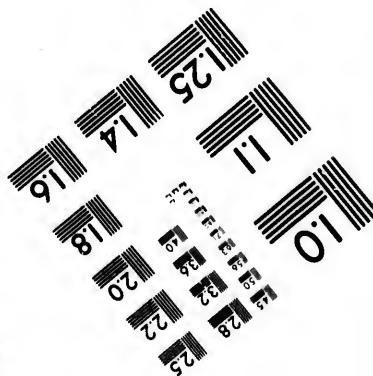
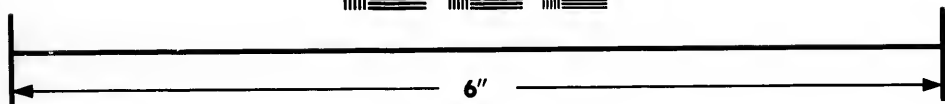
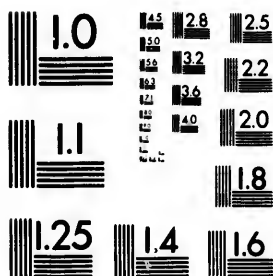


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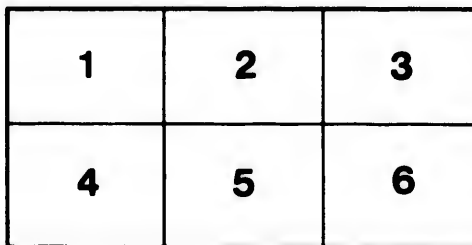
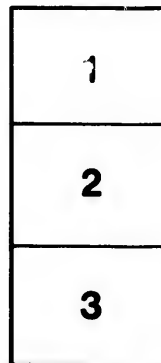
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CANADA: FALSE PRINCIPLES OF GOVERNMENT THE CAUSE OF ITS SUFFERING.

A FALSE principle in the organization of a government is like an error in a geometrical problem—the longer it is worked, the more difficult it becomes, and, until first principles be re-examined, truth is unattainable. Most fully has this axiom been manifested in Canada.

The fine portion of the North American continent termed Canada (*Kanata* in the Indian language, a collection of huts) was discovered for the English government A.D. 1497, by the two celebrated mariners, John and his son Sebastian, Cabot, who had received a commission from Henry VII. to discover a north-west passage to the East Indies. The French subsequently settled on the banks of the St. Lawrence river, A.D. 1534; and after various successes and reverses, a government was formed in 1608, the constitution of which was modelled on the feudal principles of the Normans, the country being divided into fiefs or seigneuries, to be held as feudal tenures, and as a compensation for military services, when required. The conduct of the French settlers in Canada against the then adjacent British settlements led to the conquest of Quebec by General Wolfe, A.D. 1759, and to the final extinction of the French colonies in that portion of the North American continent.

By the treaty of Paris, A. D. 1763, Canada was ceded to the British crown; the liberty of the Roman Catholic religion was granted to the Canadians, then numbering about 65,000, and permission to sell their property and emigrate, at any time within eighteen months from the ratification of the treaty. There was little disposition on the part of the Canadians to emigrate into the interior: their conduct to the Indians, whose soil they had occupied, was terrific, and produced the most demoniac recriminations on the part of the aborigines. Charlevoix, in his history of *La Nouvelle France*, (Canada), says of the Indians, " Ils ouvrirent le sein des femmes enceintes pour en arracher

le fruit qu'elles portoient ; ils mirent des enfans tout vivant à la broche et contraignirent, les mères de les tourner pour les faire rotir !' And, according to Colden, (p. 79,) the Indians whom the French took prisoners in the battle of Skenectaday were *cut into pieces, and boiled to make soups for the Indian allies who accompanied the French.* The French settlers therefore gladly availed themselves of the British permission to remain in their rich seigneuries on the fertile banks of the St. Lawrence.

On our occupation of Canada, we found that the government of the colony had been confided to a military ruler, and an intendant or king's financier, (M. Bigot,) who, together with his creatures, had plundered the colonists of 12,000,000 livres, by the issuing of card or paper money, the bills of exchange for which the king of France dishonoured ; and the only compensation received by the Canadians for £4,000,000 paper currency, (its amount at the conquest,) was four per cent on the original value.

Nor was the political state of the Canadians much better than their financial : the government was the worst form of a colonial military despotism. One of the first steps of England was, by proclamation, 7th of Oct. 1763, to appoint a governor (Guy Carleton) and council, who were authorized to erect courts of judicature according to law and equity, and, as near as might be, in conformity with the statutes of England, with an appeal home. In 1774 the population of the province, including British and French, was about 90,000, and the statute of the 14th George III. was passed, the object of which was to provide a council for the management of all the affairs of the colony, (except taxation,) in which the French Canadians were eligible to a seat. So far so good ; but then came the evil—namely, creating a separation of classes in a *British* possession. French laws, and trial in civil cases according to those laws, were enacted ; and English laws, with trial by jury in criminal cases, were ordained.

At the termination of the American war, which ended in the establishment of England's former colonies as the "United States," a large number of loyalists, attached to the constitution and government of England, took refuge in Canada, particularly in the upper parts of the province, where land was freely accorded to them. The accession of this body of settlers, and the state of the neighbouring republic, led to a determination on the part of the British government to give a constitution, a term which was then the rage of the day, to Canada. The Quebec act of 1791 was passed ; the province was divided into two parts, Upper and Lower Canada ; a £10 franchise given to the electors ;

a council named by the secretary of state for the colonies; and a governor representing the crown.

Even in those days of constitution-mongering, nothing could be more practically rash, or theoretically absurd, than this celebrated act of 1791. Instead of merging the feudal French Canadians into the surrounding free Anglo-Saxon race, a line of imaginary demarcation was drawn, that the less civilized and foreign race might possess the finest portion of the land along the great river St. Lawrence, the central city of Montreal, the strong fortress of Quebec, and the valuable fisheries and sea-coast frontier of the gulf and shores of the St. Lawrence; while the active and free British race were driven to the back woods and swampy borders of the great lakes and inland waters—actually cut off from any outlet to the sea. How such an unjust measure could have been tolerated is really inexplicable; we must only suppose that it was intended to keep up a Gallic race in Lower Canada, as a barrier to the aggressions of the adjoining republicans, or perhaps as a safeguard, should the British settlers and United-States refugees in the upper province incline to the example of their New York neighbours.

But the second error was still worse than the first, which had some Machiavelian ideas in extenuation. To an ignorant, feudal, and hitherto despotically governed people, a franchise nearly equal to universal suffrage was granted; twenty-one counties were marked out, and fifty representatives authorized to be returned for the formation of a commons' house of parliament. No steps were taken to neutralize this preponderance of democratic power. Mr. Pitt's idea of constituting the seigneurs as an hereditary chamber, with additions from time to time, as in the British House of Lords, was scouted by Mr. Fox and his party. No sufficient control was held by the crown or its representative over the public purse; no municipal institutions founded; no measures adopted for gradually breaking in on the feudal tenures; no steps taken to educate a Roman Catholic population, addicted to every kind of superstition, and incapable of reading or writing—the sole idea seemed to be the creation of a democratic assembly—in fact, to give to the vessel of the state the greatest possible quantity of sail, and the least possible quantity of ballast, and then commit it to the mercy of the winds and waves, without rudder, compass, or pilot.

This evilly-constructed constitution (of 1791) consisted of fifty popular representatives, in a *house of assembly*; of fifteen members in a *legislative council*, appointed by mandamus from the crown; of an *executive council* of eleven members, appointed by the crown; and of a governor, (generally a soldier,) with the supposed authority of the

sovereign. The result may readily be imagined: a few active, ambitious, and daring men soon arose among the French Canadians, who foresaw that, in the course of time, the nationality which had been so unwisely fostered by the home authorities must be swamped by the superior intelligence, wealth, and energy of the British settlers. Every effort was therefore made to get all the legislative power into the hands of the French, and, consequently, the entire control of the public revenues, even those legitimately belonging to the crown.

In its foolish liberalism, the government of 1791 made no provision for the payment of the civil officers of government, for the judges of the land, or for the due execution of the most important duties of the state. The majority in a *provincial* assembly was allowed to act with a despotism never conceded to the majority in the *imperial* parliament; and, as might be anticipated, the governor, the executive, and the legislative councils were soon thrown into hostilities with the French party, who carried everything in the lower house, by the most artful and false appeals to the prejudices and fears of a simple-minded, generous, and high-spirited, but credulous people.

The war in which England was engaged up to 1815, not only on the continent of Europe, but also with the United States, left neither leisure nor inclination for the remedy of the evil committed by the act of 1791: temporary expedients were resorted to; an English party set up against a French; largesses, in the shape of immense tracts of land, and pluralities of offices, were given to the supporters of government; mutual recriminations were encouraged; governor after governor recalled; commissions of inquiry were issued; repeated dissolutions of refractory assemblies tried; the colonial office in England entered on no bold, manly, and decided course; traitors were patronized; sedition winked at; the very officers of the government, and the judges of the land, left for years without their salaries, while the coffers in Quebec were filled with accumulated revenues; rebellion was openly preached, the leaders of it terming Canada "our country—our lands—our revenues—our ports and fisheries," and "Une separation immediate d'avec la mère-patrie le seul moyen de conserver notre nationalité."*

The history of the recent rebellion is well known. Without the slightest practical grievance,—less taxed than any civilized people in the world, in the perfect enjoyment of all their social and religious rights, and with abundance of all the necessaries and comforts of life—

* Vide *Minerve*, (a Canadian French journal of Messrs. Papineau, Viger, &c.) of the 16th of February, 1833.

the mass of the French Canadians, ignorant of the very nature of the treason they were committing, and instigated by a few mercenary and cowardly leaders, broke into a simultaneous insurrection in November, 1837, with the avowed intention of expelling those from Canada to whom the country belonged by virtue of original discovery, by right of conquest, and by legitimate cession — a government whose acts were not wise, because they were too lenient, and whose very faults were an excess of liberality, and a mistaken generosity. If the leaders of the rebellion, Messrs. Papineau, Viger, &c. had not been blinded by their vanity, their ambition, and their cupidity, they might have foreseen the utter impossibility of accomplishing their insane attempts by fraud and violence.

After a great sacrifice of life, an immense waste of property, and an incalculable amount of misery, this wretched, culpable, and destructive rebellion is at an end, and with it the so called "constitution of 1791," the parent of the subsequent struggles, anarchy, and crimes.

We have not adverted to the condition of Upper Canada; the evil of an overpowering democracy, as enacted also for the upper province, has not been without its effects, but among an intelligent race of men like the Upper Canadians the evil has been less apparent; it has been subdued by an union among the wise and the good in the province, and the momentary insurrection of 1837 was confined to a few hundred poor deluded people, who had been deceived by the rebel Mackenzie, who, with two or three others, was playing the same game in Upper Canada, that Papineau was enacting in the lower province. The sufferings of Upper Canada have not been caused by disaffection among the brave and loyal inhabitants of the province, but from the flagitious proceedings of American republicans on its frontiers, who seemed to think that murder, arson, and every species of villany, were justifiable for the destruction of the British monarchy. We shall, however, have another opportunity of treating of the international relations between England and the United States; and we return to the subject of Lower Canada, to make some remarks relative to the alleged causes of its present state.

The Earl of Durham, in his Report, ascribes, at the outset, the rebellion of Lower Canada to the division of races, and the incompatibility of the English and French existing in peace, especially if the latter were to preponderate in the government of the province. But his lordship's subsequent remark completely negatives this as the *sole* cause of the evil, and more justly ascribes it to a "*defective system of administration, commencing at the very source of power;*" and to

"*an entire want in the colony of any vigorous administration of the prerogative of the crown.*" (Report, p. 37.) Here we have the clue to the whole question, and completely corroborative of the opinions with which we opened this article—namely, the impracticability of working the constitution of 1791 with an ignorant, feudal, and inactive race of people, and no sovereign power in the government.

The passage in Lord Durham's Report on this point is so important, that we quote it entire.

"The defective system of administration in Lower Canada commences at the very source of power; and the efficiency of the public service is impaired throughout by the entire want in the colony of any vigorous administration of the prerogative of the Crown. The fact is, that, according to the present system, there is no real representative of the crown in the province; there is in it, literally, no power which originates and conducts the executive government. The governor, it is true, is said to represent the sovereign, and the authority of the crown is, to a certain extent, delegated to him; but he is, in fact, a mere subordinate officer, receiving his orders from the secretary of state, responsible to him for his conduct, and guided by his instructions. Instead of selecting a governor, with an entire confidence in his ability to use his local knowledge of the real state of affairs in the colony in the manner which local observation and practical experience best prescribe to him, it has been the policy of the colonial department, not only at the outset to instruct a governor as to the general policy which he was to carry into effect, but to direct him, from time to time, by instructions, sometimes very precise, as to the course which he was to pursue in every important particular of his administration. Theoretically irresponsible to the colonial legislature, the governor was, in effect, the only officer in the colony who was at all responsible; inasmuch as the Assembly, by centering their attacks on him, and making him appear the sole cause of the difficulties of the government, could occasion him so much vexation, and represent him in so unfavourable a light at home, that it frequently succeeded in imposing on him the necessity of resigning, or on the colonial minister that of recalling him. In order to shelter himself from this responsibility, it has inevitably, and I must say very justifiably, been the policy of governors to take care that the double responsibility shall be as light as possible, to endeavour to throw it as much as possible on the home government, and to do as little as possible without previously consulting the colonial minister at home, and receiving his instructions. It has, therefore, been the tendency of the local government to settle every thing by reference to the colonial department in Downing-street. Almost every question on which it was possible to avoid, even with great inconvenience, an immediate decision, has been habitually the subject of reference; and this applies not merely to those questions on which the local executive and legislative bodies happened to differ, wherein the reference might be taken as a kind of appeal, but to questions of a strictly local nature, on which it was next to impossible for the colonial-office to have any sufficient information. It had become the habit of the colonial-office to originate these questions, to entertain applications from individuals, to refer those applications to the governor, and, on his answer, to make a decision. The governor has been enabled by this system to shift responsibility on the colonial-office, inasmuch as in every important case he was, in

reality, carrying into effect the order of the authority to which he was responsible. But the real vigour of the executive has been essentially impaired; distance and delay have weakened the force of its decisions; and the colony has, in every crisis of danger, and almost every detail of local management, felt the mischief of having its executive authority exercised on the other side of the Atlantic.

“Nor has any thing been gained, either in effectual responsibility or sound information, by thus transferring the details of executive government to the colonial department at home. The complete and unavoidable ignorance in which the British public, and even the great body of its legislators, are with respect to the real interests of distant communities, so entirely different from their own, produces a general indifference, which nothing but some great colonial crisis ever dispels; and responsibility to parliament, or to the public opinion of Great Britain, would, except on these great and rare occasions, be positively mischievous, if it were not impossible. The repeated changes caused by political events at home having no connexion with colonial affairs have left to most of the various representatives of the colonial department in parliament too little time to acquire even an elementary knowledge of the condition of those numerous and heterogeneous communities for which they have had both to administer and legislate. The persons with whom the real management of these affairs has or ought to have rested have been the permanent, but utterly irresponsible members of the office. Thus the real government of the colony has been entirely dis severed from the slight nominal responsibility which exists. Apart even from this great and primary evil of the system, the pressure of multifarious business thus thrown on the colonial-office, and the repeated changes of its ostensible directors, have produced disorders in the management of public business which have occasioned serious mischief and very great irritation. This is not my own opinion merely; for I do but repeat that of a select committee of the present house of assembly in Upper Canada, who, in a report, dated 8th February 1838, say, ‘It appears to your committee, that one of the chief causes of dissatisfaction with the administration of colonial affairs arises from the frequent changes in the office of secretary of state, to whom the colonial department is intrusted. Since the time the late Lord Bathurst retired from that charge, in 1827, your committee believe there has not been less than eight colonial ministers, and that the policy of each successive statesman has been more or less marked by a difference from that of his predecessor. This frequency of change in itself almost necessarily entails two evils—first, an imperfect knowledge of the affairs of the colonies on the part of the chief secretary, and the consequent necessity of submitting important details to the subordinate officers of the department; and, second, the want of stability and firmness in the general policy of the government, and which, of course, creates much uneasiness on the part of the governors, and other officers of the colonies, as to what measures may be approved.

“‘But undoubtedly,’ (continues the Report) ‘by far the greatest objection to the system is the impossibility it occasions of any colonial minister, unaided by persons possessing local knowledge, becoming acquainted with the wants, wishes, feelings and prejudices of the inhabitants of the colonies during his temporary continuance in office, and of the deciding satisfactorily upon the conflicting statements and claims that are brought before him. A firm, unflinching resolution to adhere to the principles of the constitution, and to maintain the just and necessary powers of the crown, would do much towards supplying the want of local information.

But it would be performing more than can be reasonably expected from human sagacity, if any man, or set of men, should always decide in an unexceptionable manner on subjects that have their origin thousands of miles from the seat of the imperial government where they reside, and of which they have no personal knowledge whatever, and therefore wrong may be often done to individuals, or a false view taken of some important political question, that in the end may throw a whole community into difficulty and dissension, not from the absence of the most anxious desire to do right, but from an imperfect knowledge of facts upon which to form an opinion.

“ ‘To these objections,’ adds the Report, ‘it may be answered, that although the chief secretary of state retires with a change of ministers, the under secretaries (or at least one of them) and the other subordinate officers of the department, remain, and hold their offices permanently, and therefore information upon all subjects can be readily imparted to the superior by the gentlemen who are thus retained; and it may be admitted that the knowledge of this fact ought to lessen the force of the objections that rest on other grounds: but it cannot be disguised that there is a growing impatience and unwillingness on the part of the colonists, especially in these extensive provinces, to have the measures of government, whether connected with their general system of government, legislation, or patronage, controlled by persons who are utter strangers to them, not responsible in any way to themselves or the British parliament, and who perhaps, being advanced to their office from length of service, or other like cause, are not regarded as competent (perhaps unjustly) to manage and direct measures which they (the colonists) deem of vital importance. Much of this feeling may be traced to pride; but it is a pride that springs from an honourable and laudable feeling, and always accompanies self-respect, true patriotism, and love of country, and it therefore ought not to be disregarded, nor should any attempt be made to lessen or control it, if it were possible to do so.’ But the imperfection that exists in the system of colonial government that prevails in England is rendered more apparent by the want of that confidence that ought to be reposed in the distinguished officers, who from time to time are commissioned as governors to different colonies, than by any other fact that can be distinctly pointed out.” Lord Durham then proceeds:—

“ I will now only point out one instance of these evils, and I select it because it is an instance occurring in relation to the most important function of the executive—namely, its exercise of the legislative prerogative of the crown, and because its existence has been admitted by the present secretary of state for the colonies, in his instructions to my predecessor, Lord Gosford—I mean the reservation of bills for the royal assent. The ‘too frequent reservation of bills’ is a ‘grievance,’ says his Lordship, ‘of which my inquiries lead me to believe the reality.’ And in a subsequent part of the same despatch, his Lordship admits that, owing to this cause, great mischief has been done by the wholly unintentional delay in giving the royal assent to some perfectly unobjectionable bills, having for their object the endowment of colleges by benevolent persons. This delay his Lordship describes as ‘chiefly attributable to political events, and the consequent changes of the colonial administration at home.’ I know not to what cause is to be attributed a delay which produced, with respect to another bill, the still more serious effect of a doubt of its legality, after it had been considered and acted on as law. This bill* was

* The 9th and 10th Geo. IV. c. 77. The period began to run in March, 1829, and the royal assent was not given till May, 1831.

reserved, and the royal assent was so long delayed, through mere inadvertence, that when it was sent out to the colony as an act, the question was raised whether the royal assent had been delayed beyond the two years allowed by law, and whether, having been so delayed, it was valid.

" One of the greatest of all the evils arising from this system of irresponsible government was the mystery in which the motives and actual purposes of their rulers was hid from the colonists themselves. The most important business of government was carried on, not in open discussions or public acts, but in a secret correspondence between the governor and the secretary of state. Whenever this mystery was dispelled, it was long after the worst effects had been produced by doubt and misapprehension ; and the colonies have been frequently the last to learn the things that most concerned them, by the publication of papers on the order of the British Houses of Parliament.

" The governor, thus slightly responsible, and invested with functions so ill-defined, found himself at the head of a system in which all his advisers and subordinates had still less responsibility, and duties still less defined. Disqualified at first by want of local information, and very often, subsequently, by an entire absence of all acquaintance with the business of civil government, the governor, on his arrival in the colony, found himself under the necessity of being, in many respects, guided by the persons whom he found in office. In no country, therefore, could there be a greater necessity for a proper demarkation of the business of each public officer, and of a greater responsibility resting on each. Now, I do not at all exaggerate the real state of the case when I assert, that there is no head of any of the most important departments of public business in the colony. The limited powers of the local government in a colony necessarily obviate the necessity of any provision for some of the most important departments which elsewhere require a superintending mind. But the mere ordinary administration of justice, police, education, public works, and internal communications, of finance and of trade, would require the superintendence of persons competent to advise the governor, on their own responsibility, as to the measures which should be adopted ; and the additional labours which fall on the heads of such departments in other countries, in devising improvements of the system and the laws relating to each, would certainly afford additional occupation, growing out of the peculiarly defective legislation and administration of Lower Canada. Yet, of no one of these departments is there any responsible head, by whose advice the governor may safely be guided. There are some subordinate and very capable officers in each department, from whom he is, in fact, compelled to get information from time to time ; but there is no one to whom he or the public can look for the correct management and sound decision on the policy of each of these important departments.

" The real advisers of the governor have, in fact, been the executive council ; and an institution more singularly calculated for preventing the responsibility of the acts of government resting on any body can hardly be imagined. It is a body of which the constitution somewhat resembles that of the privy council ; it is bound by a similar oath of secrecy ; it discharges in the same manner certain anomalous judicial functions ; and its ' consent and advice ' are required in some cases in which the observance of that form has been thought a requisite check on the exercise of particular prerogatives of the crown. But in other respects it bears a greater resemblance to a cabinet, the governor being in the habit of taking its advice on the most important questions of his policy. But as there is no division into departments in the council, there is no individual responsibility, and no indi-

vidual superintendence. Each member of the council takes an equal part in all the business brought before it. The power of removing members being very rarely exercised, the council is, in fact, for the most part composed of persons placed in it long ago, and the governor is obliged either to take the advice of persons in whom he has no confidence, or to consult only a portion of the council. The secrecy of the proceedings adds to the irresponsibility of the body, and when the governor takes an important step, it is not known, or not authentically known, whether he has taken the advice of this council or not, what members he has consulted, or by the advice of which of the body he has been finally guided. The responsibility of the executive council has been constantly demanded by the reformers of Upper Canada, and occasionally by those of the Lower Province. But it is really difficult to conceive how a desirable responsibility could be attained, except by altering the working of this cumbrous machine, and placing the business of the various departments of government in the hands of competent public officers.

" In the ordinary course of public business in the colony, almost all matters come, in fact, before the governor, or his immediate assistant, the civil secretary of the province. The civil secretary's office is, in fact, the one general public office, in which almost every species of business originates, or through which it passes in some stage or other. The applications which every day reach this office show the singular want of proper organization in the province, and the great confusion of ideas respecting the functions of government generated in the minds of the people. A very considerable proportion consists of requests to the governor to interfere with the course of civil justice. Every decision of subordinate officers is made matter of appeal; and no reference to the proper department satisfies the applicants, who imagine that they have a right to claim a personal investigation of every case by the governor or the civil secretary. The appeals from the past are equally numerous; and it appears to be expected that every new governor should sit in judgment on every decision of any or all of his predecessors, which happens to have dissatisfied the applicant.

" But if such is the bad organization and imperfection of the system at the seat of government, it may be easily believed that the remainder of the province enjoyed no very vigorous or complete administration. In fact, beyond the walls of Quebec, all regular administration of the country appeared to cease; and there literally was hardly a single public officer of the civil government, except in Montreal and Three Rivers, to whom any order could be directed. The Solicitor-General commonly resides at Montreal; and in each of the districts there is a sheriff. In the rest of the province there is no sheriff, no mayor, no constable, no superior administrative officer of any kind. There are no county, no municipal, no parochial officers, either named by the crown or elected by the people. There is a body of unpaid justices of the peace, whom I will describe more particularly hereafter. The officers of the militia used to be employed for the purposes of police, as far as regarded the service of criminal warrants; but their services were voluntary, and not very assiduous; and the whole body is now completely disorganized. In every case in which any information was required by the government, or any service was to be performed in any remote part of the province, it was necessary either to send some one to the spot or to find out, by inquiry at the seat of government, the name of some resident there, whom it was advisable and safe to consult on the subject, or direct to do the act required. In the state of parties in the country, such a step could hardly ever be taken without trusting to

very suspicious information, or delegating power to persons who would, or be suspected of being, likely to abuse it.

"This utter want of any machinery of executive government in the province is not, perhaps, more striking than might be observed in some of the most flourishing portions of the American continent. But in the greater part of the states to which I refer, the want of means at the disposal of the central executive is amply supplied by the efficiency of the municipal institutions; and even where these are wanting, or imperfect, the energy and self-governing habits of an Anglo-Saxon population enable it to combine whenever a necessity arises. But the French population of Lower Canada possesses neither such institutions nor such a character. Accustomed to rely entirely on the government, it has no power of doing anything for itself, much less of aiding the central authority.

"The utter want of municipal institutions giving the people any control over their local affairs may, indeed, be considered as one of the main causes of the failure of representative government, and of the bad administration of the country. If the wise example of those countries in which a free representative government has alone worked well, had been in all respects followed in Lower Canada, care would have been taken that, at the same time that a parliamentary system, based on a very extended suffrage, was introduced into the country, the people should have been intrusted with a complete control over their own local affairs, and been trained for taking their part in the concerns of the province by their experience in the management of that local business which was most interesting and most easily intelligible to them. But the inhabitants of Lower Canada were unhappily initiated into self-government at exactly the wrong end, and those who were not trusted with the management of a parish were enabled by their votes to influence the destinies of a state. During my stay in the province, I appointed a commission to inquire into its municipal institutions, and the practicability of introducing an effective and free system for the management of local affairs. The gentlemen intrusted with this inquiry had, when they were interrupted in their labours, made considerable progress towards preparing a report, which will, I hope, develop in a full and satisfactory manner, the extent of the existing evil, and the nature of the practicable remedies.

"There never has been, in fact, any institution in Lower Canada in which any portion of the French population has been brought together for any administrative purpose, nor is there among the divisions of the country any one which has been constituted with a view to such an end. The larger divisions, called 'districts,' are purely judicial divisions. The counties may be called merely parliamentary divisions, for I know of no purpose for which they appear to have been constituted, except for the election of members for the House of Assembly; and during the present suspension of representative government, they are merely arbitrary and useless geographical divisions. There are no hundreds, or corresponding subdivisions of counties. The parishes are purely ecclesiastical divisions, and may be altered by the Catholic bishops. The only institution in the nature of local management, in which the people have any voice, is the *fabrique*, by which provision is made for the repairs of the Catholic churches.

"The townships are inhabited entirely by a population of British and American origin; and may be said to be divisions established for surveying rather than any other purposes. The eastern townships present a lamentable contrast in the management of all local matters, to the bordering state of Vermont, in which the

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municipal institutions are the most complete, it is said, in any part even of New England. In any new-settled district of New England, a small number of families settling within a certain distance of each other, are immediately empowered by law to assess themselves for local purposes, and to elect local officers. The settlers in the eastern townships, many of whom are natives of New England, and all of whom can contrast the state of things on their own with that which is to be seen on the other side of the line, have a serious and general cause of discontent in the very inferior management of all their own local concerns. The government appears even to have discouraged the American settlers from introducing their own municipal institutions by common assent. 'I understood,' says Mr. Richards, in a report to the Secretary of State for the Colonies, ordered by the House of Commons to be printed in March, 1832, 'that the Vermonters had crossed the line, and partially occupied several townships, bringing with them their own municipal customs; and that when the impropriety of electing their own officers was pointed out to them, they had quickly given them up, and promised to conform to those of Canada.'

'But the want of municipal institutions has been and is most glaringly remarkable in Quebec and Montreal. These cities were incorporated a few years ago by a temporary provincial act, of which the renewal was rejected in 1836. Since that time these cities have been without any municipal government; and the disgraceful state of the streets, and the utter absence of lighting, are consequences which arrest the attention of all, and seriously affect the comfort and security of the inhabitants.

"The law of the province and the administration of justice are, in fact, a patchwork of the results of the interference at different times of different legislative powers, each proceeding on utterly different, and generally incomplete views, and each utterly regardless of the other. The law itself is a mass of incoherent and conflicting laws, part French, part English, and with the line between each very confusedly drawn. Thus the criminal law is the criminal law of England, as it was introduced in 1774, with such modifications as have since been made by the provincial legislature; it being now disputed whether the provincial legislature had any power to make any change whatever in that law, and it not being at all clear what is the extent of the phrase, 'criminal law.' The civil law is the ancient civil law, also modified in some, but unfortunately very few, respects; and these modifications have been almost exclusively effected by acts of the British Parliament, and by ordinances of the Governor and Council constituted under the Quebec Act. The French law of evidence prevails in all civil matters, with a special exception of 'commercial' cases, in which it is provided that the English law is to be adopted; but no two lawyers agree in their definition of 'commercial.'"

It will be perceived from the foregoing, that the leading remedy, if any thing like representative constitutions are to be maintained in the colonies, is—First, to correct the "defective administration at the very source of power;"—Second, to secure "a vigorous administration of the prerogative of the crown."—Third, to found municipal institutions.—The first may be effected by the establishment of a colonial board in

Downing-street ; the second is of more difficult attainment, and re-opens a question never properly settled, or even investigated.

If representative functions be given to a colony, it should be clearly defined where those functions end, and where the interference of the mother country, or Imperial Legislature, begins. Burke touched on this subject in his celebrated speech on "American taxation," but he did not define the limit. He says,—

"I look on the imperial rights of Great Britain, and the privileges which the colonists ought to enjoy under these rights, to be just the most reconcilable things in the world. The Parliament of Great Britain sits at the head of her extensive empire in two capacities ; one as the local legislature of this island, providing for all things at home, immediately, and by no other instrument than the executive power. The other, and I think her nobler capacity, is what I call her *imperial character*; in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides and controls them all without annihilating any. As all these provincial legislatures are only co-ordinate to each other, they ought all to be subordinate to her ; else they can neither preserve mutual peace, nor hope for mutual justice, nor effectually afford mutual assistance. It is necessary to coerce the negligent, to restrain the violent, and to aid the weak and deficient, by the over-ruling plenitude of her power. But in order to enable parliament to answer all these ends of provident and beneficent superintendence, her powers must be boundless."

This statement, while it avows the principle, does not attempt a definition of its extent. Indeed, the error in our granting "Constitutions" to the colonies, seems to consist in overlooking the fact that it is not so much political as *municipal* rights that we are conferring. The Imperial Legislature can never delegate authority equal to its own, for if so, its functions would cease ; the utmost it can do is to grant municipal or local government for the enactment and execution of local affairs, so far as they do not interfere with the powers and prerogatives of the metropolitan government. In looking, therefore, to the speedy settlement of the Canada question, the main point for consideration is not the re-union of the two provinces of Upper and Lower Canada, but what sort of government is to be established ; is it to partake of an independent or of a municipal form ? If the first, England would have all the expense and annoyance of a temporary and precarious rule ; if the latter, Canada and all the North American provinces may be engrafted as really part and parcel of the British Empire.

If the people of Canada (Upper and Lower) Nova Scotia, New Brunswick, &c., desire an incorporation with the parent state, they must look to the full enjoyment of municipal rights, and discontinue the

miserable struggle that has been going on for years between their Representative Assemblies and Legislative Councils. If they desire a real union with England, it can only be by a firm junction with her; and, while exercising all the necessary functions for local improvement, leaving the prerogatives of the crown and the Sovereign Legislation unimpaired. The British colonists in North America cannot be ignorant that a large—a very large—portion of the most wealthy, intelligent, and moral of the citizens of the United States, are decidedly impressed with the superior advantages of monarchical government sentiments thus expressed by one of their leading journalists:—

“It is not only *very* questionable with us, but with some of the most liberal and enlightened men in the country, whether a limited monarchy, such as could be digested and established under the light and intelligence of the present age, would not secure to the entire community ‘life, liberty, and the pursuit of happiness,’ in a greater degree than the government as now existing and operating in this country.”—*Woodstock Republican & Courier*.

As a republic—“one and indivisible”—the United States cannot hold much longer together; they must split into petty oligarchies, or become a powerful monarchy. Like their neighbours the French Canadians, the United States received political freedom too soon; they started with the institutions which should only have been obtained after the struggles and efforts of centuries: and the people have never since been able to overtake those very institutions which, although long their boast, are accelerating the breaking up of the confederacy, even without the aid of the important slave question, or the scarcely less vital one, of their fiscal and monetary difficulties.

The page of history instructs us, that the most gigantic efforts of the human race, the loftiest aspirations of the mind, the noblest deeds of man, have been performed by nations living under a monarchy, or possessed of a regulated portion of freedom. An excess of political liberty inevitably leads to selfishness, which, as it destroys patriotism and the love of virtue, must end in political despotism. Witness the effects in Rome and Greece, where popular power was the prelude to national ruin.

That remarkable practicality of character, which distinguishes the Anglo-Saxon race, saved America in the middle of the 18th century from the injurious effects of suddenly acquired popular power, and will most probably lead to the establishment of a constitutional monarchy ere the middle of the 19th century shall have passed. Until Christianity be fully developed, there can only be granted by degrees a limited portion of political liberty; *moral freedom* must in fact precede political, if the latter is to be permanent. Ages, it

is to be feared, must roll on, ere republicanism in its true sense (the public weal) can be established; indeed owing to the imperfect condition of man, it is doubtful whether the human race can ever be capable of co-operating efficiently in society except under a monarchy. We make these remarks, to stem, if possible, the torrent of clamour for political rights (as they are termed) which are now put forth with indiscriminating zeal, especially in regard to our colonies.

England is at this moment in possession of as great an amount of political freedom as she is capable of rightfully and beneficially using; and to extend the same measure of freedom to young and *dependent* colonies is but to create strife and discord, and to hasten their abrupt and expensive separation from the mother-country. Give to the colonies the full enjoyment of municipal rights, and provide an efficient system of home and foreign government for the due exercise of the prerogatives of the crown. Unless colonists feel it is for their interest to be a portion of the British empire, let them separate: any attempt to retain them by force is worse than folly. Whether Upper and Lower Canada be or be not re-united, let no constitution be devised which shall weaken the prerogative of the crown and the control of the mother-country. Practical, useful freedom, we strongly advocate, and will do our best to obtain for the colonists. But for their sake, not less than for the honour and advantage of England, we deprecate the proceedings of the so-called popular party in the colonies, where they make it a merit, and assume it as a patriotism, to act always in opposition to the executive, instead of upholding the authority of the crown: we wish them to remember that the greatest degree of political freedom will not produce social improvement, nor contribute to general peace and individual happiness.

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