artillery, and the number of the Americans increasing, the Germans were compelled to retire in the woods, leaving their commander mortally wounded on the field of battle. Breyman was advancing to the relief of Colonel Baum, of whose fall he was totally ignorant, when the Americans, flushed with their success, attacked Breyman, who, after making a gallant defence, was compelled to retreat. The loss of men in these two engagements, amounted to six hundred killed, wounded and prisoners. The Americans stated their loss at one hundred men, killed and wounded.

THIS was the first check which the Royal troops had experienced, and while it occasioned a depression of spirits in General Burgoyne's Army, was the cause of much exultation in the minds of the Americans, who, profiting by the delay it occasioned, gave General Gates time to collect the Militia of the surrounding country. A short time after this success, an enterprise was undertaken by general Lincoln to recover Ticonderoga, and other posts in the rear of the Royal army; Colonel Brown was detached with five hundred men, to the landing of Lake George, and surprised the British out posts on the eighteenth of September, took Mount Defiance,



and Mount Hope, with four companies of foot, and an equal number of Canadians, one armed sloop and two hundred batteaux. Not being able to attack Ticonderoga and Mount Independence, he abandoned that design and returned to General Lincoln's camp.

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GENERAL BURGOTNE having crossed the Hudson, on the thirteenth and fourteenth of September, encamped on the heights of Saratoga, and on the eighteenth of September, advanced along the road and encamped within two miles of Gates's camp, and only three miles from Stillwater. General Burgoyne the next day, resolved on attacking General Gates's Army, when these dispositions of attack were made, he advanced in person at the head of the British line, composing the right wing, covered by General Fraser and Colonel Breyman with the grenadiers and light infantry, whose front and flanks were covered by Provincials, Canadians and Indians. The left wing was covered by Generals Phillips and Reidesel, who proceeded with the artillery along the great road by the river side. About one o'clock at noon, the scouting parties of both armies having met, a firing ensued, which induced General Phillips to gain the wood with the cannon, which checked the advance of the Americans, and was otherwise of essential service. The lines of both armies having formed by half past two o'clock, the Americans under General Arnold, made a movement, and advanced to the attack of the British line, when the general action commenced, which lasted till near sun set. The brunt, however, of the engagement fell on the twentieth, twenty first, and sixty-second regiments, the men of which, behaved with great firmness and gallantry, receiving and returning a heavy fire for four hours. The twenty-fourth Regiment,

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grenadiers, light infantry, and Breyman's corps, were of great service. The Germans from their situation, were not much engaged, and which it was thought most prudent not to relinquish. Captain Jones, with the British artillery, behaved with great intrepidity; his four cannon were repeatedly taken and retaken: He was killed, and other artillery officers wounded, and thirty six out of his forty-eight Matrosses were either killed or wounded. The loss of the British, amounted to five hundred in killed, wounded and prisoners. The American troops behaved with great courage and intrepidity, many of their officers distinguished themselves, and both they and their men, received the General's thanks for their conduct. The Americans lost three hundred and twenty men killed and wounded. General Gates, who was posted at a redoubt in the rear, supplied fresh men during the engagement.

THE British army laid all night on their arms, and nothing of any consequence happened from the twentieth September, to the seventh October, except frequent skirmishes between the picquets of each army, so that scarce a night passed without repeated firings from each other. During this period, General Gates was reinforced with two thousand men under General Lincoln.

THE situation of General Burgoyne, was at this time truly painful and distressing; his army was reduced to near five thousand men, whose allowance of provisions did not exceed one half of the usual quantity: his forage was nearly expended, and already many of his horses had perished for want of it. To all these difficulties is to be added, the still more painful one, of no news being received from New-York, of a co-operation of a

strong force that was promised from that place, to meet him at Albany. A messenger, however, at length arrived from Sir Henry Clinton, who informed him that General Clinton meant to cause a diversion, by attacking the Highland Forts. Though a junction of the two armies was the assistance he had expected, yet he was in hopes, that even so small a diversion might induce Gates to withdraw a part of his force, and by that means divide the American army. Sir Henry at length proceeded up the North River, and landing his men, attacked on the sixth of October, the two American Forts, Clinton and Montgomery, in the highlands, which he took by assault. The obstructions to the navigation of the river being thus removed, nothing could have prevented Sir Henry's proceeding to Albany and co-operating with Burgoyne. Notwithstanding that the salvation of Burgoyne's army depended on his exertions, he returned to New-York, contenting himself with having taken these Forts, in which he most unquestionably should have left a sufficient force to have preserved the passage free from New-York to Canada.

AT length no intelligence being received of any effectual co-operation, General Burgoyne resolved to make a movement to the left of the American army, that he might reconnoitre the ground, either for forcing a passage should he advance, or to dislodge the Americans, if on the contrary, a retreat should be resolved on. General Burgoyne moved with a detachment of fifteen hundred men, and two twelve pounders, six six-pounders, and two howitzers, which he commanded in person, seconded by Generals Phillips, Reidesel and Fraser. Generals Hamilton and Specht were left to com-

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mand in Camp, and Brigadier Gill had charge of the redoubt near the river. General Burgoyne, finding the force of the Americans too considerable to hesitate a moment on the expediency of the measure he afterwards adopted, sent an additional force in aid of the detachment. The British army was then formed within half a mile of General Gates's. About four o'clock, an American column made a furious attack on the left, where the British grenadiers were posted, under the command of Major Acland, and sustained their fire with great intrepidity. The Americans extended their attack, along the whole front of the Germans, and made a movement round their flank, to cut off their retreat; to frustrate their intentions, the light infantry, and the twenty-fourth regiment were instantly formed. Mean while Gates pushed forward a fresh and strong reinforcement against the left wing, which compelled it to give way, and had not the light infantry and twenty-fourth regiment made a quick movement for its support, it would have been cut to pieces. The detachment was compelled to retire to their lines, where they were no sooner arrived, when General Arnold with a brigade of troops, made a furious attack on Lord Balcarras's light infantry, posted in the entrenchments; the opposition was firm, and the Americans were compelled to retire. In another quarter, however, the Americans were more fortunate. They made a vigorous attack on the entrenchment defended by Lieutenant Colonel Breyman, at the head of the German grenadiers, which they carried sword in hand. The Colonel was killed, and his troops retreated to the British camp. Night, at length, closed the dreadful scene. The British lost many officers, and among them was general Fraser—the subject of general regret. Sir James Clarke, General Burgoyne's Aide de-Camp was mortally wounded, and taken prisoner. Majors Willi-

ams and Acland were both wounded, and the latter taken prisoner ; besides these, two hundred officers and soldiers were made prisoners. Nine pieces of brass cannon, and the whole equipage of a German brigade fell into the hands of the Americans.

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— GENERAL BURGOYNE's troops were under arms the whole of the next day, in expectation of an action, but nothing happened but small skirmishes between the two armies. About sun-set, the corpse of general Fraser was brought up the hill by some soldiers of his own corps, attended only by the officers of his family, and buried in one of the great redoubts. Generals Burgoyne, Reidesel, and Phillips could not refrain following the corpse of a man to whom they were so much endeared, and to whose remains a tribute of respect and affection, was so justly due : their feelings were too much alive not to be affected at the solemn procession. The incessant cannonading during the solemnity, the steady attitude and unaltered voice, with which the Champlain, the Reverend Mr. Brudenell officiated, though frequently enveloped in dust, thrown up on all sides by the shot, the mute, but expressive mixture of sensibility and indignation upon every countenance, together with the growing duskiness of the evening, may hereafter be described as marking a character of that juncture which makes one of the finest subjects for the pencil, that the field ever exhibited.\*

GENERAL BURGOYNE, finding his situation untenable, changed his position on the right, without loss or disorder, and removed with his baggage and artillery to the heights above the hospital. The object of this

\* Burgoyne's State..

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movement was to induce Gates to take a new position, and to bring on an action. This Gates as studiously avoided, with a view of attacking Burgoyne's right, which had he accomplished it, he would have surrounded him on all sides. As soon as Burgoyne was apprised of Gates's intentions, he adopted the only alternative left, by making an instant retreat. At nine o'clock of the evening of the eighth of October, the army left the heights, and moved on towards Saratoga, with their baggage and artillery. The hospital, with the sick and wounded, was left behind, and being recommended to General Gates's humanity, they were well treated, and taken care of. The next step, in this hopeless situation, appeared to be a retreat back again to Lake George, and in this intention, artificers and workmen were sent to repair the bridges on the route to Fort Edward, to facilitate the passage of the Army. This detachment, however, had no sooner proceeded a short distance on its march, when the Americans appeared in considerable force on the heights, which induced the General to order their immediate return. His situation at this moment, became truly distressing ; abandoned by the Canadians and Indians, weakened by losses and desertions of his own troops, unsupported by Sir Henry Clinton, at New-York, reduced to three thousand five hundred fighting men, with a scanty allowance of provisions, and without any hopes of a fresh supply in the face of an enemy four times their number, no alternative was left but a surrender of the army under his command. A Council of War was called, which was extended to Captains commanding corps. Their opinion was, that the present situation of affairs justified a capitulation, on honorable terms. A messenger was sent to transact this business. To General Gates's sixth proposition, That the British should ground their arms in their

encampment, General Burgoyne replied, " This article is inadmissible in every extremity ; sooner than this army will consent to ground their arms in their encampment, they will rush on the enemy, determined to take no quarter." This article being rescinded, a Convention was at length agreed on. The troops to march out of their Camp with the honors of war, and the artillery of the entrenchments, to the edge of the River, where both the arms and artillery were to be left ; the arms to be piled by word of command by their own Officers. A free passage to be granted to the army under General Bourgoyne to Great Britain, upon condition of not serving again in North America during the present war. And the port of Boston to be assigned for the entry of the transports to receive the troops, whenever General Howe shall so order. The army under General Bourgoyne to march to Massachusetts by the easiest route, and to be quartered near, or as convenient to Boston, as possible. The troops to be supplied at the same rate of rations as the troops of General Gates's Army. All officers to retain their carriages and bat horses ; the officers, as far as circumstances will admit, not to be separated from their men ; the officers to be quartered according to their rank ; all corps in General Burgoyne's army to be included in the above articles : all Canadians, and persons belonging to the Canadian Establishment, and other followers of the army, to be permitted to return to Canada, but not to serve during the present contest. Passports to be granted to three officers, to carry dispatches to General Howe, Sir Guy Carleton, and to Great Britain. The officers to be admitted to their parole, and to be permitted to wear their side arms.

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BEFORE intelligence had been received in England of the disastrous catastrophe of General Burgoyne's expedition, on which the Government at home, had chiefly founded its hopes of a successful termination of the war, enough was known respecting its progress, to convince men that very erroneous estimates had been made with regard to the services to be performed, the force which it required, and the manner in which it was to have been executed. It was also thought to have been a great error in the Minister of the day, that the conduct of the Northern Expedition had not been committed to Sir Guy Carleton, a General who, together with distinguished military accomplishments, had, from his residence in Canada, acquired a knowledge of the Country and its Inhabitants, which few possessed. Common sense recommended this appointment. He had deserved the patronage of the State, by the services he had rendered: but more powerful motives recommended the appointment of General Burgoyne, whose military talents were not assisted by the circumstances essential to the services of such an enterprize.\* And the consequence was, that Sir Guy Carleton, thinking himself injured, resigned the Government of Canada.

\* General Burgoyne was a Member of Parliament, says the Historian of the American War, "and it was one of those miserable expedients, which the Minister substituted for grandeur of design, to bestow some of the most important employments, both Military and Naval, on men who were in the habits of opposing the measures of Administration."



THE  
HISTORY  
OF  
CANADA.

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CHAPTER I-I.

*From the Convention at Saratoga, in 1777, to the Establishment of the Constitution, in 1791.*

**THE** first sitting of the Legislative Council, after the passing of the Quebec Act, was in the Spring of the year one thousand seven hundred and seventy seven ; the Council passed sixteen Acts, and among them, one for the establishment of Courts of Justice : a Court of King's Bench was created for the Trial of Criminal Causes, only : in this Court the Chief Justice presided alone ; a Court of Common Pleas for each of the Districts of Quebec and Montreal. Three Judges were to preside in each of these Courts, and two necessary to transact business. A Court of Probates, was established for Testamentary affairs and Successions. The whole Council was also constituted a Court of Appeals, and any five of them, with the Governor, Lieutenant Governor or Chief Justice, were declared competent to proceed to trial and judgment of all causes brought before them in appeal. From the above establishment it will appear, that there was only one Court of original jurisdiction for the trial of Civil Causes, namely, the

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Court of Common Pleas. The "Laws and Customs of Canada," established in the Province of Quebec, by the Act of the fourteenth year of George the Third, were generally understood to consist of the Custom of the "*Prévôté de Paris*." Such of the French King's Edicts and Ordinances as were registered in the Superior Council of the Province : the Regulations and Ordinances of the Intendant : the local custom of the Country : and (though on what authority is not known) the Roman or Civil Law : in addition to these, the Acts passed by the Legislative Council of the Province, and the Criminal Law established by the Quebec Act. These Laws will appear sufficiently extensive and complex to require years of intense study to understand them properly : and yet Judges have presided in these Courts, who had not been brought up to the study of the Law, or who could not be supposed properly acquainted with the rules or practices of Courts of Law or Equity. The consequence of which has been, that anarchy and confusion prevailed in the administration of Justice in the Province, by which real property was rendered insecure ; trade was clogged, and that good faith, which ought to, and should subsist among the people, and which is the life and support of commerce, was totally destroyed. Sir Guy Carleton, who had been dissatisfied with the Ministry in England, in having appointed General Burgoyne to command the expedition from Canada, to reduce the rebellious Colonies to obedience, had desired his recall the year before : on his obtaining it, the Government of Canada was committed to Major General Frederick Haldimand,\* who arrived at Quebec in the course of the Summer. Various have been the opinions respecting this gentleman's administration : If we are

\* Commission dated 18th September.

to give credit to the assertions of some, his government was marked by severity ; and on the other hand, it has been represented by others, as having been conducted, by a wholesome discipline, necessary at that time, to preserve the public tranquillity.—This gentleman was a Swiss, and on the score of his being a foreigner, many excuses may be made, for the errors of his administration. Several actions for damages for false imprisonment, were instituted against him in England ; the persons who had been imprisoned, recovered judgments against him, which were paid by Government. Although the inhabitants of the Province of Quebec had, from the general tendency of the British Government to a mild administration, enjoyed a certain degree of Civil Liberty, yet they had been, from the peculiar nature of the system of Government, established by the Quebec Act, deprived of a great part of their Political Liberty. A more full enjoyment of these essential privileges, had been the constant prayer of all their petitions. The object prayed for in their petitions, may be reduced to the following heads :—1st, An elective House of Assembly, or Representatives of the People—That the Members of the Legislative Council, should receive no salaries, as Counsellors—That the Habeas Corpus Act, and the other Laws of England relating to personal liberty, should be made a part of the Constitution—That the Trial by Jury in civil causes, should likewise be introduced, and that nine out of twelve jurors might return a verdict—That the ancient laws and customs of Canada, relating to landed property, marriage settlements, inheritance and dower, be continued in force in the Districts or Counties of Quebec and Montreal—That the English Law should be established generally in the Counties that might hereafter

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be formed, and particularly in such districts as might be entirely inhabited by the King's old or natural born subjects—That the laws of England, relating to commercial affairs, should be established for the whole Country—That the criminal laws of England should be continued, as at present in force. Nor were these unreasonable demands, praying as they did, for the establishment of a Government so nearly resembling those of all the other dependencies of the Empire: The Legislative Council established by the Quebec Act, had not the power, and it cannot be supposed, to have contained the knowledge necessary for the Legislature of such an extended Province, and by these means, and by the arbitrary system which had so long prevailed, the progress and improvement of the country had been retarded, and this has ever been the consequence of oppression. Petitions had been signed by all the old subjects, and by a numerous body of the most respectable, among the new, in the Districts of Quebec and Montreal. That some opposition should have appeared against these reforms prayed for, cannot be considered extraordinary: private interest, or selfish views, have often prevented the wisest and most advantageous reforms. Unanimity of sentiment in a nation is not known in history.

To prevent, in some measure, the pernicious effects of false reports on the objects of Reform, and for the information of the public in general, committees were named and appointed to carry forward and support the petitions, and they were printed and distributed in the French language, all over the Province. Those who had taken the lead in the pretended opposition, were principally of that class of people called "gentry," and yet in their petitions, they prayed to be

admitted without any distinction, under whatever form CHAP.  
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*of Government* His Majesty should be pleased to establish in the Province, to a precious participation in all the favors, rights, privileges and prerogatives, which His Majesty's faithful subjects enjoyed in every part of the world; so that it is evident that though these counter petitions were in name, yet they agreed in substance, with the ideas of those expressed by the other inhabitants. In a subsequent memorial, however, to the then Governor, they shewed for the first time their opposition to a House of Assembly, because they were apprehensive that the Protestants might have the greatest influence in that House; but this could not be considered as a valid objection: the Protestants for their own interest, would be careful in enacting laws to promote the general interest of the Province. They were possessed of nearly one half in value of all the Seigniories, and had besides the whole mercantile and floating property of the Province, and were too much interested in the welfare and prosperity of the Province, for any danger to be apprehended from their possessing a large share in the Legislative powers. These fears only existed in the minds of those who had been principally concerned in the counter-petitions. Their consequence in the society might have been affected by a free system of Government, though that of the Canadians in general, might have been greatly advanced. A participation in the making of laws, by a House of Assembly, was a principle always acknowledged by Great Britain, and what she had ever granted to her other colonies, as the means of rendering them more flourishing and prosperous than those of other nations. The colonists stated in their petitions, that they could not be satisfied without a liberal system of Government, and representatives

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in the Legislature, and that as they only stated their rights and privileges, they did not doubt that they would receive the relief that they merited. Notwithstanding the constant and unremitted desires of the Colonists of Canada, to obtain a House of Assembly, none was granted until long after the termination of the American war, which took place in the year one thousand seven hundred and eighty-three, and when the present noble and excellent constitution was established by Act of Parliament, in the year one thousand seven hundred and ninety-one.

As taxing the colonies had been given up by the Parliament of Great Britain, it became necessary to send instructions directing certain oaths to be taken by persons applying for Lands in Canada; they were called upon to take the usual oaths directed by law, and to subscribe the declaration, acknowledging His Majesty in Parliament as the Supreme Legislature of the Province: An instruction was sent out to Governor Haldimand, accompanied by a letter from the Secretary of State, stating, that however general the declaration might be, it could not extend to taxation; Parliament having by the Act of the eighteenth year of the King, in the most express terms, restrained itself for ever imposing any taxes or duties on the Colonies, except for the Regulation of Trade, the produce of which taxes or duties were to be disposed of by the Provincial Assemblies. The letter also stated, that as such was the case, it was judged not only unnecessary, but implying some doubt of the sincerity of Parliament to make any exception in the declaration, the exception having been already made by Parliament itself in a manner so solemn and effectual that nothing could add to the security of the subjects in

the Colonies derived under it. The Secretary of State CHAP.  
 added, "These you will naturally make proper use of, III.  
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 III. rights and privileges, they did not doubt that they would  
 receive the relief that they merited. *Notwithstanding*

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| DISTRICTS.                    | Married Men. | Houses. | Married Women. | Male     |               | Young Cattle. | Sheep. | Hogs.  | Fusils. |
|-------------------------------|--------------|---------|----------------|----------|---------------|---------------|--------|--------|---------|
|                               |              |         |                | Above 15 | years of age. |               |        |        |         |
| City & District of Montreal - | 10,140       | 9,794   | 9,727          | 4,357    | 1             | 5,620         | 33,238 | 41,805 | 5,968   |
| City & District of Three Riv. | 2,080        | 1,973   | 2,247          | 912      | 1             | 1,147         | 10,206 | 6,458  | 1,291   |
| City & District of Quebec -   | 7,911        | 7,137   | 7,380          | 4,112    | 1             | 1,439         | 41,252 | 22,202 | 3,575   |
| Total - -                     | 20,131       | 18,904  | 19,354         | 9,381    | 2             | 8,206         | 84,666 | 70,466 | 10,834  |

The number of Men above 15, and not *titia*

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Parliament and the  
 that nothing could add to the security of the subjects in



the Colonies derived under it. The Secretary of State added, "These you will naturally make proper use of, should any objection be made to the declaration or the construction of it, and I doubt not, but the necessity of guarding against disaffected persons becoming settlers in Canada, will convince His Majesty's loyal subjects of the propriety of that test, by which they cannot be affected, or deprived of any indulgence or encouragement to which they are entitled."\* General Haldimand appointed Commissioners in the course of this year, in order to have a census of the inhabitants of the Colony, and among other things, to ascertain the quantity of grain sown. The number of the inhabitants then consisted of one hundred and thirteen thousand and twelve souls, and the quantity of wheat sown, consisted of three hundred and eighty-three thousand three hundred and forty-nine bushels.† From the period of the failure of the Northern Expedition, no occurrence took place of aggression on the part of the rebellious Colonists for the invasion of this Province; several inroads were however, made into the then English Colonies from Canada, so that though the mother Country was at war, the Colony, remained in a state of tranquillity, and all the forts and garrisons were retained, as before.

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|   | Fusils. |
|---|---------|
| 5 | 5,968   |
| 8 | 1,291   |
| 2 | 3,575   |
| 3 | 10,854  |

ON the recall of General Haldimand, Henry Hamilton, Esquire, was appointed Lieutenant Governor. He had been an officer in the Army, and his administration was signalized by the introduction of the Habeas Corpus Bill, which was passed into a Law. The passing of such an Act, one of those most essential to the liberty of an

1785.

\* This letter was from Lord North, one of His Majesty's Principal Secretaries of State, to Governor Haldimand, dated, Whitehall, 24th July, 1783.

*Number of Souls, &c. in Canada*

| DISTRICTS.                    | Married Men. | Houses. | Married Women. | Males.                 |           | Females.  |           | Servants. | Absent. | Infirm. | Slaves. |
|-------------------------------|--------------|---------|----------------|------------------------|-----------|-----------|-----------|-----------|---------|---------|---------|
|                               |              |         |                | Above 15 years of age. | Under 15. | Above 14. | Under 14. |           |         |         |         |
| City & District of Montreal - | 10,140       | 9,794   | 9,727          | 4,337                  | 11,637    | 3,809     | 10,803    | 4,020     | 304     | 625     | 21      |
| City & District of Three Riv. | 2,080        | 1,973   | 2,247          | 912                    | 2,874     | 877       | 2,726     | 676       | 104     | 118     |         |
| City & District of Quebec -   | 7,911        | 7,137   | 7,380          | 4,112                  | 10,041    | 4,206     | 8,984     | 1,795     | 93      | 150     | 8       |
| Total - -                     | 20,131       | 18,904  | 19,354         | 9,361                  | 24,552    | 8,892     | 22,513    | 6,491     | 501     | 893     | 30      |

The number of Men above 15, and not exceeding 60 years of age, were found to be

CHAP. in the Legislature, and that as they only stated their  
 III. rights and privileges, they did not doubt that they would  
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*f Souls, &c. in Canada, in 1784.*

| Males. | Under 14. |           |         |         |         |                |                               |         |        |        |               |        |        |
|--------|-----------|-----------|---------|---------|---------|----------------|-------------------------------|---------|--------|--------|---------------|--------|--------|
|        |           | Servants. | Absent. | Infirm. | Slaves. | Acres of Land. | Bushels of grain sown yearly. | Horses. | Oxen.  | Cows.  | Young Cattle. | Sheep. | Hogs.  |
| 99     | 10,803    | 4,020     | 304     | 625     | 212     | 726,703        | 217,682                       | 17,825  | 12,036 | 22,579 | 16,620        | 33,238 | 41,805 |
| 77     | 2,726     | 676       | 104     | 118     | 4       | 214,875        | 39,349                        | 3,155   | 1,602  | 5,368  | 3,147         | 10,206 | 6,458  |
| 66     | 8,984     | 1,795     | 93      | 150     | 88      | 628,240        | 126,318½                      | 9,116   | 8,456  | 16,344 | 12,459        | 41,252 | 22,202 |
| 22     | 22,513    | 6,491     | 501     | 893     | 304     | 1,569,818      | 383,549½                      | 30,096  | 22,094 | 44,291 | 32,206        | 84,666 | 70,466 |
|        |           |           |         |         |         |                |                               |         |        |        |               |        | 10,834 |

50 years of age, were found to be 28,249, fit to bear arms, and enrolled in the Militia.

armament used in a manner so solemn and effectual  
 that nothing could add to the security of the subjects in

**CHAP.** Englishman, though it had been strongly recommended  
**III.** to the several Governors of the Province preceding Mr.  
 Hamilton, by an instruction, as early as the year one  
 thousand seven hundred and seventy-five, was not passed  
 into a law, until this year.

ON the first proposition in the Council, for the discussion of the Bill, the joy throughout the Province was general. The Clergy, in particular, expressed their approbation and the Religious Communities of Women, whom it was proposed to exclude, in consequence of their vows, represented to the Council, that they should consider their exclusion from the benefits of the Act, as an eternal monument of disgrace, because it might be represented by those ill disposed towards them, that they stood in need of the exception, to retain them in their cloisters. The Seminary of Quebec brought forward the representations of the three Religious Communities of Women, established at Quebec. The Habeas Corpus Act passed by the Council, is not precisely a transcript of that of Charles II. though it contains the spirit of it, and is justly considered as one of our most valuable laws.

THIS year was also distinguished by the establishment of a Public Library. Several liberal and spirited gentlemen, put about a subscription, sent to England, and there purchased a number of Books, which have been received, and now form a Library that does honor to the first projectors of this laudable design, and which has been daily augmented by the liberality of new subscribers.

ON Sunday the ninth of October, between four and five o'clock in the afternoon, an uncommon darkness

was perceived, though at the same time the atmosphere appeared of a fiery luminous yellow colour; this was followed by squalls of wind and rain, with severe thunder and lightening, which continued most of the night, a thing uncommon at that season, it having froze considerably the night before.

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ON Saturday the fifteenth, about fifteen minutes after three in the afternoon, it became darker than it had been the Sunday before, and the sky of much the same colour; it was succeeded by a heavy shower, and very severe thunder and lightening.

SUNDAY morning the sixteenth was quite calm and foggy till about ten o'clock, when there arose some wind from the eastward, which partly expelled the fog; in about half an hour after, it became so dark that ordinary print could not be read within doors; this was followed by a squall of wind and rain, when it brightened up again. From five till about ten minutes after twelve, the darkness was so great, that the Ministers in the English and Presbyterian Churches were obliged to stop till they got candles. From two o'clock till about ten minutes after, it was as dark as at midnight when there is no moon light. From forty-three till about fifty minutes after three o'clock, it was total darkness; and from thirty-five till forty-five minutes after four, it was very dark. The people in the city dined by candle light, and spent a part of the afternoon in lighting up and extinguishing them. Each period of darkness was followed by gusts of wind and rain, with some severe claps of thunder, and the atmosphere looked as before described. It was remarked, that on the days before

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mentioned, there appeared to be two adverse currents of air, the uppermost impelling a luminous strata of clouds towards the north east, and the lower driving with great rapidity broken misty clouds towards the south west, and that the rain water which fell on Sunday during those gusts was almost black. No satisfactory solution has ever been given of this extraordinary phenomenon.

GOVERNOR HAMILTON had been recalled, and Colonel Hope took the command of the Province as Lieutenant Governor; the latter Gentleman remained but a short time, as Lord Dorchester, (Carleton) had been appointed Governor General of all the British Provinces in America, in England, in the month of June, and arrived on the twenty-third of October of this year, and took the oaths of Office. The Council presented his Lordship with an Address, congratulating him on his safe arrival, expressing the very high and grateful sense they entertained of his Majesty's paternal regard to the welfare and happiness of the People of the Province, in appointing a person of his Lordship's distinguished character and talents; from whose former long residence in, and government of the Country, together with that intimate knowledge of its true interests experienced on different occasions, the People had to expect the most solid and permanent advantage, heightened also, by the additional pleasing reflection, that his Lordship had been invested with the supreme command of the other remaining possessions of his Majesty in America, and by that means render them subservient to the prosperity of each other, and to the general benefit of the British Empire.\* Lord Dorches-

\* Council Book, B.

William Smith, Esquire, arrived at Quebec as Chief Justice with his Lordship.

ter informed of the distracted state of the Civil Government of the Colony, assembled soon after his arrival, the Legislative Council, and having formed the Members into different Committees, he directed them to enquire into the state of the Laws, the Commerce, the Police and Education of the Province, and to report to him, each committee, respectively, on the subject referred to it : The committee appointed to report on the state of the commerce, applied by Letter to the Merchants of Quebec and Montreal, "In order" as they state in their report to his Lordship, "to obtain the thoughts of others, more experienced than themselves, on subjects of such extensive concern to the welfare of the Province."—In consequence of this application, the Mercantile Body of these two Cities, having consulted together, and after mature deliberation, made out, each, a report on a variety of objects relating to the state of the commerce, the laws, and police of the Country, which they presented to the Committee of the Legislative Council. The confusion of the laws, and the great uncertainty of all legal proceedings are pointedly and expressly stated ; these reports were highly approved of by the Committee, and by them recommended in the strongest terms to Lord Dorchester's most serious consideration and reflection.

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IN the Spring Session of the Legislative Council of the year one thousand seven hundred and eighty-seven, Mr. Chief Justice Smith, brought into the Council, a Bill, to continue an Ordinance that had been passed two years before, establishing the Trial by Jury, in all civil affairs : "between merchant and merchant, and trader and trader, so reputed and understood according to law : and also, of personal wrongs, proper to be compensated in damages." And His Honor ad-

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ded to the Bill certain clauses which, he apprehended, would operate as a cure of some of the disorders, that had so long prevailed in the courts. This Bill, notwithstanding the Trial by Jury intended by it, was so extremely limited, unfortunately for the Province, was rejected by the Committee. The members who had supported it, with a view of providing a remedy for some of the many evils of the present system, finding their laudable intentions for the public good thus frustrated, thought expedient for their own justification, to enter their protest against the rejection of the Bill, on the Journals of the Council. Their reasons of dissent, supported all the complaints of the people, and furnished strong proofs of the necessity of reform. The party who had opposed it, and ultimately rejected the Chief Justice's Bill, soon after brought forward another in its place. In this new Bill, though the name of Jury was retained, yet the advantages which the subject derives from that glorious institution, would have been lost. The reports of the tendency of this new Bill alarmed the merchants, and in a meeting held for the purpose of deliberating on what steps were proper and necessary for them to take, on an affair of so much importance to their security, they determined to petition the Council, praying to be heard against the Bill, before it passed into a Law. They drew up their petition, presented it, and the Council appointed a day for hearing the argument. On that day the Counsel\* for the Commerce appeared at the Bar of the Legislative Council, and in a speech which lasted six hours, he pointed out in a very clear and satisfactory manner, the evil tendency of the Bill, then before the Legislature: he shewed the

\* James Monk, Esq. then Attorney General, and afterwards Chief Justice of the K. B. Montreal.



necessity of ascertaining what laws were established for the Province by the Quebec Act, that the subject might have some certain rule to regulate his affairs with security, and pointed out the propriety of restraining the Judges to more fixed and determinate principles and rules of conduct, with regard to the practice of the courts, and to the laws and maxims which ought to govern them in their decisions. In support of the arguments he had used for that purpose, he cited a number of cases from the records, and shewed the inconsistency of the courts in their judgments so clearly, that it astonished the whole audience. By order of the Legislative Council, he, some days after, laid before them, two statements of facts from the Committee of Merchants, containing the substance of the charges made against the proceedings in the Courts in his speech.

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THE effect was produced, and the Bill dropped ; but so many serious charges had been made on that day against the proceedings of all the Courts of the Province ; that the Legislative Council addressed the Governor, to cause an investigation to be made, into the past administration of Justice in the Courts of the Common Pleas, as well as against the Judges of the same, and of the inconsistency in some of the judgments of the Courts of Appeals. The Chief Justice, as Commissioner, in the beginning of June, opened the investigation. Many gentlemen of high rank, and holding places of great trust and confidence under Government, were examined, who exposed to public view such a scene of anarchy and confusion in the laws, and in the administration of them by the Courts, as no other British Province ever before laboured under. They stated, that English Judges followed English law ; French Judges

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followed French law, and that some of them followed no particular law, but decided according to what appeared to them to be the equity of the case. Such was the melancholy state of the administration of Justice for many years in this Province ; and such it continued, until Professional Men were placed on the Bench.

THE Trial by Jury in civil causes, had been introduced in one thousand seven hundred and eighty-four, but not generally. The Ordinance of that day ascertained the nature of the controversies to be determined by verdict, and there are who conceive that this mode of trial might be applied to all points of fact, without detriment to the property of the Canadians, as the Laws of the place, in the case of particular districts of England and of foreign Countries, are maintained and adjudged in Westminster Hall. To this mode of trial Englishmen are attached, and Judges should contend for it without any disparagement to their character or office, as the intervention of a Jury, serves for no mean defence against the clamours and complaints to which Courts, where the Judges find both law and fact, are obnoxious, and especially in such a Country as this, where they hold the mighty power of settling the question, what was, or what was not, the custom and usage, as well as the law, of the Colony, antecedent to the conquest.

A Committee of the Council of the Province had been appointed on the thirty-first of May, one thousand seven hundred and eighty seven, for promoting the means of Education in the Province ; Schools and Seminaries had been much wanted, to rescue the rising generation from that profound state of ignorance, which had so long disgraced the Province. A letter was ad-

ressed by the Chairman of the Committee, to the Catholic Bishop, and another to his Coadjutor. The better to acquire information on the subject, questions were enclosed in the Chairman's Letters, and answers were directed to be given them.\* It had been proposed that as the Trust estates, preserved at the Res-

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\* *To His Excellency the Right Honorable GUY LORD DORCHESTER, Governor General of the Province of Quebec, &c. &c.*

MAY IT PLEASE YOUR LORDSHIP,

THE Committee being this day assembled, in Obedience to your Lordship's Order, came to sundry Resolves thereon, as expressive of their *unanimous opinion*; which, with the cause of the delay of their deliberations and Report, are contained in the Copy of their Journal hereunto annexed.

All which is nevertheless submitted to your Lordship's great wisdom.

Signed by order of the Committee, Quebec, Council Chamber, at the Bishop's Palace, Thursday, 26th November, 1789.

WILLIAM SMITH, Chairman.

*JOURNAL of a Committee of the Council, charged to report on the Subject of the Education of Youth in this Province.*

AT a Meeting, Thursday, 26th November, 1789.—PRESENT.

|                    |             |
|--------------------|-------------|
| THE CHIEF JUSTICE, | MR. GRANT,  |
| MR. DUNN,          | MR. BABY,   |
| MR. DELERY,        | MR. DUPRE', |

READ,—The Order of Reference, dated 31st May, 1787.  
*Thursday, 31st. May, 1787.*

HIS LORDSHIP called the attention of the Council, to the great object of the education of youth, through all the extent of the Province; and it is committed to the Chief Justice, Mr. Dunn, Mr. Mabanane, Mr. Delery, Colonel Caldwell, Mr. Grant, Mr. de St. Ours, Mr. Baby and Mr. Dupré, to report, with all convenient speed, the best mode of remedying the defects, an estimate of the expence, and by what means it may be defrayed. Any other Member assisting the Committee, to have a voice.

J. WILLIAMS.

Observed by the Chairman, that His Lordship's order supposing defects in the means of education, the duty of the Committee seemed to be to explore the causes, and point to the remedy.

That as the subject was not capable of discussion the reference required, without some local information, he had since put a series of

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toration of Charles II. by the piety of the late Honorable Mr. Boyle, which, formerly brought a revenue of twelve hundred a year, as well as the funds of the Society, constituted at the Revolution in one thou-

questions into the hands of Mr. Panet, one of the Canadian Lawyers, in the hope of being able to have spread before the Committee pertinent communications from every parish of the ancient settlements, in the two districts of Quebec and Montreal.

The questions were these—"Enquiry to extend to,

"(1) The condition or present state of education.

"A list of the parishes and incumbents, and of the number of the parishioners in each, and the amount of their respective church-revenues.

"The number of their schools, and the kind of instruction. What their support? Can it be true, that there are not more than half a dozen in a parish, that are able to write or read?

"(2) The cause of the imperfect state of instruction.

"What kinds of public and general tuition are established? What the funds? What the income? To what the uses and ends? What the impediments?

"A minute detail desired, that the remedy may be the better adapted to the evil, and the necessity there is for proper institutions.

"(3) The remedy or means of instruction. The main object is the cultivation of knowledge.

"Suppose a union for this purpose, safe to the Catholic as well as Protestant persuasions, and encouraged by all enlightened and patriotic characters, whatever the diversity of their religious tenets, is it possible to hope, to take a step towards establishing a University in the Province? or to find schools introductive of a University? How may instructors be acquired? By what means can a taste or desire of instruction be excited in the parishes?

"The means must be adapted to the condition of the Colony.

"(1) To the strength and ability of the inhabitants.

"(2) To the aid to be expected from the Provincial Legislature.

"(3) The contributions probable from abroad, in money, and books, and towards an apparatus for experiments in Natural Philosophy.

Upon the first point.

"Will the Chief inhabitants concur in asking for an incorporation?

sand six hundred and eighty-eight, for the propagation of the Gospel, could no longer be legally bestowed on the American Provinces severed from the Empire, these funds might be destined to the establishment of an University.

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"Will the subscribers for the library place it in the hands of a corporation for a College?"

"May any thing be hoped for, in the way of private contributions for an erection of the establishment, in any particular place or part of the Province?"

Upon the second point.

"What lands of the crown are there, proper to be settled, for the use of such a Society."

Upon the third point.

"Without an establishment by charter, every gift will be dependent upon private confidence; and then nothing is to be expected from abroad."

"This will not be so, if the stock and revenue are in hands having the confidence of the Government—and may it not be expected to find men of learning for the professor's chair free from narrow prejudices?"

"May we not flatter ourselves, that a circular letter to the pastors of each parish, will bring us an exact account of the parishes, and awaken a spirit of enquiry, and afford useful information of the peculiar advantages of the parishes, for the special improvements of which they are capable?"

The Chairman added,

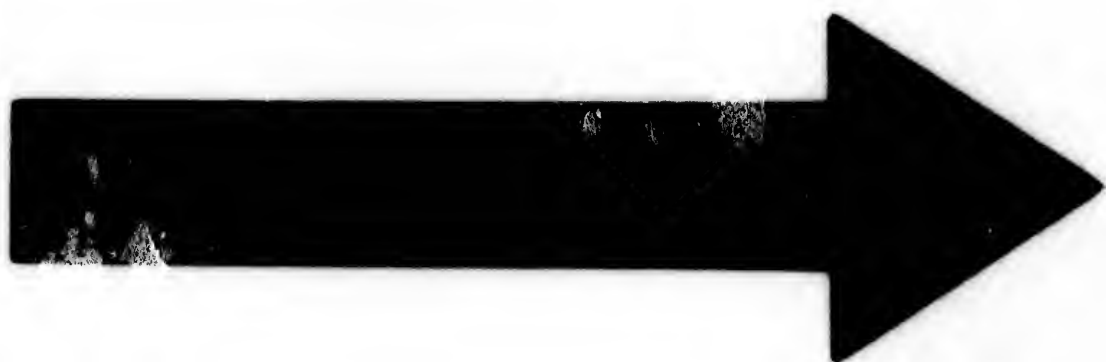
"That as yet Mr. Panet had not (possibly from the interruptions of his practice at the Bar) sent in any answers to these questions."

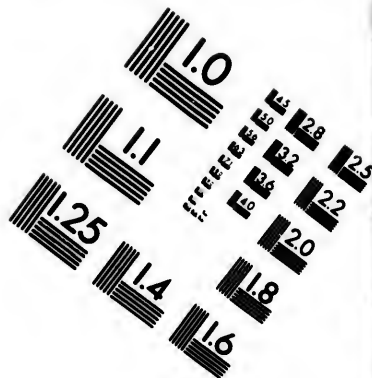
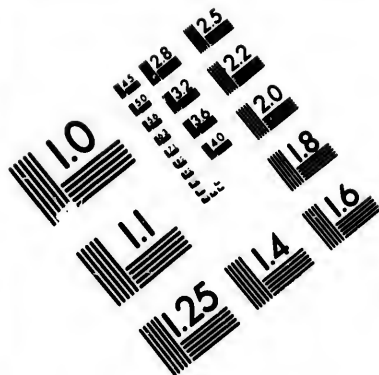
That this delay having been suggested to His Lordship in Council, upon his usual call for quickening the unreported references, the Chairman then looked for the information from the good offices of Mr. Baby, one of the members of this Committee, who undertook to speak to Mr. Panet and forward the work.

That the Chairman proceeded next, to bring the heads of the clergy of the catholic communion acquainted with the benevolent intention of the reference; and for that purpose the following letters were written last August.

"Right Reverend Sir, *Quebec, 13th August, 1789.*

"A Committee of the Council, of which I am Chairman, have





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In addition to these, a small portion of the ungranted lands of the Crown, it was thought, might, at no distant period, have relieved the generosity of those, who might have aided the establishment in the first instance;

" had it in charge ever since the 31st. May, 1787, to report to the  
" Noble Lord at the head of the Government, upon the interesting  
" subject, of giving a spring to science upon a great scale, by an Uni-  
" versity in this Province.

" The questions inclosed, are stated for acquiring some informa-  
" tion, preparatory to a meeting of the Committee, and were put for  
" that purpose into private hands, who have not succeeded; and are  
" now submitted to your inspection, in the persuasion that your pow-  
" er and inclination, will be equal to a design, which, independent of  
" the benefits of promoting the children of this country, by qualify-  
" ing them for public honors and service, is conducive to the prospe-  
" rity of the Province, and the interests of humanity at large.

" I have transmitted another copy to your venerable coadjutor;  
" and am persuaded that our committee will accept yours, and his  
" aids, and of all the clergy under your care, with great Grati-  
" tude; and be very ready to co-operate with you in this honorable  
" and great work.

" I have the Honor to be, Right Reverend Sir,

" Your most obedient and most humble servant,

" Monseigneur L'EVEQUE DE QUEBEC.

" WM. SMITH."

" Quebec, 13th August, 1789.

" Right Reverend Sir,

" The inclosed queries were designed to procure information, for a  
" report to the Governor General from a committee of the council,  
" with a view to the erection of a University in this Province.

" Having written this day to Monseigneur L'Eveque upon this  
" subject, I send you a copy of the queries, in the persuasion that  
" your good offices cannot be wanting in a concern of such interest-  
" ing utility.

" I have the honor to be, Right Reverend Sir,

" Your most obedient and most humble servant,

" Right Revd. Mr. BAILLY, Coadjutor, &c. &c.

" WM. SMITH."

" QUEBEC, 13th August, 1789.

" Sir,

" I have the honor of your letter of this day, I shall have that of

much was also expected from the Crown, by a gift of the Buildings of the dissolved order of Jesuits, for shedding the Light of Philosophy and Religion over the breadth of this Continent, now a wilderness of Sava-

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"returning you an answer, when I shall have maturely considered  
"the important object to which it relates.

"I have the honor to be, Sir,

"Your most humble and most obedient servant,

"The Honorable WILLIAM SMITH.

"JEAN FRANÇOIS

"*Bishop of Quebec.*"

"SIR,

"It was this morning when I received the honor of your letter.  
"I shall consider it a duty to return an answer to your demand, as  
"soon as it will be in my power to do so, persuaded that you will  
"assist in accomplishing a work so useful to the Province.

"I have the honor to be, Sir,

"Your most humble and most obedient servant,

"CHARLES FRANÇOIS DE CASPE,

"*Coadjutor at Quebec.*"

The Chairman then added, that he was lately honored with the following communicative letter on the subject, from the Right Reverend Bishop of Quebec.

"QUEBEC, 18th November, 1789.

"The Honorable WILLIAM SMITH, }

"Chief Justice.

"SIR,

"The following is the Result of my Reflections upon the scheme  
"which you did me the honor of communicating by your letter of  
"the 13th of August.

"Nothing is more worthy of the wisdom of the Government under which we live, than the encouragement of Science by every possible means; and with respect to myself, let me assure you, nothing can be more agreeable to my views and wishes. At the name of an University in the Province of Quebec, my native country, I bless the Almighty for having inspired the design, and my prayers are offered for the execution of it. However, as you give me to understand, that my opinion will be received with pleasure, I ought to suggest to the Honorable Council and to the Committee, in whose name, I conceive, you have written to me, the following observations:

CHAP. III. ges, from sea to sea. Happy would it have been for the Province, had the original design succeeded. Several persons, in high situations, threw obstacles in the way of its establishment, and even the Tract of the Waste

" 1.—It is very doubtful whether the Province can, at present, furnish a sufficient number of students to occupy the masters and professors that would necessarily be required to form an University. While there remains in Canada so much land to clear, it is not to be expected that the country inhabitants will concern themselves about the liberal arts. A farmer in easy circumstances, who wishes to leave his children a comfortable inheritance, will rather bring them up to agriculture, and employ his money in the purchase of lands, than procure them learning of which he knows nothing himself, and of the value of which it is scarcely possible he should have an idea. Every nation upon the globe has successively given proof of my assertion, the sciences having flourished only, when there have been more inhabitants than necessary for the cultivation of the land. This is not yet the case in Canada; an immense space of country, where the lands, little improved, offer on all hands, without all to exercise the industry, and stimulate the interest of the settlers. The towns therefore stand alone for furnishing Students to the University.

" There are but four towns in the Province: William Henry, still uninhabited; Three Rivers, scarcely meriting the name of a town: The inhabitants of Quebec and Montreal, it is known, are not very numerous. Besides, is it probable, considering the present scarcity of money and the poverty of the citizens, that Montreal can send many youths to the University?—In the course of every two years, ten or twelve scholars are sent from thence to Quebec to study Philosophy; If more should come from thence, the whole town would murmur. Many, for want of funds, are compelled to finish their studies when only in the class of Rhetoric. Yet the Seminary of Quebec teaches Philosophy, gratis, as well as the other branches of Science, and the greatest sum required from a student, never exceeds twelve pounds sterling per annum. Hence I conclude, that the period is not arrived for founding an University at Quebec.

" 2.—I understand by *University*, a Company, Community or Corporation composed of several Colleges, in which professors are

Lands of the Crown, that had been reserved by the Committee of the Council of the Province, for that purpose, was diverted from its original object, and granted to other persons.

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" placed to teach several Sciences. The foundation then of an University presupposes an establishment of Colleges, dependant thereon, and furnishing Students for it. According to the most esteemed Chronologists, the University of Paris, the most ancient in the world, was only founded in the twelfth century, tho' the kingdom of France had subsisted from the fifth. Nothing therefore, seems to urge such an establishment, in a Province newly risen into existence, where there are but two small Colleges, and which might, perhaps, be obliged to apply to foreign countries for professors to sit in the Chairs, and for scholars to receive their Lectures.

" It will be objected that the Anglo-Americans, our neighbours, tho' the settlement of their country is not of long date, have nevertheless furnished themselves with one or more Universities. But it must be observed, that their proximity to the sea, which is not the case with us, having rapidly extended their commerce, multiplied their towns, and increased their population, it is not to be wondered that they should be more advanced than we are, and that the progress of two countries, so differently situated, should not be exactly alike.

" 3.—Supposing the two foregoing reflections refuted by others more judicious and wise, I wish to know by what plan it is proposed to govern the Administration of this Community, before I take any step respecting the Clergy of my Diocese or the Canadians collectively. The project of an University in general does not meet my sentiments. I should like a more minute detail. How many different Sciences are intended to be taught there? This question is important; a greater number, requiring, of necessity, a greater number of Professors, and consequently, greater revenues. Is it intended that it should be governed by one Rector, or by a Society of Directors? If by a Rector, is the appointment to be for life, or is he to be removable at the end of a given number of years? Who are to be the persons to nominate either him, or the Directors, if that mode of administration were to take place? Would it be the King, the Governor, the Citizens of Quebec, or the Province at large? What rank or character would be given to the Bishop, and what to his Coadjutor in the establishment? Would

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WITH a view to report a Statement of the comparative advantages and disadvantages of the Tenure in Free and Common Soccage, and the Tenures of the Province, of a different description, the Governor ap-

" it not be proper that both, or one at least of them should hold  
" a distinguished station ?

" This is not all. *An Union protecting the Catholic and Protestant Subject*, has been previously announced. These terms are very vague. What are the measures to be taken to procure so necessary a Junction ? Will it be answered by proposing for the University, *persons unprejudiced in their opinions* ? This, far from resolving the difficulty, seems only to encrease it. For what is meant by *persons unprejudiced* ? The true sense of the expression relates to persons who are neither unwisely prepossessed in their notions in favour of their own nation, nor unadvisedly zealous to inspire into youth, not instructed therein, the principles of their communion. Further, they ought to be virtuous and moral persons, who govern themselves by Gospel-principles, and Christianity : Whereas in the style of modern writers, a *person unprejudiced in his opinions*, is one who opposes every principle of Religion, who, pretending to conduct himself by the law of nature alone, soon becomes immoral and not subordinate to the Laws, so necessary to be inculcated upon youth, if it be intended that they should conduct themselves uprightly. Men of this character (and this age abounds with them, to the misfortune and Revolution of Nations) would by no means suit the establishment proposed.

" After these preliminary observations, which seemed to me essential, I shall endeavour, Sir, to answer your different questions.

" *Question 1.*—The condition or present state of Education.

" A list of the parishes and incumbents, and of the number of the parishioners in each, and the amount of their respective Church Revenues."

" *Answer.*—Nothing so easy as to give a list of the Parishes and Incumbents ; but it will be shewn by and by that such list is unnecessary, in the business in question. It is not so easy to shew the amount of the Church Revenues.

" 1.—What is termed ecclesiastical contributions or oblations, is merely a casualty.

" 2.—Tithes are not so rigorously exacted, nor in the same pro-

pointed a Committee of Council, for that purpose. The Committee was empowered to call upon the Attorney General and Solicitor General for their opinions on the subject matter of the Reference, and to take all such

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"portion, as in Europe. Here they are only the 26th part of wheat, oats and pease; 'tis true, they must be brought to the Parsonage House. To this, are reduced in Canada, what are called in England predial Tithes. Respecting the mixed Tithes, collected upon hogs, milk, wool, &c. and the personal Tithe collected upon manual labour or works proceeding from industry, such as the mechanic arts, fisheries, &c. they are altogether unknown and disused in this country. Our Tithes therefore proceeding but from grain, are liable to great changes of augmentation or diminution from one year to the other, depending upon a favourable or unfavourable season. Therefore it would be difficult to ascertain with precision the amount of the revenues belonging to the Incumbents.

"*Question.*—What schools are there, and what the kind of instruction? What their support?"

"*Answer.*—The Reverend Fathers the Jesuits of Quebec, before the year 1776, always kept or caused to be kept a well regulated school, where young persons were taught reading, writing and arithmetic. This school was free to every one. But Government having thought fit to lodge the records of the province in the only apartment of the house where scholars could be admitted, the Reverend Fathers could not continue the good work.

"There are some Canadian masters in town, who for payment, teach reading and writing. Their schools are regular and daily, and pretty well frequented. The parents of the children sent there are tolerably well satisfied with the progress they make.

"At Montreal, the Seminary, ever since the time of its institution, has supported a free school, where children of all ranks are taught reading and writing. Books are given them gratis. This school, remarkable for its extreme regularity, has had 300 children at a time.

"The Nuns or congregated Sisters at Montreal have a numerous boarding school for the instruction of young Gentlewomen. The

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other means as they might think expedient for acquiring the necessary information. The advantages of the Soccage Tenure, are apparent in every Country where that system has been introduced, and the disadvantages

“ Ursuline Nuns at Quebec and Three Rivers have each another  
“ boarding school. Also the Nuns of the General Hospital of  
“ Quebec. The young Ladies in these schools are taught reading,  
“ writing, needle and other work suitable to the sex, such as embroidery, &c. But above all things, they are taught virtue.  
“ Public schools are also kept for young women in the three towns  
“ of the Province ; one at Montreal by the congregated Sisters,  
“ one at Three Rivers by the Ursulines, one at Quebec by the  
“ Ursulines and one by the Sisters in the Lower Town. The  
“ schools kept in the country parishes by missions from the  
“ congregated Sisters, must not be forgotten. They spread a great  
“ deal of instruction. These communities at their own charge support  
“ their respective schools ; and they are also supported and encouraged  
“ by the attention and vigilance of the superiors of the  
“ Church, who are careful to see that the intent of the Establishments  
“ be fulfilled. Above all things, the minds of the children in  
“ those schools are inspired with morality, and a love and veneration  
“ for Religion, the principles of which they are taught to understand.

“ There are some English masters who teach schools at Quebec,  
“ Montreal and Three Rivers, but I do not know their different  
“ branches of instruction, nor their support.

“ *Question.*—Can it be true that there are not more than half a  
“ dozen in a parish that are able to write or read.

“ *Answer.*—Such a report, it is true, is publicly spoken of, and  
“ if I mistake not, maliciously spread abroad, to disgrace the Canadians.  
“ The imposition hath even reached His Royal Highness  
“ Prince William Henry. It would be difficult to practice such  
“ deception upon persons well acquainted with the province. For  
“ my part, I am convinced that upon an average, from twenty-four  
“ to thirty persons may easily be found in every parish who can read  
“ and write. ‘Tis true the number of women so instructed, exceeds  
“ that of the men.

“ *Question.*—The cause of the imperfect state of instruction.



of the other have manifested themselves, wherever the latter has taken place. A Canadian Seignior is ordinarily of two or three leagues in front on a River, and double or treble that extent in depth. There are rare-

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“What kinds of public and general tuition are established? What the funds? What the income? To what the use and ends?”

“*Answer.*—Classical Learning and Rhetoric are publicly taught in the College of Montreal since the year 1773, and Geography and Arithmetic are beginning to be taught. I have reason to expect this Establishment, will in time produce a good effect. The Proprietors of the College solicited me in September last, to let them have a Professor of Philosophy and Mathematics, and I shall do all in my power to procure them one. The College belongs to the Administrators of the parish church Revenues of Montreal, it has no other fund than the board paid by the Students, and the liberality of the Ecclesiastics of the Seminary. The Church-wardens seem to have its support much at heart, it is already of great public use. Boys, who cannot afford to live in the College, as boarders, are received as day scholars, for the moderate sum of one guinea per Annum.

“The Seminary at Quebec was founded and endowed by Mr. Francis De Laval de Montmorenci, first Bishop of Canada. Its own revenues support it. The administration of those revenues is submitted to the inspection of the Bishop, who annually examines the accounts of the income and expenditure, as well as those of acquisitions made under the Foundation. This Seminary, by its constitution, is only held to instruct young Clergymen for the service of the Diocese; but since the conquest of the province by His Britannic Majesty’s arms, public instruction has been voluntarily and gratuitously given. Theology, the Classics, Rhetoric, moral and natural Philosophy, Geography, Arithmetic, and all the different branches of the Mathematics are taught. It has produced, and produces daily learned men in all the sciences they have studied, capable of doing honor to their education, and to their country, witness, Mr. De Lery, Mr. De Salaberry, Mr. Cugnet the younger, Mr. Descheneaux, &c. without naming a great number of Ecclesiastics who distinguish themselves among our Clergy.



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ly more than three or four Farms back, of one or two acres in breadth, and of a length to make a Farm of ninety acres in the whole. It is occupied by Tenants, who hold only subject to the quit rent of one or two

“ When English young Gentlemen have desired to come into the Seminary, they have been admitted there upon the same footing with Canadians, without any distinction or partiality. They were exempted, however, from attending Religious duties, differing from the principles of their belief.

“ I should not omit mentioning, that, since the conquest, the Bishops of Quebec have always resided at the Seminary, where it is made a point of duty to furnish apartments and a table for them gratuitously and honorably. Moreover, this Seminary has always been as remarkable for the Charity daily bestowed there, as for Zeal in cases of public contribution.

“ *Question.*—Whence proceed the discouragements and faults ?

“ *Answer.*—It may be answered, that of all the young Gentlemen, naturally studious and virtuous, who have begun their studies at a fit age, not one has been discouraged at the Seminary ; they left it with thanks and acknowledgements for the principles they learnt. Indeed, there has been found among the number, some of stubborn dispositions, little adapted for the sciences, or incapable of that restraint, which is necessary to the acquisition of good morals. These have gone away ignorant, and unfortunately, judging by their incapacity, an unfavourable opinion is entertained of the learning to be acquired in the Seminary. Hence, proceeds the idea, pretty generally propagated, that none are admitted into the classes there, but such as are disposed to take up an Ecclesiastical life ; that their instruction is directed only to that study, and otherwise very contracted ; an idea, that could not be repressed even by the publication in the Quebec Gazette of the 4th of October 1787, No. 1155, which announced to the English and French youth the opening of the ordinary Mathematical Class at the Seminary, wherein would be taught, according to usage for twenty years back, Arithmetic, Algebra, Geometry, Trigonometry, together with the Conic Sections and Tactics, in both languages, and without expence to the scholars.

“ The preference given to old subjects, and even to strangers, over the Canadians, in appointments to public offices and places of

Capons, or a trifling sum in money, per annum, and to *Lods et Ventes*, a mutation fine, one twelfth of the purchase money received, when the Farm is sold to a stranger. It is inheritable, devisable by last Will

" trust, may, perhaps, be an additional cause of discouragement :  
 " But this is not within my sphere, nor is it with me to enquire  
 " whether such complaints are well or ill founded ; besides, it is my  
 " duty and the duty of all my countrymen to render endless thanks to  
 " The Right Honorable LORD DORCHESTER, for the favors he has  
 " been pleased to heap upon our nation, whenever opportunities  
 " have offered.

" *Question.*—The remedy or means of Instruction.

" What steps can be taken towards establishing a University in  
 " this province ? or schools introductive of a University ?

" *Answer.*—To this I answer,

" 1.—That according to my first observation at the beginning of  
 " this letter, it appears, we are not yet arrived at the period for estab-  
 " lishing an University at Quebec.

" 2.—That in order to put the province in a state of enjoying, in  
 " the process of time, so precious an advantage as that of an Univer-  
 " sity, it is necessary to use all possible means of supporting and en-  
 " couraging the Education already taught in the College of Mon-  
 " treal and Seminary of Quebec. This I watch over with great  
 " attention. Generally speaking ; the scholars, are capable, at the  
 " time of quitting their studies, of embracing with success any kind  
 " of science taught at an University, whether Jurisprudence, Physic,  
 " Surgery, Navigation, Fortification, &c.

" 3.—Another object, not less essential, for the present, would  
 " be to procure a third place of public instruction for youth. It  
 " will be asked, no doubt, by what means ? I shall mention one  
 " that is not, perhaps, impracticable. There is in the center of  
 " Quebec a handsome and spacious College, the greatest part of  
 " which is occupied by the troops in the Garrison. May not that  
 " College be drawn nearer to its primitive institution by substituting  
 " instead of those troops, if it should be His Excellency's pleasure,  
 " some useful classes, such as the Civil Law, and Navigation, to  
 " which may be added, if approved of, the Mathematical Class now  
 " taught at the Seminary ? Might not that College itself, in the  
 " course of time, be constituted an University, and support itself

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and Testament, subject to any kind of incumbrance, alienable and divisible *ad infinitum*. The *Censitaires* or Tenants are the real land holders of the Province, or in other words, the effective and substantive power

“ in part, with the Revenues of the Estates now belonging to the  
 “ Jesuits? This mode of proceeding gradually to the establishment  
 “ of an University appears to me much more prudent and sure.  
 “ I acknowledge the meritorious services of the Reverend Fathers  
 “ the Jesuits, for that zeal with which they have laboured in this  
 “ colony for the instruction and salvation of souls. Nevertheless, I  
 “ should not be backward in taking immediate measures for securing  
 “ their College as well as their other Estates to the Canadian peo-  
 “ ple, under the authority of the Bishop of Quebec. But to whom  
 “ ought the government of the Jesuits’s College belong if it were  
 “ again set on foot? First, to Father Glapion for his life, and  
 “ afterwards to those who should be appointed by the Bishop. Does  
 “ any one wonder at such a plan? I will state the principles upon  
 “ which I ground it. 1o. The funds of the College will only con-  
 “ sist of the Estates of the Jesuits. 2o. The Province has no  
 “ right to appropriate them to itself but for their original destina-  
 “ tion. 3o. The propagation of the Catholic Faith; is the prin-  
 “ cipal motive assigned in all the Title Deeds. 4o. The circum-  
 “ stances of the Donations, and the quality of the Donors would alone  
 “ prove that to be their intention. The Canadians, considered as  
 “ Catholics, have therefore a Right to those estates, which appears  
 “ incontestible. 5o. The instruction of the Savages, and the sub-  
 “ sistence of their Missionaries, appearing to have greatly actuated  
 “ the Donors of those Estates, is it not fit that the Bishop of  
 “ Quebec, who names those Missionaries, should have it in his  
 “ power to decide in their favour, respecting the application of that  
 “ part of the said Estates, which shall have been found to have been  
 “ given with that intent, rather than see them burdensome to Go-  
 “ vernment, as many of them has been for some years? Therefore,  
 “ in preserving the Estates of the Jesuits to the Canadians under  
 “ the authority of the Bishop, he would have a right to cause this  
 “ essential part of the intention of the Donors to be executed; and  
 “ it is besides very probable that the College and the Public would  
 “ become gainers by it.

of the Country. The Tenure of a Canadian Seigniori is Faith and Homage, a rent to the Crown of *Quints*, or one fifth of the purchase money on every alienation of the Fief ordinarily commuted in the French time,

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“ *Question.*—By what means can a taste or desire for instruction be excited in the Parishes ?

“ *Answer.*—This, in my opinion, should be committed to the zeal and vigilance of the Curates, supported by the country Magistrates.

“ A calumnious writer hath maliciously reported to the public, that the Clergy of this province do all in their power to keep the people in ignorance, in order to domineer over them. I do not know upon what ground he has been able to found so rash a proposition, contradicted by the care always taken by the Clergy to procure to the people such instruction as they are susceptible of.—The severity of the climate of this country ; the distances between the Houses of its country inhabitants ; the difficulty of assembling the children of a parish into one place, especially in the winter as often as it would be necessary for their education ; the inconvenience to a teacher of going daily to a great number of private houses : Such are the obstacles that have rendered useless the desires of many of the Curates, whose efforts to instruct the children of their parishes are within my knowledge. But in towns or villages, such as l'Assomption, Boucherville, La Prairie de la Magdelaine, Terrebonne, La Rivière du Chene, &c. we have the pleasure of finding the people, in general, pretty well informed ; most of these villages are supplied with schoolmasters.

“ *Question.*—Will the principal Citizens concur in asking a Charter of Incorporation ?

“ *Answer.*—I understand a Charter to be Letters Patent fixing and consolidating the establishment of any Society or Body whatsoever. To which I answer, that such a Charter as should be immediately procured in favour of this renovated Jesuits' College, might hereafter be renewed in favour of an University, which would afford a great support to those establishments, and much encouragement to the people.

“ *Question.*—Are there not lands of the Crown, which it might be proper to request the grant of, for the benefit of an University ?

“ *Answer.*—Time will bring all things about. On the supposi-

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for two thirds of that fifth. By the reservations of the grant, the Seigniors really become the Proprietors only of the superficies of the Tract. All is forfeited by any use of Mines, Minerals, or Metals. Land is reserved

"tion that the Estates of the Jesuits were to be left to the public  
"for the education of youth ; a part of those Estates would in time  
"be improved, and produce sufficient funds to be able to spare a part  
"for the necessary support of an University. Independently thereof,  
"may we not hope that his Majesty, full of benevolence towards the  
"prosperity of his subjects, would grant them, for a work of this  
"nature, some new grants *en roture*, or *en fief*, out of the waste  
"lands of the Crown ?

"*Question.*—The funds and design being committed to such trusts  
"as the Governor General may think proper, may not much be  
"expected when men of learning free from illiberal prejudices are in  
"the Professor's chair for the liberal arts and sciences ?

"*Answer* —It seems to me I have sufficiently answered this  
"question in my third preliminary observation ; I shall only add,  
"that Theology will always be taught at the Seminary, and conse-  
"quently, this object will never be burdensome to the public.

"You have now, Sir, my reflections and answers respecting the  
"plan of an University proposed by the Honorable Legislative  
"Council. I have informed you with freedom and sincerity, that so  
"early an establishment of an University at Quebec, does not ap-  
"pear to me suitable to the present circumstances of the Province.  
"Upon this occasion, I have laid open my views and way of thinking,  
"relative to the Education of our Youth. It remains that I request  
"you to refer this Letter to the Committee upon the Establishment  
"in question, assuring them that nothing is nearer to my wishes  
"than to conciliate in all things my respect for the Government and  
"the Honorable Council, with what I owe to my Nation, to my  
"Clergy, and to that religion which I have sworn, at the foot of the  
"Altar, to maintain to the end of my Life.

I have the honor to be, Sir,

Your most humble and most obedient servant,

"JEAN FRANCIS. HUBERT,

"Bishop of Quebec."

The causes of the non-convention of the Committee before this day,  
being thus explained, the Chairman, as leading to the discussion of

for Forts, Wood for fuel to the Garrisons, and Timber for Ship-building. Seigniors cannot refuse to concede a Farm, upon the accustomed terms, according to the laws of the Colony. The party may take possession of

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the very important subject of the reference, begg'd leave to observe to the Committee,

That the main enquiry (the result of which was to be reported to His Lordship) appeared to be;

To what extent or degree, it was expedient to introduce the means of education in this province?

That certainly there could be no division of sentiment; respecting that elementary instruction, necessary to the lower classes in all countries; the want of which left a people in a state of *base barbarism*.

By these he meant;

(1.) *Parish* free-schools, or a school in every village, for reading, writing and the four common rules of Arithmetic.

(2.) A *County* free school, one at least for further progress in Arithmetic, the Languages, Grammar, Book-keeping, Guaging, Navigation, Surveying and the practical Branches of the Mathematics.

The next step in civilised countries, was an University or a collegiate Society, for instruction in the liberal arts and sciences; and how far the province was prepared for such an institution, was the point which the Right Reverend Bishop, had with much reason, made the subject of his deliberation.

The Chairman concurred with the venerable Bishop, that the erection of an University, measuring it by the European scale, would be extravagant, as neither adapted to the abilities, nor the wants of a country, not yet consisting of one hundred and fifty thousand inhabitants, who had a wilderness before them, to be brought into cultivation for obtaining the necessaries of life.

It was nevertheless to be wished that the youth of the province might not be estranged from it, by an Education in foreign parts, but find *at home* sufficient means to qualify them for the trusts, offices and honors of their native *community*.

Tho' the idea therefore of establishing such a fountain of Light *here*, as is found in the Universities of the old continent, for the diffusion of knowledge among the Nations, and thro' the immense

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the land, and from that time, it becomes united to the domain of the King, whose Tenant he becomes. The Seigniors are the Gentlemen of the Country, but are not always the men of the greatest opulence; for by the

regions of His Majesty's inland Dominions, which is only to be indulged as an object of distant prospect, the great and important questions still remained.

How far the necessities of the Colony demand, and its abilities will permit, of a College or Academy for that improvement of the mind, presupposed in every advancement to real usefulness in any of the learned professions, and indispensibly necessary to every great social collection; and without which, it must be indebted to Emigrants from other Countries.

A College under one Rector and four tutors, dividing the labour between them, would, in his opinion, be sufficient, for instructing the Students to be expected from all the provinces on this Continent, now remaining to Great-Britain, in Grammar, Logic, Rhetoric, Mathematics, Natural Philosophy, Metaphysics and Ethics; and these sciences made the path, which all were obliged to walk in, to obtain any degree of Eminence in the learned professions, to give a man distinction among his fellow Citizens, and to enable him to come forward to the Magistracy and other important services of his Country.

The Chairman added, that tho' an institution of this extent could not be very expensive, it would nevertheless require an union of hearts and hands, to give it the desired prosperity; and this it certainly could not want, by due guards against the illiberality of a contracted and sectarian spirit. To which end, it was his idea, the state of the province considered,

That Christian Theology be no branch of instruction in this College; but left to be provided for by the two communions that divide the province, in such way as they elect, and by such means as they respectively possess or may acquire.

That a corporation be created by letters patent, capable of Donations, and perpetual succession, and with authority to make By-laws.

That the visitation be vested in the Crown.

That the King's Judges and the Bishops of the province for the time being, both Catholic and Protestant, be members of the corporation; and the rest to sixteen or twenty of the principal Gen-



sub-divisible inheritances of the French law, and the power of alienation, there are Tenants richer than the heirs of the first proprietor of the Seignior, and Seigniors that are Heirs *primitif*, who have been reduced to poverty.

clemen of the country, an equal number of both communions ; and that vacancies be filled, by the majority of the voices of the whole body.

That proper clauses be inserted in the Charter to repel every appropriation and by law, touching the funds or government of the College, to any other than the promotion of science *at large*, as aforementioned ; in exclusion of all biasses, ceremonies, creeds and discriminations, either of the Protestant or Catholic communion.

Upon the remedy of the defects by the order supposed to exist, the Chairman remarked, That the erection of the village and county-schools, would require an act of the legislature ; rating each parish in assessments, for the free-schools of its *own* district.

That the objections of the indigent to their contributions for either, were answered, by giving their children the benefit, with a exemption of themselves from the general charge ; and those which may arise in the old districts of Quebec and Montreal, from their having funds and schools already of their own, by making all such persons also exempt, whose children *really were* in such course of education.

If the burden was to be felt any where as heavy, it could be only in the new counties, where the colonists were occupied, in the cultivation of lands still in a wilderness state.

But even those parts of the province, young as they are, would probably find no cause to complain. The Noble Lord at the head of the Government, had already set apart portions of land, to encourage the instruction of the children of their villages ; and they had ample ground to look for other appointments for the *county* schools of their *Districts* ; not to mention, that the applauded merit of their fidelity to the Crown, in the late troubles, may expect aid, as soon as their wants are properly revealed, from the numerous charitable foundations and societies of the mother country, for which it is so greatly renowned.

*Least of all*, as the Chairman conceived, was it to be apprehended that a Colony-College would fail, unless there was in its own bowels, something repugnant to the energy essential to its success.



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THE Council stated in their Resolves—That the progress of population and settlement in this Province under the Government of France, whatever the cause or causes of it, was slow, the cultivated parts even in the central Districts of Quebec, Three Rivers, and

It may most assuredly expect the powerful patronage of the Crown, and of all that wish well to science, so friendly to the interests of our common humanity : perhaps, it may be thought worthy of the National attention.

The Right Reverend Bishop of Quebec was not singular in suggesting, that a portion of the Estates of the dissolved order of Jesuits, lays open to such a purpose.

It is not *wholly* asked for by the Right Honorable Lord Amherst: There is a part to be *reserved* for public uses ; and the extent of that *reservation*, is a part of that confidence which His Majesty, in his great grace to his people, has committed to that Noble Personage, under whose care the province is, at a moment so auspicious to the laudable design, himself recommends to the attention of this Committee.

There is nothing to discourage the hope of additional benefactions out of his Majesty's *other Estates* in the Province.

There are Waste Lands in various places, and of such proximity to the old settlements, as might be soon tenanted, to furnish a revenue to grow with the country, and be sufficient for the instruction, in its progress to that desirable perfection, prayed for by the good Bishop ; and in which he must be joined by every friend of mankind.

It happens to trusts to individuals, that the dread of a perversion of the funds, gives discouragements to gifts. The contrary is the natural consequence, of pouring the donations into bodies of *perpetual* existence, with a *just* frame, for a *noble* end, and under the *eye* of *the Government*.

The Corporation once instituted, may boldly come to the foot of the Throne, and ask a brief for a *National Collection* : Abstract from the encouragement of public Bodies, there are instances of private opulence in many places, with a generosity equal to that opulence, and on the watch for opportunities, to devote it to enterprises for advancing the honor of the Nation, the interest of learning, and the welfare of the Human Race.

The Jesuit's spacious buildings, as the Bishop has observed, afford ample apartments for a collegiate life.

Montreal, being to this day, confined to the banks of the St. Lawrence, and the mouths of the navigable streams that fall into it.

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THAT the royal patents, grants or concessions of the lands, were either in Seigniorship or in Roture; the lat-

The private subscribers of Quebec, who have already at a great expence made an ample collection of well chosen books, will doubtless see it consist with their original design, to lodge them in the College-library for general use.

The Board for Commons, and the Tuition-money, will go to the support of the College, Students if it has fame, may be expected from all the provinces under the Governor General residing in this; and the advantage of acquiring one of the most universal Languages of Europe, may be a motive, even in remote countries, for taking the whole circle of the sciences, in a College projected for the commencement of an University in Canada, for His Majesty's American Dominions.

No greater revenue can be at first wanted, than will render the station of one Rector and four Tutors, worthy the choice of men qualified by their morals and talents, for a work and sphere, which the necessities of many among the learned in Europe, would lead them to wish for. And there are, whom the hope of being so honorably and usefully employed, would excite to forgo even the present comforts of local attachments, to embrace it.

Advanced to the institution of a College, the Committee must perceive, that like a reservoir for watering the surrounding fields, this, as a fountain, would find Candidates *in the province*, for the care of all the inferior schools, in our expanded population, to the extremity of the British Dominions in the West; and that therefore, tho' this was mentioned last in the chain of deliberation, it ought to have the chief influence, even with those, who might before have been only advocates for those lower exertions, immediately necessary to the village and county schools,

For a full discussion, however, of the subject (on which any Gentleman had right to move what he thought proper, and try the sense of the Committee upon it) the Chairman proposed, that the question be put singly, upon the following resolves:

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ter consisting of town lots, farms or small tracts, and the Seigniories larger tracts of various dimensions, many of which are in the rear, or at a few leagues from the convenience of water carriage, *still in forest.*

*First,* That it is expedient without delay, to erect parish or village free-schools, in every district of the province, at the determination of the Magistrates of the district, in their Quarter Session of the Peace.

*Second,* That it is also expedient, that each district have a free-school, in the central or county town of the district.

*Third,* That the tuition of the village schools, be limited to reading, writing, and cyphering.

*Fourth,* That the instruction in the district or county schools, extend to all the rules of Arithmetic, the Languages, Grammar, Book-keeping, Guaging, Navigation, Surveying, and the practical branches of the Mathematics.

*Fifth,* That it is expedient to erect a collegiate institution, for cultivating the liberal arts and sciences usually taught in the European Universities; the Theology of Christians excepted, on account of the mixture of two Communions, whose joint aid is desirable, as far as they agree, and who ought to be left to find a separate provision for the candidates in the ministry of their respective churches.

*Sixth,* That it is essential to the *origin and success* of such an institution, that a society be incorporated for the purpose; and that the charter wisely provide against the perversion of the institution, to any sectarian peculiarities; leaving free scope, for cultivating the *general circle* of the sciences.

After deliberating upon the subject at large,

Agreed, that the general question of concurrence be put upon all the resolves; and it being put accordingly, the Committee concurred in them, and order that it be reported to His Lordship, as their *unanimous opinion.*

Signed by order of the Committee, 26th. Nov. 1789.

WM. SMITH, Chairman,

ORDERED by His LORDSHIP, with the advice of the Council, that the Clerk forthwith cause the foregoing Report to be printed in both Languages, for the use of the Members, and that a competent number of the printed copies be forwarded to all the Sheriffs in the Province, who are to take course for distributing the same

THAT the French King's territorial revenue arose from quints or alienation fines of one fifth of the consideration money payable by the purchaser of the lands held *in Seignior*; and of lots et ventes of one twelfth on the sale of lands held *in roture*; the lands in *roture* ordinarily paying also Cens et Rente, the Cens being one sol, or an English half pence for a front of one acre or one hundred and eighty French feet, and the rent, another sol for every acre of the concession, with a bushel of wheat for every forty acres, or two fat Capons of the value of twenty sols.

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THAT the French Crown did not exact its *whole* dues, but remitted a third both of the quint and lods et ventes.

THAT the Seigniories were parcelled out into farms, and these conveyed to the Seigniors under the charges of Cens et Rente, and subject to lods et ventes, except where a large parcel was granted in *arriere fief*; on the subsequent transfers whereof a quint became due to the Seignior without Cens et rentes.

THAT all the grantees as well of the Crown as of the Seigniors, had permanent estates, under an *habendum to them their Heirs and Assigns*.

THAT according to the Receiver General's accounts, the territorial Revenue for the *thirteen* years from first

among the Magistrates, and the Parish Clergy of their respective Bailiwicks, that a subject so intimately connected with the Interests of the People, may be generally understood.

COUNCIL CHAMBER, QUEBEC, }  
24th. December, 1789.

By Order,  
J. WILLIAMS, C. C.

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May one thousand seven hundred and seventy-five, to first May one thousand eight hundred and eighty-eight, (comprehending arrears) was in actual receipt at the Treasury not equal to ten thousand pounds sterling.

*Letter from Charles Francis Bailly, Coadjutor of Quebec, and titular Bishop of Capsa, dated Pointe aux Trembles, 5th April, 1790, addressed to the Honorable William Smith, President of a Committee of the Executive Council of Quebec, on a Reference to the Council on the means of promoting Education.*

SIR AND GENTLEMEN,

In a Report of a Committee of Council on the subject of Education, which has lately been transmitted to me, I have seen a letter signed, Jean François Hubert, Bishop of Quebec: after having read it with the most serious attention, neither recognizing the stile, nor the language of the illustrious Prelate; that the Canadians are so happy to have at their head, I do, notwithstanding the respect I have for the Honorable President and the other Members of the Committee, conceive, that the whole letter is an imposition, in the name of our beloved Prelate, and a Rhapsody, ill conceived, which some one has had the effrontery to present under his venerable name.

Who is it that could think, that at the very moment when we are permitted to approach the Throne with a humble confidence in the Royal Bounty for further favours, under the protection and assistance of our worthy Governor, that the Bishop of Quebec, should be the only person against the establishment of an University, and that too, without having consulted his Clergy, the Noblesse or the most respectable of our Citizens: he says, "without having taken any steps with regard to my Clergy, or the Canadians in general," &c. Even supposing that the Letter was really his, it would only contain his private opinion, not that of the Province, which is asked.

Permit me, Gentlemen, to communicate to you my observations, to convince you of the truth of my statement.—The Rhapsodist, under the name of the Bishop of Quebec, expresses the joy he feels, from the prospect of the establishment of an University "These are my wishes:" he gives thanks to God, "for having inspired the desire, and hopes He will favor the design;" but, at that very instant, this joy, this hope in God disappears; God inspires it, and he, the Bishop, withholds the means of executing it, and his pious prayers

WHICH together with certain duties of customs fixed by act of parliament, is by the royal grace given to the Province towards the support of its Government.

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become nugatory and useless, and why? because he does not think the Province contains a sufficient number of Scholars.

If we are to wait until the Lands are cleared as far as the Pole; and without the aid of Masters and Professors, our Youth are to acquire of themselves the necessary instruction for a University—we may, according to these ideas, find ourselves one fine morning, transported to the Valley of Jehosaphat, and certainly to the left of the Doctors of the Church. “A Farmer with money, adds he, who wishes to leave an inheritance to his Children, would rather apply it to Agriculture, and in purchases of Land, than to give him an Education, on which he sets no value.” If so, he must suppose our Husbandmen to be descended in direct line from those men, mentioned by St. John, in the Third Chapter of the Gospel, “*Et delixerunt homines tenebras, magis quam Lucem!*” Whatever he may say to the contrary, this is precisely the evil, and a great evil it is, which the King’s worthy Representative wishes to correct. With this view it was, that he appointed a Committee, composed of men of enlarged minds and enlightened understandings, who have made the most effectual researches, in order to prevent an ignorant Father from transmitting with his estate, to his Son, his stupidity from generation to generation. And what remedy can be more effectual than the establishment of an University? Aware of the advantages of a good education, and the privileges that accompany it, the Farmer, happy to find on the return of his Son, that the stupid and clownish manners, he took with him to College, are exchanged for those of decency and civility, will feel a pride and satisfaction in increasing his efforts, the better to enable him to advance his education, now become of so much value and importance.

It is only necessary to cast an eye to the English Colonies to be convinced, that there the Sciences flourish, though the country is but inconsiderably cleared, and though there are but few inhabitants. France, with twenty-two Universities, Italy and Spain which swarm with them, want husbandmen. Admit for a moment, with the writer of this letter, that without a University, a numerous population may vegetate in ignorance, barbarism, and fanaticism.—Asia, Africa,

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THAT in exploring the causes of the tardy progression of the population of the colony under the Government of France, there seems to be little or no ground for ascribing it to the non compliance of the Seigniors

prove it. Is there a man in Canada, however insensible, that would not but grieve in the bitterness of his heart, that our Youth, with the best dispositions in the world, should be so neglected.

Quebec, the residence of the Commander in Chief in North America might be the Centre, to unite the Scholars from the different Provinces in America—in Nova Scotia, New Brunswick; in the upper Settlements, as well as other Districts, there are Towns which, though neither as large as London or Paris, cannot be called, deserted Villages. Quebec, Montreal, Three Rivers, William Henry, are more populous than the Rhapsodist states. Is it from malice or from ignorance, that he does not mention New Johnstown, Lunenburg and many other considerable Towns and Villages, both in Upper Canada, or in the Bay of Chaleur, which might furnish a great number of Scholars: Ought he not to confess, that a great number of those who frequent, what is called the College in Canada, are taken from the Country? The Clergy admit them, and certainly they are not the least respectable; and there is no doubt, but that their numbers would increase if they had a better education, under more able masters. Reject the means of Education that are now offered, and you chuse the greatest of all evils that can happen to the Province, to the general good, and the inestimable advantage of making it flourish.

The following objection is equally ill founded:—"France has subsisted since the fifth century to the twelfth, without a University." If all her Monarchs had been as despotic as they were ignorant, she would have continued so to the present hour. Does he wish to persuade us, who only date as far back as two hundred years, that we should continue one thousand years in ignorance? No man in his senses, could entertain such an idea, nor build his system on his conclusions. The Sciences we know languish under the *Fetters* of ignorance, and under the lash of despotism. As to us, let us hasten to invite the Sciences to be with us, let us even seek them.

*Hoc agite, ô Juvenes, circumspecti et stimulat vos materiumque sibi ducis indulgentia quarit—Juvenal Sat. 10.*—Remark also, that this Transcriber is not more fortunate in his chronology than in his op-



with the conditions for cultivation expressed in their patents or grants ; the instances of prosecutions for taking an advantage of those conditions, and reuniting their Seignories to the royal domain, being *rare*—and the

position ; he confidently states, that the University of Paris, established in the twelfth century, is the oldest. If he had consulted other authors than Avocat and La Martinière, he would have learnt, that before the ninth century, England had founded the University of Oxford, through the exertions of the greatest Monarch she ever knew, and who is called by Historians the Great Alfred, that his trusty friend, the Révérend Abbe Neot, drew up the statutes, and was a Professor of Theology in it. That the Pope Martin called it *Alma Oxoniensis Universitas*, and gave it great immunities, notwithstanding the President Hainault and others may say to the contrary. The University of Paris dates its origin from the ninth century. The Compiler likes novelty, two or three centuries more or less, are faults to be attributed only to orthography.

At one time a view of the Colonies enchants him, the idea of Commerce delights him. He there finds the means necessary to produce the establishment of a University. No doubt, the American Museums, like him, delight in the noise made by caulkers of ships, and the arrival of sailors from long voyages.—There is an old proverb that says, *Trahit suamque voluptas*.—Unhappy Sisters of Greece, the verdure of your groves ; hills covered with thousands and thousands of flowers, the borders of a clear river, flowing with soft murmurs in the valleys, were your delight. Immortal Virgil, under the thick foliage of a Beech Tree, you enjoyed the echo of your innocent songs : *Recubans sub tegmine fagi*. All Nations have placed their Universities far from the sea and noise of commerce. Bologne, Salamanca, Cambridge, Paris, &c. &c. &c.

As to the different questions that he proposes, with respect to the management or direction of the University, they are puerile—A *Corporation* or *Community*—I trust, he does not mean a Convent of Capuchins—but let him understand what he pleases ; without looking into the dictionary, I will tell him, that a University has never been, nor ever will be, other than a body of Professors and Scholars established by public authority, to teach the Sciences and the Arts. “ Who is to have the management ? ”—I ask, who has the authority to establish



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*Seigniorial censitaires* so much more numerous than the King's, that the former, or the inhabitants of the Seigniories, at all times did, and do now, constitute the main body of the landholders of the country.

it? The King. To the King, therefore, belongs the government of it, according to the principle, *Qui dat esse, dat consequenter modum esse*. "What rank will the Bishop or his Coadjutor have?" The rank that belongs to knowledge and merit in every University, I answer.—There is no University in Europe, where the Mitre does not yield to the cap and to the Hood of Aristotle: Besides, Bishops in future, will be taken only from the University.

"A union which will protect the Catholic and Protestant." He acknowledges it would be desirable: but he remarks, "these are vague assertions." Are they more so, than those contained in his letter? "I would before" "I understand by this, a Rector will be perpetual or removable" &c. If these expressions are vague, why does he say, that what he announces is desirable, he dreads, he fears the danger? What, under the sanction of the laws of Great Britain, the Royal word, the protection of His Majesty's Governor and Council, in the middle of the eighteenth century. *He* has apprehensions; as to me, *I* have none.—On the contrary, I see with pleasure, that the Catholic and Protestant will be equally protected by a wise and prudent administration. There will be none in the Chairs of our Schools but wise Professors, on the forms, none but studious Scholars. In public situations, and in our streets, we shall find citizens united, aiding and loving each other according to the Gospel. I will not conceal myself in a corner of a room to see whether a mother, after having worked hard in her house, and a father, as to what concerns his family without doors, shall have taken Holy Water, or have made the sign of the Cross, before going to bed. I shall go publicly in our churches, and adore God and pray to him, in the language of Horace and Virgil. I shall pray fervently to God, to bring back those that may have fallen into error, who are the work of his hands, and pray, that he may make them happy in the world to come.—Let it be also remarked, that as the edicts of the most Christian King, the Arrêts of Parliaments, the Treaties of Peace, the Capitulation, nor the wisdom or foresight of the Legislature, have ever been able to shelter the Clergy of France and the Monks, from the assaults of the National Assembly: can he think, that any person here, can render them superior or inaccessible, to

THAT the feudal System, if that was amongst the causes of the non settlement and proportionable debility of the French colony, operating to a discouragement of the royal grants, as well as the grants of the subject,

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those revolutions that Divine Providence permits from time to time ?

Men, without prejudice, appears to him like a snare—he is *afraid of being entrapped*. Should there be a snare, it is not well covered with leaves and flowers ; none but him, would have suspected that there was a snare. Men without prejudices, can be only those that are of good morals ; not spendthrifts, misers, debauchees, however free they may be in their thoughts, will be of the number of those called men, without prejudices : the Sybarites themselves would have excluded them. As to fanatics, monsters more to be dreaded, than those produced in the desarts of Africa, ought to be excluded and driven away for ever. The Man solely calculated to fill the Chair in our University, ought to be one, whose Instructions shall be exempt from all Questions irrelevant and foreign. Who would not laugh at Horace's ridiculous description of his Art of Poetry, and if so, how much more, if one of our Professors of Philosophy or Astronomy were to commence a Treatise on the right of Bishops to explain the laws of Motions and the course of the Planets ; or a Professor of Anatomy to prove the circulation of the Blood, by the authenticity of St. Paul's Epistle to the Hebrews.

"Is it true," observes the President of the Committee, "that by a calculation, not more than half a dozen of persons in a Parish can read and write?" Before his having given an answer, I shall suppose, that the skilful Navigator, whom all nations revere, had observed, that at Otahite, that he only found a dozen of men, and that the Island was almost deserted ; that one of his under officers should have discovered a dozen more men and women, would it have destroyed the testimony of the immortal Cook, and ought we to have believed that the Island was very populous? In observing, that on a calculation, there are a dozen or more, one is led to suppose, that the assertion is but too true, and that the ignorance in the Country is great indeed.

"From whence does this discouragement proceed?"

If he had confined himself and observed, that it was owing to the want of emulation, the want of attention to children, or a want of firmness in the fathers and mothers ; but no, till our ancestors shall

CHAP. there can be no just ground for holding the grantees to  
 III. a rigorous performance of the conditions of their grants.

THAT it was among the main causes of that low condition, in which Canada was found at the British con-

have cleared lands, have peopled the vast extent of country which lays between the forty-seventh degree which we inhabit, and the Polar Circle, the name of Dorchester shall be held in the highest veneration and respect. It will always be said, that by his protection, the Noblesse have been loaded with favours, and that the Canadians at large, have been protected; would not one order silence to an impertinent fellow, who should say, that it was extraordinary, that a conquered people should dare to prescribe laws to those by whom they have been conquered.

Charlemagne, invited the great Alcuinus of the English Schools, to establish them in France; he made him his favorite; he enriched him with the most lucrative benefices in France, and the whole Clergy rejoiced at these advancements. Francis the First, was called the Restorer of Letters, only because he made learning flourish, by collecting men of letters from different Countries—The Buchanan's from Scotland, the Goveas from Portugal. The Pontificate of Leo X. was the age of the Fine Arts in Italy, from the number of learned men he brought over from Greece. A Chief Justice, whose extensive erudition so easily unravels the chaos of our mixed laws, whose name is known with repute in both hemispheres, an able Physician, that France envies, belonging to Great Britain; who the wise Abbé Sauri has celebrated for his discoveries, in the midst of Paris—wise and honorable Counsellors, constantly engaged in taking care of your interests—Judges of integrity, who, with an indefatigable zeal, make the circuit of our Country Parishes, to bring justice home to the door of the Widow and the Orphan, which they have not the means to acquire in the Capital. Those conservators of the Peace, the choicest of our fellow-citizens, distributed through various parts of the Province to maintain the public tranquillity; do not these things speak loudly in favor of the opinion, that our worthy Governor anticipates all our wants; that he has always means ready, to make us happy, that no one is forgotten, and that his benevolence is as impartial as it is universal.

“What means are required for the establishment of preparatory

quest, is deducible from the probability, that many thousands of families had found their account in emigrating from the exuberant population of the Kingdom of France, if the government had given their lands *here*

Schools?" If the time is not arrived for an University, in what are the preparatory Schools to end? It appears to me, and it is an acknowledged principle, that the humble creature ought to imitate the works of the Creator. God created Heaven and Earth, after which he created light, tho' neither birds nor quadrupeds, nor even men, for whom alone they were produced, were then in existence.—Let us have a University, and we shall have zealous Curés, generous Seigniors, and inhabitants of good sense, who united, will soon find the means to establish preparatory Schools. Who is there, without these, can believe, that Students can be collected in the vain hope of an establishment, only reserved for future ages: Canadians, you will continue then to send your Children beyond the Seas, to finish their education.

Here a new order of things presents itself. Emboldened by the supposed solidity of his objections, the Bishop rises, takes his flight, and after having hovered about in the air, he falls upon new rights, seizes them, and ascribes to himself, as Bishop of Quebec, the exclusive right to the administration of the Estates of the Jesuits, and he lays claim to the whole Estate of the Jesuits. "I shall not hesitate to take measures to secure their College and other property to the Canadian people, under the controul of the Bishop of Quebec."—After the death of Father Clapion, the management will belong to him that shall be appointed by the Bishop.

You, Gentlemen, our Legislators, the representation of our August Sovereign, what do you think? What will be thought in Europe, where your Report will appear, of those *timid* expressions. You Canadian Gentlemen, it is an imposition on you, that your Bishop should have such a thought.—This sentiment must have been put in his mouth—Render the homage due to his heart, to his virtue, to his inviolable attachment for his Sovereign and his Governor.

"*How to inspire a love of the Sciences in the different Parishes.*" Of what avail will it be to inspire a love of the Sciences, when the means of bringing it to perfection is wanting? A writer, who asserts, that it is the policy of the Clergy to keep the people in a state of ignorance, is considered as a calumniator; is the answer to this calumny

CHAP. on easy terms, and especially in the fertile regions and  
 III. moderate climates, on the banks of the rivers and lakes  
 in the South and South West.

sufficient? He opposes, it is the Rhapsodist that opposes the gracious means offered by the Governor and Council.—“The time is not arrived to have a University,” that is to say, to let the light of Science shine upon the poor Canadians. *Their* eyes are too weak; clouds must be raised to intercept the smallest glimmering of light. The numerous Universities in Europe and in the South of America, the swarms of Missionaries, that continually cross the seas, who even sacrifice their lives to enlighten the ignorant; prove, that the Catholics do not reject the Sciences, and that they cultivate the arts in all their branches.

I shall stop here, it is not necessary to shew that the letter in question could not have been written by the Bishop of Quebec. This letter is a convincing proof that we have need of good Logicians, to correct our ideas, of Philologists, of Grammarians, to furnish us with expressions, construction, energy, and the epistolary stile. Wicked Zoilus’ will chatter, they have free scope. As to the writer, I believe he is convinced of his own insufficiency, or *of his too great self-sufficiency*. If he continues to be the Proto defender of ignorance in the eighteenth century, let him go to Arcadia, and search for the glory and the apotheosis, and the nightingales shall chant his praise.

Now, Sir, I can no longer delay an answer which you appear to desire —You ask my opinion upon the subject, and as to the means of carrying it into execution.—Doubting my abilities, and entertaining a full confidence in yours, and for that affectionate attachment you have for this Country, so well known to the whole Province, I had waited until I saw your Plan and Resolutions, with a determination to second them with all my efforts. Yes, Sir, it is full time that a University should be established in Canada. I have merely given an outline of the plan to the Public, and then to stop would be to create discouragement, indeed a general discouragement, and to create a distrust, difficult to bring people’s minds back again. Can we flatter ourselves with the hope, that those Scholars who are now ready, will ever return, who may never see the execution of the plan. With grief our best citizens are placed between expatriation of their children, ignorance and idleness. Are there any establishments, whose beginnings are otherwise than small? Who can assure us, that our Gracious So-

THAT the discouragement of that System to the settlement of the old French grants, must in future greatly increase; the population of the Province depending now upon the introduction of British subjects, who are

vereign will be always so well disposed towards us, and that we shall always have so good a Governor? Means cannot be wanting—nor need we look for them in the bowels of the Earth. Industrious persons will bring them forth, and clear sighted people will find them out. What an example! What hopes does not the respectable person, just dead, give us, and whom we all regret. Mr. Sanguinet, illustrious citizen, after having passed with honor through the different grades of Society, as good a Patriot, as a zealous Catholic, leaves us, when dying, a considerable sum of money, a Seigniori, the revenue of which must increase.—A striking proof, that the Canadians sigh for a good education, nor are they surpassed by our neighbours, in the love and zeal for the public good. If the plan for the University had been sooner known, how many of our Citizens might have anticipated his example.

As to the Professors, they cannot all be found in the Province: but a reciprocal good understanding will procure them soon for us: irreproachable manners, a mind enlarged by knowledge and a love of the sciences, will qualify them, and prepare them for our choice. The Christian Theology being left to each Communion, it is of little consequence, who teaches Aristotle and Euclid.—Catholics and Protestants being equally the object of a constant and vigilant attention, all jealousies ought to die away, and our wise and liberal Government has always shewn the desire to obtain such a happy union.

The thickness of the walls, the spacious apartments, the number of Colleges, ought not to deter us. Some Universities in Europe are renowned, that have but a small College: the talents and reputation of the Professors are the essential requisites. Four Professors and a Rector, as the Honorable President thinks, are all that are wanted.

As to the number of the Parishes and their Inhabitants, and the Ecclesiastical Revenues you have been acquainted with their numbers and extent.

*What is the nature and number of the Scholars and Colleges established?*



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known to be all averse to any but English tenures; and the Canadian Seigniors of course be left without a hope of multiplying their censitaires, except from the predilection of the descendants of the French planters, to usages no longer prompted by the motives of interest, nor recommended by example.

I know of none established by Public Authority in Canada. To the kindness of the Gentlemen of the Seminary of Quebec, and to the Citizens of Montreal, we are indebted for those we have at present. There are several Curés that have Schools for teaching Writing, Reading and Arithmetic in the Parishes. No others are established at present. I do not see any reason to prevent the Bishop visiting the English Schools. At least, as a citizen, he ought to encourage every one, labouring for the public good. I think, I should do injustice to the Subscribers of the Quebec Library, to suppose, that they would not give free access to their Library. The books belonging to the College, I am sure, would always be at their service.

Fearing that I have been too diffuse, I leave a task, far beyond my strength. I conjure, you, Sir and Gentlemen, by all that is sacred, as one of the most faithful subjects of the best of Kings, as holding a distinguished rank in the Church of Canada, as a Canadian attached to his country by the strongest ties, to pursue with diligence, this great and honorable enterprize, which cannot fail to add to the joy, and satisfaction of all the citizens of the Province, and will unite their hearts and cement their union for ever.—Second the good intentions of our Governor; that he may see the steps he has taken, crowned with success.

*Et spes et ratio studiorum in Cesare tantum*

*Solus enim tristes tempestate Camenas*

*Respicet.* . . . . . JUVENAL—Sat. 10.

What glory for you, Gentlemen, to see your names placed at the head of the List of the first Promoters of the University, by the hands of gratitude.

• These are my sentiments, in which I have the honor to be, &c,  
CHARLES FRANCOIS DE CAPSE,  
Coadjutor of Quebec.

THAT the grant of the waste lands of the Crown in free and common soccage, is essential to the growth, strength, defence and safety of the Province.

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THAT unless the old French Seigniories can be settled upon terms as advantageous to the husbandman as the lands of the Crown, *their* land market must be at a stand, to the detriment of the proprietors, until the cultivation of the waste lands of the Crown, is damped by their remoteness from all water carriage, and the conveniencies and benefits of commerce.

THAT with the advantage of a vicinity to the navigable waters and a conversion of the tenures, the Seigniories will probably be the first to be fully cultivated, and with an increase of profit to the proprietors, under that ample dominion, which they will then enjoy over their lands, for settling them upon such terms as themselves may concert, to form a populous tenantry, and lay a foundation *in property*, for that perpetuity of their names and families, which a wise and well balanced government will be inclined to encourage and support.

THAT the King's *Roturier* tenants, cannot fail to wish for a conversion and discharge from the Cens rente and Lods et Ventes, and all the other feudal burdens connected with the tenure under which they now hold.

THAT the motives of interest will naturally make it the desire also of every *Seigniorial* censitaire, to stand upon the same free foundation of exemption with the other landholders of the Colony; but as this commutation for a discharge of the rents and dues to the landlords, must necessarily depend upon private conventions between them and their tenants, and involving considerations, *out of the contemplation*, of any but the parties



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reciprocally interested, their cases cannot be the objects of special and particular legislative provision ; perhaps the surest means of securing to the tenant a fair compact, will be to hold the Lord to his dues to the Crown, until he has discharged his tenants, from all the feudal incumbrances in his own favour.

THAT the prerogative is competent to put the *waste* lands of the Crown, under a Soccage tenure. But the legislative interposition is necessary, to make that tenure *universal*.

THAT if this is to be the work, not of Parliament, but of the Colony Legislature, the royal instructions given for the greater security of the property of the subject, will require an act with a probationary or suspending clause, until His Majesty's approbation can be obtained.

THAT an absolute and universal commutation of the ancient tenures, *tho' for a better*, would be a measure of doubtful policy ; but that no substantial objection occurs, against giving such individuals that benefit as desire it ; and especially to such of the Seigniors whose tenants or censitaires, shall conceive it to be for their own, as well as for the interest and benefit of their landlords ; and may therefore signify their consent to the change.

IT might, also, have been observed by the Committee, that among the causes of the non settlement of the Country is the divisibility of Property under the French law. Every day's experience proves the necessity of changing the law in this respect. It is well known, that

when a *habitant* or Farmer dies seized of a farm *en censive*, of the ordinary size of ninety acres, and happens to leave six children, that the proportion of each, which is fifteen acres in superficies, not sufficient for the subsistence of a family, and the consequence is, that poverty and wretchedness ensue. If they in their turn have children, this property is again subdivided among them, and thus, by repeated subdivisions, they are reduced to a starving condition. Towns depend upon the prosperity of the Country, and suffer if the lands are not cultivated; the consequence is, they often experience the dreadful effects of scarcity: on the contrary, if the inhabitants were obliged to take up new lands from their Seigniors, they by the cultivation of them, would, in advancing their own prosperity, contribute to produce abundance and happiness throughout the Colony. This evil, the French Government was apprised of, before the conquest, and wisely guarded against it, by an Edict, which was issued by the French King, in the year one thousand seven hundred and forty-five. That Edict stated, that no *habitant* should build a house, nor stable in stone or wood, unless his farm contained an arpent and a half in front, by thirty or forty arpents in depth, under a penalty of one hundred livres and the demolition of the house and stables so erected. In several instances, judgments have been had against certain inhabitants, who had contravened this law, and their houses have been demolished. It has become a question, whether this Edict can be put in force under the English Government. On the other hand, an Act of the Legislature might be passed, declaring the law of *partage*, should no longer be of any validity, and in its place it might be declared, that children of future marriages should inherit, according to the right



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of primogeniture. This would effectually correct the evil which operates so powerfully to prevent the settlement of the country, the bad effects of which are apparent to every person in the country.

GENERAL HOPE, as it has been already stated, returned the same summer he went to England, and died at Quebec in the month of April of the following year; he was succeeded by General Alured Clarke, who had been Governor of Jamaica, and came to this Province in the expectation of obtaining the Chief Command by the then supposed resignation of the Governor in Chief. He remained here until the year one thousand seven hundred and ninety-three, and a short time after that, was employed on an expedition to the Cape of Good Hope; on the reduction of which settlement, he was honored by his Sovereign with a Red Ribbon. His administration was a mild one, and his deportment was that of a gentleman.

THE Committee appointed to solicit a change of Government, had not ceased to make their representations for that purpose, since the establishment of the Quebec Act; they held a meeting in the year one thousand seven hundred and eighty-four, at which they drew up a Petition, signed by the ancient and new subjects, addressed to the King; copies of which were also transmitted to both Houses of Parliament.

THEY stated, that after the Conquest of the Province of Canada by the Arms of Great Britain, they in compliance with his Majesty's gracious and royal Proclamation, bearing date the seventh day of October, one thousand six hundred and sixty-three, had settled and became

established in the new acquired Colony of Quebec, in the full reliance on the faith of the Crown of Great Britain, as expressed in that Proclamation, for the enjoyment of those Laws, that freedom and security in Canada, which the principles of the English Constitution afforded in every part of the British dominions in America.

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THAT they and the Inhabitants of the Province had cheerfully, and on every occasion, obeyed the controuling power of the Parliament of Great Britain, and with patience had suffered during a period of Anarchy and War, rather than wound his Majesty's feelings, or embarrass the Throne with Remonstrances and Petitions, at a time, when the safety of the Nation made sacred every moment of public deliberation. Their actions and conduct, when truly represented, would best express to his Majesty, the sincerity of their Loyalty and attachment to the Crown and Government of Great Britain.

THAT they looked with concern, on the burthen of Great Britain, and with great pain and commiseration they saw the distresses of his Majesty's Loyal subjects, who, driven from their estates, wealth and possessions, were daily taking shelter in this British Colony; though their unsettled and distressed situation, might for the present hinder them from bringing forward their Petitions and their Claims, his Majesty would readily perceive, that a Government similar, or superior, to that under which they were born, had lived, and were happy, must be considered by those his Majesty's unfortunate Subjects, as an affectionate proof of his Majesty's paternal care and regard for them, and the first comfort which

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his Majesty in relief to their distresses could now grant: and the more so, as it would be a blessing not merely granted to them, but extended to their children and posterity. That they were fully persuaded that the welfare and happiness of his Majesty's subjects, were objects of his Majesty's serious and benign consideration. They begged leave to lay their petition at the foot of the Throne, and ardently requested his Majesty's interposition in their favor, for the repeal of the Quebec Bill, (allowing such privileges as are therein granted to the Roman Catholic Religion,) as being inadequate to the government of this extensive Province, the cause of much confusion in their laws, and fraught with trouble and uneasiness to his Majesty's loyal subjects here.—And that his Majesty would be pleased to concur in establishing his affectionate subjects of this Province, in the full enjoyment of their civil rights as British Subjects; and in granting them, a free, elective House of Assembly. That in these hopes, they humbly presumed to suggest, that clauses of the following import might be inserted in the Act of Parliament, which shall be made to confirm a free Constitution to this Country.

1. THAT the House of Representatives or Assembly, be chosen by the Parishes, Towns and Districts of the Province, to be composed of his Majesty's old and new subjects, in such manner, as to his Majesty's wisdom might seem most proper; that the Assembly be triennial, and the Members elected, every three years.

2. THAT the Council consist of not less than thirty Members, and in case of division on any measure before them, that no Act shall be passed unless at least twelve Members agree to carry the vote. That the ap-

pointment of the Members may be during their residence in the Province, and for life ; yet subject to temporary leave of absence, as mentioned in the eleventh article, and that they serve as Councillors, without fee or reward.

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3. THAT the Criminal Laws of England be continued as at present established by the Québec Act.

4. THAT the ancient laws and customs of this country, respecting landed estates, marriage settlements, inheritances and dower, be continued ; yet subject to be altered by the Legislature of Québec, and that owners might alienate by will, as provided by the tenth section of the Québec Bill.

5. THAT the Commercial Laws of England, be declared to be the laws of this Province, in all matters of Trade and Commerce, subject to be changed by the Legislature of Québec, as in the preceding article.

6. THAT the Habeas Corpus Act, the Thirty-first Charles II. be made part of the Constitution of this Country.

7. THAT the optional Juries be granted on all Trials in Courts of original Jurisdiction. That they be regularly balloted for, and a pannel formed as in England, either in the case of an ordinary or a special Jury, at the option of the party applying for the same, and that nine members out of the twelve, may in civil causes, be sufficient to return verdicts.

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8. THAT the Sheriffs be elected by the House of Assembly, and approved and commissioned by the Governor, at the annual Meeting of the Legislature. That they hold their appointments during the period elected for, and their good behaviour; and that they find reasonable security for a faithful discharge of their duty.

9. THAT no Officer of the Civil Government, Judge or Minister of Justice, be suspended by the Governor or Commander in Chief for the time; from the honors, duties, salaries, or emoluments of his appointment; but with the advice and consent of the Council, for the affairs of the Province; which suspension shall not continue after the annual sitting of the Council, unless it be approved by the same. The cause of complaint, if approved, to be thereafter reported to his Majesty, for hearing and judgment thereon.

10. THAT no new office be created by the Governor or Commander in Chief for the time, but with the advice and consent of the said Council, and to be approved at their annual Meeting, as in the preceding article.

11. THAT all offices of trust be executed by the *Principal*\* in the appointment, unless by leave of absence, from the Governor, with advice and consent of his Council, which leave of absence shall not extend to more than twelve months, or be renewed by the Governor, but with the approbation of the Council at the annual session.

\* Vid. Act 32 Geo. III. Cap. 75, which declares, that every Colony Office, shall be executed by the Patentee, and not by Deputy in the Colonies. There are three Officers in this Province, who are not resident, namely, the Lieutenant Governor of the Province, the Lieut. Governor of Gaspé, the Secretary of the Province, and Clerk of the Crown.



12. THAT Judges be appointed to preside in the Courts of the Province, to hold their places during life, or their good behaviour: and that they be rewarded with sufficient salaries, so as to confine them to the functions of administering Justice. That every cause of accusation for a removal, proceeding from the Governor, shall follow the rule laid down in the ninth article. And every cause of accusation for a removal, on the part of the public, shall proceed from the House of Assembly, and be heard by the Council; which if well founded, shall operate as a suspension; and in either case, be decided in appeal, and reported to his Majesty.

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13. THAT Appeals from the Courts of Justice in this Province to the Crown, be made to a Board of Council, or Court of Appeals, composed of the Right Honorable the Lord Chancellor, and the Judges of the Courts in Westminster Hall.

14. THAT they begged leave, humbly to represent to his Majesty, that from their proximity to the United States, who from situation and climate had many advantages over them, the internal regulations for promoting the trade, agriculture and commerce of this Province; had now become more intricate and difficult, and would require great care and attention on the part of the Legislature here, to watch over the interests of this Country. They therefore requested, that the Assembly might have the power of laying the taxes and duties, necessary for defraying the expences of the civil Government of the Province, and for that purpose, that the laws now existing, laying taxes and duties to be levied in the Province, might be repealed.



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THAT such were the prayers and intreaties of his Majesty's loyal Subjects of this Province, and in full confidence they trusted, that his Majesty would relieve them from the anarchy and confusion which then prevailed in the Laws and Courts of Justice of the Province, by which their real property was rendered insecure, trade clogged, and that good faith, which ought, and would subsist among the people, and which was the life and support of commerce, was totally destroyed. And that he would be graciously pleased to concur in securing to them, by Act of Parliament, a Constitution and Government on such fixed and liberal principles, as might promote the desire of his affectionate subjects of this Province and, of rendering this mutilated Colony a bright gem in the Imperial Crown of Great Britain, and that might call on the present generation for their unceasing acknowledgments and gratitude, and upon the future, to feel as the present, that the security and happiness of the people and Province of Quebec depended on an union with, and submission to, the Crown and Government of Great Britain.

MR. LYMBURNER was employed as the Agent for the Subscribers.—He exerted himself to forward the views of his Constituents, and ultimately proved successful. His Majesty's Ministers had some time before determined to take the subject into consideration, and the heads of a Bill to be presented to Parliament, were prepared by Mr. Secretary William Wyndham Grenville, and sent to the Governor General, for his corrections, which his local knowledge of the Country was so well able to supply. His Lordship was desired to consult with the then Chief Justice,\* on the subject of the reference.

\* William Smith, Esq.

After a full investigation and discussion of the several clauses, to which many important additions and amendments were made, the Bill was returned to England, and laid before Parliament, where it was again discussed, and finally received the Royal Sanction. The political frame thus established for Canada, was assimilated, (as near as the condition of the Country would permit) to that Constitution which has made England the admiration of the world. How flattering to Canadians of all ranks, that this corner of the Empire should have been the *first* of its remote appendages upon that *envied foundation*; that rare structure of human policy! which, adverting to the natural, inevitable and providential distribution of mankind, into *rich* and *poor*, with qualities appropriate to their conditions, and of adverse biasses, restrains the spirit and vices incident to each class, and creates a controul upon *both*, by the elevation of a *third order*, which in its turn, is corrected by the other two, and all singly and conjointly operating the welfare of the whole.\*

THE Act of Parliament, which established the new Constitution, commenced by Proclamation, on the twenty sixth December, on the dissolution of the old Council: and the Provincial Parliament met for the first time, on the seventeenth of December of the following year.

THE Members of the Executive and Legislative Council were:

\* As men are fond of introducing into other places what they have established among themselves, they (meaning Great Britain) have given the people of their Colonies, the form of their own Government; and this Government, carrying prosperity along with it, they have formed great Nations in the forests they were sent to inhabit.....MONTESQUIEU—Vol. 1. p. 390.

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## EXECUTIVE COUNSELLORS.

|                               |                      |
|-------------------------------|----------------------|
| William Smith, Chief Justice, | Thomas Dunn,         |
| Paul Roc de St. Ours,         | Joseph De Longueuil, |
| Hugh Finlay,                  | Pierre Panet,        |
| François Baby,                | Adam Mabane,         |

## LEGISLATIVE COUNSELLORS.

|                               |                         |
|-------------------------------|-------------------------|
| William Smith, Chief Justice, | François Baby,          |
| J. C. Chaussegros De Lery,    | John Collins,           |
| Hugh Finlay,                  | Charles De Lanaudiere,  |
| Thomas Dunn,                  | George Pownall,         |
| Paul Roch De St. Ours,        | R. A. De Boucherville,  |
| Joseph L. De Longueuil,       | John Fraser,            |
| Edward Harrison,              | Sir John Johnson, Bart. |

THIS year was also distinguished by the arrival in Canada, of his Royal Highness Prince Edward, since created Duke of Kent and Strathern,) fourth son of His Most Excellent Majesty King George the Third ; His Royal Highness had been quartered with his Regiment at Gibraltar, and there remained several years : leaving that Garrison, he arrived with his Regiment, (Royal Fusileers) in the Month of August, at Quebec. During his residence here, His Royal Highness endeared himself to the Inhabitants of the Country by his condescension and politeness, by that benevolence of disposition and affability of conduct, so characteristic of every branch of the House of Hanover. He left Canada on the breaking out of the war with France, and distinguished himself at the reduction of Martinique ; after which he returned to Gibraltar, to take upon himself the command of that important Fortress, and there established that wholesome discipline, then so necessary to correct the evils that had been introduced by his predecessor. The inhabitants of Canada had ever indulged the hope, that he would

have returned as the Governor General of the British Provinces in America ;—a Post, he would have filled with honor to himself, and to the great advantage of the Colony, but if this gratification was not to be indulged them, they trusted that he would have been appointed Vice Regent of the British Dominions, resident in London—An office the more important and necessary, as the wants of the Colony, would, through such a channel, have speedily been conveyed to the Royal Ear.

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THE Governor had received orders from England, to divide the Province into Elective Districts, and to apportion the number of Representatives fixed by Act of Parliament, to each County, City, Town and Borough. In making this distribution, regard was had, solely, to the male Population in each, and without reference to the extent of the Counties to be created. The better to effect this object, and to ascertain the number of males, a census was taken in one thousand seven hundred and ninety, and it was found that the number of males above the age of sixteen, amounted to thirty-seven thousand four hundred and eleven. According to this statement, the Province then contained two hundred and twenty-four thousand four hundred and sixty-six souls. Twenty-four years have elapsed since that period, and it may now reasonably be supposed, that by natural increase, and emigration from the United States, and other places, the whole population may amount to, four hundred and fifty thousand souls.

THE Governor, anxious to be informed by His Majesty's Ministers, how far Acts of Naturalization or Letters of Denization might be granted to Aliens com-

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ing into this Province, applied to the Secretary of State in England, to obtain His Majesty's commands on this subject. Those important questions were submitted to His Majesty's Government, and his Servants were of opinion, that the granting the right of a British Subject to an Alien, was a matter of Imperial concern only, and that it ought not to be exercised by a subordinate Legislature; indeed the Governor was, by his instructions, peremptorily forbid assenting to any act of Naturalization, and every attempt by the Provincial Legislature to assume such a power, was to be firmly resisted by him. It may also be observed, that in the Canada Bill, wherever Naturalization was spoken of, it was always distinctly expressed, that the provision related only to a person naturalized by an Act of the British Parliament, and a naturalization in any other mode, even if liable to any other objections, could not, without the alteration of the Canada Act, convey the rights therein given to persons naturalized, in the mode therein pointed out. The naturalization of Aliens in the Colonies, is provided for by the Act of his late Majesty, Cap. 7, by the operation of which Act, all Aliens within His Majesty's Colonies in North America may become naturalized according to the terms and conditions therein contained; and, it was observed by the Secretary of State, that with respect to applications for obtaining the rights of denization, grounded on the particular situation and merit of individuals, His Majesty would consider the same, with a view to the granting Letters of Denization, in such cases as might be thought to merit his Royal favor.

THE allotment of lands to be reserved for the Crown and Clergy, was also a subject of importance.

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It had been recommended by the Governor, that the reserves for the Crown and Clergy should either be in distinct Townships, or in the corners of each Township. This was objected to by His Majesty's Ministers, upon the principle, that reserves so situated, would be highly unfavorable to the Crown and the Clergy, and would place the shares so to be reserved and allotted in a situation of less relative benefit than the lands of equal extent granted to individuals. The Act of Parliament provides, "That they shall be as nearly as the circumstances and the nature of the case will admit, of the like quality as the lands in respect of which the same are so allotted and appropriated, as shall be as nearly as the same can be estimated at the time of making such grant, equal in value to the seventh part of the lands so granted." In order that the future increase of value of the Reserves might in some degree be proportioned to the increasing value of the lots granted to individuals; and that this could in no otherwise be effectually provided for, except by their being as much as possible contiguous to, and interspersed with, *all* the different allotments of individual property. That the reasons that had been stated by the Governor, for adopting a different system, were inconsistent with the spirit and intention of the Parliamentary provision, and that the Governor should carefully keep in view the general idea of rendering the Reserves as beneficial as possible, and that in Townships bordering on the water, the reserved lands should be so situated as to enjoy their full proportion of that advantage, according to the relative quantities of the private grants and the reserves established by the Act.\* It is much to be regretted,

\* Secretary Grenville's Letter to Governor Clarke.—8th Nov. 1792.

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that the former plan had not been adopted, as the settlement of the waste lands has been retarded by adhering to a system so unfriendly to the population and growth of the Province.

THE erection of Parishes in Canada, is a subject that has frequently been agitated, and is well worthy of serious attention. The right to create new parishes has been assumed by the Romish Bishops in this Province, in several instances; but nothing can be clearer or more decided, than that the assumption of such a right is an usurpation of a prerogative of the Crown. The Romish Bishops have never been vested with any authority for that purpose by the King of Great Britain, nor had they that right when Canada was under the dominion of France. The King of France, alone, exercised this right; and by his authority the limits to be given to the Parishes were established. It appears, therefore, the more extraordinary, that any attempt should have been made, under the British Government, to divest the Crown of its just rights and privileges. Such usurpations have, however, been made. It may be sufficient to instance the case of the Parish of *St. Léon le Grand*, which was erected into a *new Parish by that title*, having been first disjointed from another Parish, of which it made a part, called *St. Antoine* of the *Riviere du Loup*, in the District of Three Rivers. This Parish of *St. Léon, le Grand*, was created by virtue of the mandate of the Romish Bishop. The question, however, as to the right of creating this Parish, came, incidentally into discussion, by an action, in which Pierre Lavergne and others, were Plaintiffs, against Laurent Bertrand, the Curate of *St. Léon* and others, Defendants. The cause was heard at the District Court of



Three Rivers, and much to the surprise of the persons concerned, as well as to the Public, judgment was given in favor of the Defendants. The Plaintiffs in the Court below, dissatisfied with the judgment, by the advice of their Counsel, put in an Appeal, and the cause was again heard at the Court of Appeals at Quebec, where the question underwent a more elaborate discussion. The Attorney General was brought in as an intervening party, and filed his reasons of intervention, and his conclusions on the part of the Crown, stating, That for and on the behalf of our Sovereign Lord the King, in obedience to the Rule or Order of this Honorable Court in this cause made on the twenty-seventh day of April last, for *moyens d'intervention* and conclusions, saving nevertheless and reserving to our said Lord the King the benefit of all other *moyens d'intervention* and conclusions whatsoever, doth propound and alledge as follows :

THAT there is no such Parish as the pretended Parish of *St. Léon le Grand*, nor hath any such Parish at any time been legally erected in this Province.

THAT by the Law of the Land, the right of erecting Parishes in this Province, is vested solely and exclusively in our Sovereign Lord the King, and not in any other person or persons, body or bodies politic or corporate, lay or ecclesiastical.

THAT the office of the Roman Catholic Bishop of Quebec was annihilated, and all the powers inherent therein transferred to His Majesty by the Capitulations of Quebec and Montréal, by the conquest of Ca-



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nada, the Treaty of Peace of tenth of February, one thousand seven hundred and sixty-three, the Statutes 26th Henry VIII. cap. 1. the 1st of Eliz. cap. 1. and 14th Geo. III. cap. 83, and that the said office hath not at any time since been by law re-established. That no such office as superintendant of the Romish Churches hath at any time existed in this Province, and that no person or persons hath or have been at any time appointed by our Sovereign Lord the King, or under his authority, to this office,

That admitting, that in law there exists such a character as the Roman Catholic Bishop of Quebec, yet all the rights and powers of his office, with respect to the erection of Parishes, was taken away and destroyed by the thirty-first article of the Capitulation of Montreal, dated the eighth of September, one thousand seven hundred and sixty, and have never been restored.

That the ordinance made and passed by the Governor and Council of the late Province of Quebec, in the thirty-first year of His Majesty's Reign, intituled, "An Act or Ordinance concerning the building and repairing of Churches, Parsonage Houses and Church Yards" is wholly, and altogether null and void for the following, among other reasons:—Because it is repugnant to the Statutes 26th Henry VIII. cap. 1. and 1st Eliz. cap. 1. Because it is an ordinance touching Religion, and never received the assent of His Majesty. Because it is an ordinance which lays a tax or duty to aid an assessment on the inhabitants of the several Parishes of this Province, for the building and repairing Churches and for other purposes. Because it abridges the King's supremacy and Royal prerogative, is in express con-

tradiction to the letter of the capitulation of Montreal, and consequently, as it infringes upon the rights of the Crown and the principles of the Constitution of the Colony, far exceeds the powers vested by the Quebec Act in the Governor and Legislative Council of Quebec.

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Because it empowers the titular Roman Catholic Bishop to exercise in virtue of his office, an authority derived from the See of Rome, which, by the law of the land, cannot be done in any of His Majesty's dominions without the assent of the King, Lords and Commons of the Imperial Parliament of the United Kingdom of Great Britain and Ireland.

That admitting the above mentioned ordinance to be in force, it authorises the Governor of the Province and the titular Catholic Bishop of Quebec, with the sanction of the Crown to make an extra parochial circuit of ground into a parish and no more, and does not authorise them to destroy, limit or divide a Parish already erected.

That the ordinance aforesaid enacts, that the same course shall be pursued as was requisite before the conquest, according to the laws and customs at that time in force and practice, and that such laws and customs required the sanction of the Crown to the erection of every Parish by Letters Patent, and that such Letters Patent should thereafter be duly enregistered. That without such sanction, so given, and so enregistered, the erection of a Parish was by the said laws and customs at that time in force and practice, null and void, and that no such sanction hath been so given

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 III. *Grand*, or hath been so enregistered.

That there is no legal evidence whatever of the erection of the pretended Parish of *St. Léon le Grand*, of the erection of a living with cure of souls thereon, or of the appointment of Laurent Bertrand to be the Curé or Rector thereof.

Wherefore, inasmuch as the judgment in this cause given in the Court below, hath sanctioned an usurpation of the undoubted rights and prerogatives of the Crown, by declaring the supposed erection of the Parish of *St. Léon le Grand* by the titular Roman Catholic Bishop of Quebec and the Commissioners appointed for the erection and repairs of churches, parsonage houses and church yards, and the supposed nomination of Laurent Bertrand to be Curé thereof, without a commission or appointment from His Majesty to be valid in law, to the manifest prejudice of His Majesty. The said Attorney General humbly prays, that the said judgment of the Court below may be reversed.

AFTER solemn deliberation, the Court reversed the judgment of the Court at Three Rivers, with costs to the Appellant Lavergne, as well in the Court of Appeals as in the Court below.

HIS Majesty King George the Third, at all times anxious to promote the spiritual as well as temporal prosperity and happiness of his Subjects, took into his Royal consideration the necessity of establishing the Church of England in Canada on a sure and solid foundation : The better to effect the object His Majesty had in view,

ne, wisely, constituted the Provinces of Lower and Upper Canada into a Bishop's See, and called it by the name of the Bishopric of Quebec. To fill so important a situation as that of the first Bishop of Quebec, it became necessary to chuse a Divine distinguished for learning, morals, probity and prudence. His Majesty, therefore, selected Dr. Jacob Mountain, as a person in possession of those eminent virtues, and appointed him, by Letters Patent, under the Great Seal of England, Bishop of Quebec and its dependencies. The Bishopric to be held by him for his natural life, and to his successors, for ever. His Lordship arrived in Canada in the month of November, one thousand seven hundred and ninety three, and took possession of the charge graciously conferred on him by His Majesty. He was vested with the power to confer the orders of Deacon and Priest, to confirm those that were baptised, and that had come to years of discretion, and to perform all other functions appropriated to the office of a Bishop: to exercise jurisdiction spiritual and ecclesiastical by him or his Commissary or Commissaries throughout the said See and Diocese, according to the Laws and Canons of the Church of England. To give institution to benefices and grant Licences to Curates and to visit Rectors, Curates, Ministers and Incumbents of all the Churches within his Province. To have jurisdiction over the Rectors, Ministers, Curates, Priests and Deacons, and to have power to remove, deprive or suspend them, or other Ecclesiastical censure they might be liable to, according to the Canons and Laws Ecclesiastical of Great Britain. To appoint Commissaries under his hand and seal, who were authorised with permission of the Bishop, to give institution to Benefices, and to grant licences to Curates, and visit Rectors of all the Churches where-

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in Divine Service shall be performed, and to punish and arrest Rectors, Curates, Ministers and other Incumbents, according to their merits, by removal, suspension, or other ecclesiastical censure. That persons aggrieved by the judgment of any Commissary, might demand a re-examination and review of such judgment before the Bishop himself, who, upon such demand made, was to take cognizance of such judgment, and full power was given, to affirm, reverse or alter the judgment, sentence or decree of his Commissary—and, in cases where parties conceived themselves aggrieved by any judgment, decree or sentence pronounced by the Bishop himself, or his successors, the parties were entitled to an appeal to the King in the High Court of Chancery of Great Britain, first giving security and notice to the Bishop of the intention of the party to appeal; which appeal to be heard and determined by special Commissioners to be appointed by the King, which sentence shall be final. The Bishop and his successors declared a Body Corporate, and to have full power to purchase all Manors, Messuages, Lands, Rents, Tenements, Annuities, and Hereditaments in fee or in perpetuity or for life or years, to demise, dispose of, or let the same, as he or they might think expedient. To have a Corporate Seal, and to sue and be sued. The Bishop and his successors are declared subject to the authority of the Archiepiscopal See of the Province of Canterbury, except in cases of appeal, which shall be heard and decided by Commissioners appointed for that purpose.—In addition to the powers granted by these letters patent, other letters patent were afterwards issued, dignifying and advancing the Bishop and his successors to the name, state, degree, dignity, and honor of Lord Bishop of Quebec and its depen-

dencies, which the Lord Bishop has since enjoyed, and which title is of right, vested in his Lordship's successors for ever.

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The Governor of the Province had, in the year one thousand seven hundred and seventy-five, as has already been stated, established Martial Law, in consequence of an irruption of the American forces into the Province. This had been done in virtue of his Commission, and in consequence of that *Law of the State*, or State necessity which requires, that in extraordinary cases of general confusion, or of an impossibility of proceeding by the usual methods of the law in the King's Courts, that *Martial Law*, may be established. Many are the instances where Martial Law has been put in force, in the King's Colonies. The Proclamation stated,—That as a Rebellion prevailed in many of His Majesty's Colonies in America, and particularly in some of the neighbouring ones, and that many of the Rebels had, with an armed force, made incursions of late into this Province, attacking and carrying away from thence a party of His Majesty's Troops, together with a parcel of Stores, and a vessel belonging to His Majesty, and had actually invaded this Province with arms, in a traitorous and hostile manner, to the great terror of His Majesty's subjects, and in open defiance of his laws and government, falsely and maliciously giving out, by themselves and their abettors, that the motives for so doing were to prevent the inhabitants of this Province from being taxed and oppressed by Government, together with divers other false and seditious reports, tending to inflame the minds of the people, and alienate them from His Majesty.—To the end, therefore, that so treason-

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able an invasion might be soon defeated, that all such traitors with their said abettors might speedily be brought to justice, and the public peace and tranquillity of this Province again restored, which the *ordinary course of the Civil Law*, is at present unable to effect; he had thought fit to issue his Proclamation, hereby declaring, that until the aforesaid good purposes could be attained, he would, in virtue of the powers and authority to him given by His Majesty, execute Martial Law, and cause the same to be executed throughout this Province: and to that end, that he would order the Militia within the same forthwith to be raised: but as a sufficient number of Commissions to the several Officers thereof, could not be immediately made out, he had in the mean time directed, that all those having any Militia Commissions from the Honorable Thomas Gage, the Honorable James Murray, Ralph Burton, and Frederick Haldimand, Esquires, heretofore His Majesty's Governors in this Province, or either of them, to obey the same, and execute the powers therein mentioned, until they shall have received orders from him to the contrary: he did accordingly, in His Majesty's name, hereby require and command all his subjects in this Province, and all others whom it might concern, on pain of disobedience, to be aiding and assisting to such Commissioned Officers and others, who had or might be commissioned by him for carrying on His Majesty's Service.

AN Historian's view ought to be principally and invariably directed to truth; but such is the lot of an Historian, in common with other men, that he may be betrayed into calumny, by misrepresentation, and hurried into mistake by precipitation or inadvertency. The atonement, and the only one he can make, for such in-

voluntary errors, is, to retract them on conviction, in such manner as to undeceive the Reader, whom he has unknowingly misled, and healing the wounds he has unwittingly inflicted. Thus the injured person will have reason to be satisfied, and the Public will forgive the writer's errors in consideration of his integrity.— With such a declaration, if any individuals may have felt themselves offended with any statement in the foregoing part of this History, the Author engages that upon conviction of the errors that may have crept into his book, they shall be corrected, as an act of humanity, as well as of justice due to the party aggrieved.

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END OF THE SECOND VOLUME.



